

The Effects of Criminal Evidence Obtained Illegally

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Abstract

The effects of illegal criminal evidence and its role in the procedures and their impact on the accused to know the authenticity of the criminal evidence obtained illegally. In addition, it supports all legal professionals, and resulting from the criminal investigation and scientific and technological developments in the modern era. The importance of modern forensic evidence in this field has increased with the scientific development and technology and the use of various rapid developments in modern scientific ways to try to get rid of crimes that are difficult for the old methods to detect. The justice apparatus needs legal and scientific basis to supports criminal evidence so that it is fair in front of everyone and far from misleading. The effects of illegal criminal evidence must be dealt with by setting laws that keep pace with modern developments and banishing illegal evidence in order to rid the innocent accused of the crimes against you without legitimate evidence.

Keywords: Authoritative Evidence, Constitutional Protection, Legitimate Evidence, the Authority of the Judge, The Effects of the Evidence, The Accused

Introduction

The illegality of the evidence necessitates the discretionary power of the judge to issue his decision in the case according to his belief, or the idea that has formed in him with full freedom (Strauss, 2012). However, he is not allowed to base his judgment on any evidence that was not presented to him in the session, and every admission or evidence is his. It was issued by one of the accused or witnesses under coercion or threat. Therefore, the lesson in criminal trials is the conviction of the judge based on the investigation he is conducting in the case and on all its elements presented on the table for research, and his claim is not valid (Feeley, 1979). Others, and through study and familiarity with Islamic jurisprudence and judiciary, we see that this jurisprudence does not only seek to achieve justice, but rather seeks to achieve the utmost justice, for example, the lack of testimony of the origins of the branches and the branches of the origins, as well as in rejecting the testimony of the spouses each From one to the other, and not considering the enforcement of the judge's ruling for himself. If the judge is a litigant in a dispute and rules in it for himself, then his ruling is not enforceable. Hence, the jurisprudence of the judiciary exceeds the judiciary with the testimony of justice in many places, until it is far from the suspicions, that is, it is confident in the conclusion (Berman & Feinblatt, 2015). Of the evidence, without doubt, and this means confidence in the rulings of the judiciary, and the impossibility of appealing and doubting it. And we can clarify the meaning of legality based on legal evidence, as well as stand on what

jurisprudence and comparative jurisprudence have settled on in this definition, as the Belgian Court of Cassation ruled that the description of illegal evidence is not limited only to the act that the law explicitly adopts, but rather includes all acts that contradict the fundamental rules criminal procedures or general principles of law. Kahn (2010) most of the jurisprudence goes to the fact that the evidence of conviction is the only evidence that is intended to be legitimate, but the evidence of innocence is not necessary in it, and this is based on the principle of presuming innocence as it is the original.

The effects of criminal evidence obtained illegally

The modern scientific means that can be used as a tool of proof in criminal matters are varied and numerous, including effects on any problematic as they do not constitute a violation of the human being, and some of which are accompanied by an attack on the safety of the human body, and personal freedom. Therefore, we will discuss the effects of using Some unlawful means, which are the effects of the means that are used in an apparent manner (the person is aware of their use) in the first requirement, such as the use of anesthetic analysis, hypnosis, and the effects of the use of a lie detector, as for the second requirement, the use of the means resulting from the person that proceeds in secret (the person is not aware of its directness).

The first requirement: the effects on the person in a visible manner (the procedures directed to the accused with his knowledge)

Those charged with security and law found themselves in confrontation with criminals who abandoned the traditional methods of executing their crimes to the achievements and modern inventions introduced by scientific development (Uchida, 1993). It is the duty of the security men to confront the trends of the criminals, how to deal with them, and to reveal the ways of modern crime with advanced scientific methods that are in line with the age of technology, so we address the scientific effects of people in an apparent way, meaning that the accused person is aware of it (the accused is aware of the measures taken against him By those conducting the investigation or those charged with uncovering and diagnosing facts, such as experts, doctors, arbitrators and others, and we will address them with the following points: First - the use of anesthetic analysis

Anesthetic analysis is one of the modern practical methods used in criminal evidence, which leads to a state of sleep or relaxation for a period of twenty to forty minutes (Warltier et al., 2002), then followed by alertness so that the cognitive aspect remains intact during the period of anesthesia while the person loses the ability to choose and volitional control, and thus facilitates Being led by inspiration, and generating a desire for it Disclosure of his inner feelings, where these narcotic substances affect the higher faculties of man, separating the feeling from the unconscious, and he dissolves from the censor who was preventing him from disclosing information and secrets that he used to hide, in addition to that this method constitutes an assault on the physical entity of the human body When injected with narcotic substances, especially since modern medical research has proven the steps of these substances on human health and physical safety. It also has bad effects on the nervous system and psychological formation, as it leads to damage to the pulmonary tissue or an effect on some organs as a result of inserting medical needles into the artery (Julien, 2013). In addition to the psychological effect, as it may lead to deep disturbances in the personality of the individual, which leads to loss of psychological balance At least for the period of anesthesia, it has been proven that the process of administering anesthesia constitutes an assault on the safety of the body and the soul, and it is not devoid of physical dangers, so what are its toxins? Its harms and dangers, and it are sufficient that all of them have been included globally among the substances that may not be taken except with specific controls. The use of

drugs, analyzes and laboratory experiments to force the accused to confess is an attack on personal freedom because of the potential for harm (Leo & Ofshe, 1997), a breach of the rights of defense, and a violation of human dignity because it enters into the secrets of his psyche that should be limited to him alone. A method of attacking the human body and will, which constitutes physical and moral coercion (Wilkinson, 2004). And we can consider that these methods represent an attack on the human right to respect his private life, and it is a violation of what was stipulated in Article of the effective constitution of the Republic of Iraq for the year 2005, which refers to respect for human sanctity (everyone has the right to life ... and no It is permissible to deny these rights.....) Upon study and scrutiny, we find a lot of materials In the effective constitution of the Republic of Iraq, it dealt with the defense of human rights in general without entering into the details of the subject and its treatment, as well as there is no clear and precise indication by the legislator to deal with the effects of evidence obtained from illegal methods, and what is stipulated in Article Fourth (the right of defense is sacred.. ...) and Article first, paragraph / c (All types of torture are prohibited) and the first paragraph of Article (Human freedom is inviolable), so it is not permissible to infringe on the sanctity and rights of man, and when studying and looking at the paragraphs mentioned in the constitution, we find that they are a reference to the generality, and there is no explicit text that excludes evidence that contradicts the texts in The Iraqi Constitution of 2005 (giving the law space Extensive and great power of the court in making decisions and accepting or rejecting the evidence before it) which indicates the ambiguity of the illegal evidence, and how to deal with it in the procedures by the executive authorities, for the following reasons:

The anesthetic analysis is the injection of the subject of the test with an anesthetic substance that has an effect on certain centers of the brain, He loses the ability to control without losing consciousness, and enables him to be interrogated and obtain his secrets and makes him more willing to reveal them, and in response to the questions directed to him without having the ability to control the queen of attention, and the test and interrogation must take place in the time before The state of anesthesia or when a person begins to wake up, because he is in these two In both cases, the person finds himself pushed to speak without any sense of suppression or resistance, and that the narcotic substance does not have a strong effect, which is feared that the individual will overdo the imaginary narration and give unsatisfactory results.

The most important of these substances are afibate, ionarcon, and sodium neptotal, which is called the truth serum. This substance is distinguished by its infecting. The person often has verbal hysteria, in which speech flows without control of the will, in addition to complete freedom from the obstacles of shame and fear, so the ability to speak increases.

However, this method did not gain sufficient scientific confidence, because the results that led to it were not definitively valid.

Second - the effects obtained from the use of hypnosis is a suggestive process through which the hypnotist (the actor or investigator) is able to control the person in such a way that his conscious mind is suspended, and his subconscious mind continues to be awake, which helps him to Achieving its practical objectives by modifying the degree of effects, controlling behavior, testing stimuli and determining response. That is why hypnosis is considered a means to subdue and disable the will. In fact, it is considered one of the forms of physical coercion, because it falls on the body of the person who is intended to give information without his will, which affects the integrity of his nervous and sensory system. (Delogo) says that the hypnotist is affected by what is suggested to him by the hypnotist, so he submits to his will (the will of the investigator or the doer), and his response comes as hesitation to what

he suggests that It was not an echo, the use of this method in criminal evidence would affect the person accused or suspected, and give information outside the will of the accused, and result in the following; (1) Increased suggestibility, which means a decrease in a person's ability to evaluate the natural response to an external stimulus; (2) Loss of memory associated with hypnosis, which means not remembering the events that pass during the period of hypnosis; (3) Changes in the sensory nervous system, the motor nervous system, and the voluntary nervous system; (4) The occurrence of some psychological changes, such as a significant decrease in the rate of breathing and a decrease in oxygen saturation of the blood, which affects the human will. 5- Perceptual changes occur, as it is possible through suggestion under hypnosis to make a person hear, see, taste, or feel things that do not exist; (5) In the context of defining the mechanisms of hypnosis, we will briefly explain its effect on the physical and psychological integrity of the person, as it can be said that it has three varying degrees.

A slight degree characterized by the sleeper being in a state of relaxation and a slight partial loss of feeling.

A medium degree during which the sleeper is in a state of emptiness in feeling that enables the hypnotist to control him by way of suggestion.

A third degree, which is the deepest stage of hypnosis, where the hypnotist is in a suggestive connection with the sleeper, and then suggests to him to know the details of any event. Because the person's acceptance from the effect of hypnosis of all the insinuations emanating from the perpetrator or the interrogator in the questions and luring of the hypnotized person leads to confession without his will. For this reason, hypnosis is considered a method of assault that has an effect on a person, nullifies his will and robs him of his freedom. This method is one of the most dangerous methods because it collides with the human conscience and treats a person like animals on which experiments are conducted. Therefore, it is considered a robbing of human freedom for the reasons summarized below:

Hypnosis is the fabrication of an abnormal state of delusion for some of the faculties of the apparent mind, by suggesting the idea of sleep, It has been used for a long time in the treatment of mental illnesses to make the patient, after hypnosis, remember the causes of his mental illness and return it to his awareness and feeling, and direct influence on the subconscious mind and implant medical beliefs in it.

Therefore, the purpose of this method is to summon information and ideas that may be deep in the subconscious when they are forgotten or in the feeling when they refrain from revealing them. Ideas have recently turned to it for use in criminal investigation during Interrogation to confront the development in the criminal method, as it has an effective effect on the personality of the accused, which can be achieved by recalling information and ideas that may be deep in the conscience and cannot be reached by ordinary procedures. Hypnosis passes through three stages, easy, medium, and deep, according to The duration of the process of hypnosis, and the ability of people to hypnotize is not at the same level, as it varies in terms of the possibility of hypnotizing them, and there are about 90% - 80% Of the individuals have the ability to hypnotize the degree of easy, and that there is only about 15% of them can be hypnotized to a deep degree.

In sum, hypnosis paralyzes the basic function of the human mind, which is to activate the faculties of the apparent mind, that is, to activate all parts of the brain, which accepts everything that is thrown on the mind without subjecting it to the criticism that is supposed to occur in the usual case.

Third -the effects obtained from using the lie detector The lie detector is one of the modern scientific devices that are used in investigation and criminal research, as this device works to detect cases in which people lie, as it monitors the psychological emotions and disorders that affect the person subject to the lie detector using scientific methods, because the nerves of this person are raised to any An influencer that is affected by it, such as a feeling of responsibility, or of committing a crime, or fear, where the device monitors all changes that occur in the soul And blood pressure, and the degree of resistance of the skin to the flow of a light electric current, because the human body and his senses interact when he tries to bring out the secrets in himself that he wants to hide from others by simply touching them. Many factors affect the condition of the person to be tested, especially if he is innocent, such as fear and anxiety generated from the possibility of the device being faulty, or perhaps from asking the person about the conditions of the test. It has nothing to do with the crime or the injury of the person during the test to a psychological disorder, or to exhaustion as a result of a lot of interrogation; (1) The person suffering from mental disorders; (2) Heart disease, abnormally high blood pressure or respiratory disorders; (3) The person's disturbance, unusual emotions, or the intense fear of the accusation; (4) Unnoticed nervous movements that can cause effects similar to high blood pressure.

The mere use of this device is a form of physical coercion, as it is an attack on the accused's right to remain silent According to it, the accused has the right to refrain from expressing psychological contents, and it also involves an assault on the accused's body because it affects the mental freedom of the accused because of the emotional disturbance it provokes, which makes his control over his psychological emotions completely not subject to his free will.

It seems to us that the means of criminal proof developed from one stage to another, where the methods and means known in the early stages of history were limited to the control of gods and religious beliefs, and then came after them The stage of legal evidence, up to the stage of self-sufficiency or personal conviction of the judge, to whom the legislator gave him great authority in proof, then finally the stage of scientific proof based on modern scientific research methods, and the results of scientific progress in order to prove the crime and reach the truth.

It can be said that the criminals themselves took advantage of scientific progress, so they went to use the latest methods Scientific research in the commission of new crimes such as those related to computers, especially those committed on the Internet, which is difficult to detect the perpetrators if relied on traditional means, and herein lies the relationship between criminal evidence and scientific means and how to deal with them to detect them.

Those charged with security and law found themselves in confrontation with criminals who abandoned the methods The traditional methods of executing their crimes refer to the achievements and modern inventions of scientific development, so it was necessary for them to confront this tendency of criminals and how to deal and reveal modern methods of crime with advanced scientific methods that are in line with the age of technology.

Here it is our duty to use modern scientific methods in the stage of inference and investigation, and that will It affects the safety of the human body and outweighs the traditional means, provided that it is used in a mechanism permitted by law, or that it is used according to controls and conditions that are sufficient for its proper use in a way that reconciles two fundamental considerations, which are the right of the state to use modern scientific methods in proving the crime and the right of the individual to his safety physical and mental.

In this modern mechanism, the use of modern scientific methods makes the proof process subject to renewal and development. In accordance with the continuous human achievements in all fields, and it is possible to rely on the useful results from them and leave the results that are far from the subject of forensic evidence, especially when their scientific results do not contradict with legal guarantees and the nature of human rights (the legality of using scientific methods), so it is necessary to adopt scientific methods in proof while providing guarantees Adequate that achieve freedom and human will. The lie detector did not start out of thin air, but rather it is an extension of what the ancients started, since the idea of relying on physiological changes to reveal the truth is not a modern idea, but rather it was known from ancient times. Through the behavioral manifestations that appear on the behavior of the accused, however, these primitive attempts, although based on scientific foundations, were not able to detect slight and simple physiological changes, which led scientists to suggest To other means, which comes in the forefront of what is called the lie detector device, and this device is defined as that device that is used to measure the different pulses in the limbs of a living organism, especially humans, and it is called polygraph, and this word consists of two syllables poly, i.e. line or lie, and graph i.e. Drawing, recording, or picture, and the lie detector consists of several devices, each of which performs a specific task: Galvanometer (percutaneous measurement of emotions), pneumograph, sphygmograph, Peltromograph,

It is based on the theory that the crime is related to the mind, heart, and conscience of the offender and all his limbs and thoughts, and this affects his psyche, so if his emotions are measured with an accurate scientific measure, it is possible to judge his position, as he cannot suppress strong emotions and disengage from them if they are measured by this device, and based on this rule, the detection device Lying is used today in developed countries on a large scale to examine people accused of committing crimes or suspected of having committed them in order to determine the extent of truthfulness or lying in order to get to Facts from incorrect statements stated by the accused or seem to be thinking about them, which is a very important process with great impact. This device is being prepared according to accurate programs developed by experts specializing in crime, police and psychiatry.

Fourth - Police dogs

Police dogs are a special kind of dogs that have advantages that are unique to others, such as the accuracy of hearing and the power of smell, where scientific experiments have proven that the police dog can identify the offender with its strong sense of smell that distinguishes it, which is superior to the human sense of smell is many times greater, along with the intelligence and acumen of this type of dog.

Police dogs are among the modern means for detecting crimes and the place where the stolen goods, narcotic substances, tools used in the crime are hidden, and identifying the perpetrator and the location of the fleeing offenders by capturing the smell of people and their traces on the ground at the scene of the crime, and the dog tracks the traces of this smell or recognizes Its owner is within. The accused, or when the accused is placed among a group not related to the crime, so the dog recognizes the accused among them, especially if it is well trained and the appropriate atmosphere is prepared for it. Then it becomes clear to us the importance of using police dogs in criminal evidence, so harnessing them in the recognition process facilitates all evidence from on the one hand, and narrows the scope of research and investigation on the other.

Fifth - blood analysis Blood analysis is one of the scientific methods that are used to reveal the personality of the perpetrator in violent crimes, such as murder, beating, rape and theft under duress, and to prove filiation.

Blood is a liquid tissue found within the heart and blood vessels, and it is distinguished from the rest of the tissues of the body in that its cells do not remain stationary, but move throughout the entire body within the blood vessels, and it consists of two parts: 1- The liquid part is called blood plasma and constitutes 55% of the blood volume.

Blood cells make up 45% of the blood volume.

It includes red blood cells, white blood cells, and platelets. Blood is divided into four positive groups: A, B, AB, and O. Statistics have shown that 37.4% of all people have blood type O, and 35.7% of all people have blood type A, and 35.7% of all people have blood type A. 8.5% of all people have blood type B, and 3.4% of all people have blood type AB. And four negative groups are: A, B, AB, O, group O negative 6.6%, group B negative 1.5%, group A negative 6.3%, and group AB negative 0.6%.

These blood tests and their wisdom are of great importance in criminal evidence, especially in identifying many criminals in rape, murder and other crimes, proving filiation, knowing the offender's movement and behavior when committing the crime or after completing it, and the cause of death in some deaths and assistance at the time of the crime.

Sixth - gastric lavage The issue of examining the proceeds of the stomach and intestines of a person is among the issues of great importance in the field of criminal evidence, as through this examination the investigator obtains evidence of guilt, and it is also considered because if this thing had no legal value, he would not have resorted to swallowing it, so the professional offender who has extensive knowledge in dealing with the security services and knowing the investigation, he resorts to swallowing some things useful in revealing the truth of the crime attributed to him, such as swallowing a piece of gold in a crime Theft related to the crime committed, or a piece of narcotics in the crime of drug abuse, with the intention of concealing evidence of guilt, which prompts the competent authority to use this method to prove *flagrante delicto*, by inserting a tube into the person's stomach through the mouth or nose for verification and examination.

Seventh - Fingerprints

It is considered one of the definitive scientific means of evidence, as in it the judge establishes firmness and certainty, not conjecture and probability, or in the sense of The last of those evidences that the criminal judge can rely on alone to link the accused to the crime that occurred, without the need to be supported by other evidence.

Human fingerprints are formed starting from the fetus in the mother's womb from the sixth month of pregnancy and it does not change at all. This indicates the workmanship of the Creator. God Almighty said: (He who created you, fashioned you, and fashioned you in any form He willed you) And if modern science now reveals that there are many different fingerprints, whether at the level of the skin of the hand, we find the fingerprints and the palm of the hand, the bottom of the foot, the knee print, the ear print, and the fingerprint For the lips, and on other levels, we find that the teeth have a fingerprint, the eye has a fingerprint, the smell of sweat has a fingerprint, the smack of a fingerprint, the genetics have a fingerprint, and the voice has a fingerprint, and there are studies that consider that even the criminal pattern of the criminal is like a fingerprint for him as well.

Perhaps the most important model of these fingerprints used in criminal evidence is the fingerprint and the genetic fingerprint, which is one of the most important scientific methods common in the modern era in terms of its use, because it is the origin of all existing genetic signs. The fetus from the beginning of its inception and formation, and it determines the blood type of the fetus, the type of its protein and enzymes, the shape of fingerprints, the color of the skin, and controls the functions of all countless cells. However, it does not show

the civil status, such as the name and the homeland, but rather determines its genetic characteristics, and then it is a personal and hereditary identity for the individual. Its importance appears in being the latest method of identity verification, as well as its effectiveness in acquitting suspects or those involved in some crimes and denying their relationship with them as well, and in identifying victims of various calamities as well as victims of wars and missing persons in military operations, and its importance in many other fields, such as issues of lineage and others. This is one of the things that has become of great importance. The second requirement: the scientific means resulting from the human being that proceeds in secret (the person is not aware of their directness).

It is the modern scientific methods that help the investigator to discover the truth about the crime and its perpetrator, which the person is not aware of directing it, and among the most important of these means we find that there is what is used to intercept correspondence such as the telephone line, radio, fax, telephone, mobile phone, the Internet, and there is what is used to record Sounds and taking pictures. We will discuss the most important of them in the following points: First - Intercept hidden correspondence

It is a secret monitoring of wired and wireless correspondence in the context of research and investigation of crime, and the collection of evidence or information about persons suspected of committing or participating in the commission of the crime, as he resorted to this method, which scientific reality revealed its importance in aborting many crimes and terrorist plots and apprehending the perpetrators.

The process of intercepting correspondence is carried out by looking at all the criminal's communications, whether wired, through the line Telephone under surveillance, or wireless, by capturing information through wireless transmitters during mutual communications such as radio, fax, and e-mail on the Internet, or using mobile phones, or resorting to electronic surveillance by subjecting electronic means of communication to surveillance. Second - audio recording

Of the modern scientific means that help in detecting the crime and revealing the truth, the audio recording devices, which have evolved so that they are easy to carry and easy to use, so we can pick up what is going on in the closed place without the knowledge of those present.

What is meant by recording voices is the recording of oral conversations that people speak privately or in a public or private place, and the recording process with these devices depends on saving the electrical signals that represent the sound in the form of A magnetic chart on a plastic tape covered with another magnetic material. If the electrical signals pass through the recording head, the magnetic effect will be imprinted on the tape.

Scientific studies have proven that voices are like fingerprints that do not match, each of which is born with a unique voice, different from the other, and therefore identifying the perpetrator through his voice has become one of the scientific evidences that have made a tremendous development in the field of identity verification, and identifying people in this way depends on Scientific document where words match or Sentences differ from one person to another, and that the differences between a number of individuals are greater than the differences in pronunciation for one individual.

The second requirement:

the scientific means resulting from the human being that proceeds in secret (the person is not aware of their directness)

These are the modern scientific methods that help the investigator to discover the criminal truth and know the perpetrators, which the person is not aware of, and we will discuss the most important of them in the following points:

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The process of intercepting the correspondence is carried out in secret by seeing all the criminal's communications, whether wired by placing the telephone line under surveillance, or wireless by capturing information through wireless transmitters during mutual communications such as radio, fax and e-mail on the Internet or using mobile phones, or resorting to monitoring. electronically by subjecting the electronic means of communication to monitoring. (7) Second - audio recording

Modern scientific means that help to uncover the crime and reveal the truth, audio recording devices, which have evolved until they are easy to carry and easy to use, so we can pick up what is going on in the closed place without the knowledge of those present.

And what is meant by recording voices is the recording of oral conversations that people speak privately or privately and in a public or private place, and the recording process with these devices depends on saving the electrical signals that represent the sound in the form of a magnetic diagram on a plastic tape. It is covered with another magnetic material, and scientific studies have proven that sounds like fingerprints do not match, each of which is born with a unique sound, different from the other, and then identifying the perpetrator through his voice has become one of the scientific evidences that have made a huge development in the field of personality investigation and identification of people In this way, it is based on a scientific document, as the matching of words or sentences differs from one person to another, and that the differences between a number of individuals are greater than the differences in pronunciation for one individual. (8)

Third - taking hidden pictures Among the fields in which the image has played a prominent role in recent times is the criminal field, as it has become an effective means in exposing many crimes and establishing evidence of the perpetrators. As it is, as long as there is no distortion in it. The pictures are taken through cameras or special devices that capture the image and sound without the knowledge of the party to be monitored for the purposes of preliminary research in criminal cases, which are advanced devices that work quickly so that in most cases they take five or six pictures per second, such as video cameras and television cameras. (9) These devices are considered more accurate in taking pictures that show and clarify the incident, person, or process that is brought before the judge with extreme accuracy, so it is considered a strong evidence in proof, and had it not been for human intervention in photography and manipulation, the picture would be a strong and conclusive evidence that can be used to prove what is stated in it, but it is It is subject to examination and scrutiny by the judge and specialists to confirm it. (10)

Conclusion

The issue of the effects of criminal evidence obtained from illegal methods has not been dealt with from the scientific and technological side, and a precise legal adaptation has not been given to evidence obtained illegally, in addition to the absence of a new and unified mechanism in the investigation to obtain evidence by formal legal methods that respect

human rights. In the modern era, the criminal justice agencies in the countries of the world tended to focus on traces and tangible physical evidence (real evidence) that cannot be mistaken, nor absent from the event. In order to complete the criminal procedures in the investigation to reach the truth Being the goal of criminal justice, it is subject to the rules of criminal evidence to the principle of legitimacy, according to which criminal evidence is not legitimate and therefore acceptable in evidence, unless the process of searching for it is carried out, and it is presented before the judiciary within the framework of the provisions of the law, and respect for the values and ethics of justice that he is keen to protect. The legislator entrusts the investigator with his mission to reveal the truth about the crime and collect evidence, because his work is conditioned by the law to abide by the legitimacy and abide by it, by respecting the rights of individuals and not infringing them, and the criminal judge may not accept the evidence derived from a false or illegal way, and thus relying on the effects Forensic evidence obtained through illegal means.

First- Results; (1) Proving the validity of the evidence submitted to the investigative or judicial authorities is the responsibility of the entity conducting the investigation, and the investigation authorities bear the responsibility for the validity of the evidence (formal procedures), it must be based on extracted legal evidence, and commitment to the authority of the judge in issuing a decision based on the evidence before him And respect for the judge's emotional conviction in assessing the evidence of criminal evidence; (2) Presenting the traditional means of evidence in the criminal investigation, which contributes to assessing the value of the accused's confession, and the court has a discretionary power to accept or reject the evidence; (3) It is not possible to take a criminal action against the accused except on the basis of evidence, the adoption of the incident to be proven, and interest in the rule of excluding illegal criminal evidence; (4) The principle of human innocence and illegal evidence cannot be taken into account, and therefore the effects of illegal evidence do not apply to criminal facts and are not considered in Iraqi law; (5) The general interest of society applies in two ways, one of which calls for the condemnation of criminals, and the comprehensive exclusion of evidence obtained by illegal means, giving priority to rigid legal considerations and scientific solutions for the interest of society, as well as accepting the results of (illegal) evidence in some cases, and rejecting it in other cases that are in line with the interest of society; (6) Islamic Sharia is consistent with the principles of the law within the limits of legitimacy and certain controls, and it is a forerunner in preserving rights and freedoms; (7) The judge's commitment to the controls drawn by the legislator are the basic guarantees for the exercise of power, and facilitate access to conviction in the ruling when exercising the discretionary power in evaluating the evidence and the community's conviction of its results.

Second: Recommendations: (1) Giving importance to the effects of criminal evidence obtained through illegal methods by the legislator, and clarifying the basic points upon which the criminal judge can rely in accepting the evidence or rejecting the authoritative evidence of criminal evidence obtained through illegal means; (2) Selecting the persons involved in the investigation and control procedures, and subjecting them to educational courses on how to collect criminal and scientific evidence using artificial intelligence techniques, in accordance with the legal frameworks that ensure that they are not subject to exclusion; (3) Granting the judiciary a wide discretionary power in evaluating the exclusion of evidence, and that shall be issued by the legislative authority, and drawing up a mechanism for the executive authority to deal with illegal evidence and its effects; (4) Adopting a certificate of specialization for doctors and other experts in other specialties, and giving great importance to Introducing more development to the laboratories regarding criminal evidence, examining the accused and taking samples from him, and preparing investigative cadres qualified to use modern

equipment in line with the era of technology; (5) Spreading the concepts of justice and considering the principle of innocence as an established principle, and the accusation cannot be brought without evidence, because innocence takes precedence over error in punishment. And the exclusion of illegitimate evidence and granting those in charge of the investigation a broad authority to use the means Legitimate access to evidence, adherence to the provisions and principles stipulated in statutory laws, and canceling the effects of illegal criminal evidence, relying on the principle of building on falsehood is void; (6) In order to achieve a balance between the public interest and the protection of rights, the evidence must be specified in the law by the legislator, between the evidence that is applied in secret, as well as that which is applied in an apparent manner on the human being, although their use is a violation of the freedom of life. However, the requirements of the public interest are agreed upon in most legislation, and declared to everyone to be proactive in preventing people from committing crimes.

References

Abdul Rahman Khalfi, Lectures on the Code of Criminal Procedures, p. 72.

Berman, G., & Feinblatt, J. (2015). *Good courts: The case for problem-solving justice* (Vol. 8). Quid Pro Books.

Feeley, M. M. (1979). *The process is the punishment: Handling cases in a lower criminal court*. Russell Sage Foundation.

Julien, R. M. (2013). *A primer of drug action: A concise nontechnical guide to the actions, uses, and side effects of psychoactive drugs, revised and updated*. Holt Paperbacks.

Kahn, D. S. (2010). Presumed guilty until proven innocent: The burden of proof in wrongful conviction claims under state compensation statutes. *U. Mich. JL Reform*, 44, 123.

Leo, R. A., & Ofshe, R. J. (1997). Consequences of false confessions: Deprivations of liberty and miscarriages of justice in the age of psychological interrogation. *J. Crim. l. & Criminology*, 88, 429.

Muhammad Amin Al-Harsha, The Legality of Sound and Image in Criminal Evidence, pg. 121, 10

Munir Riad Hanna, Forensic Medicine and the Scientific and Police Methods Used in Detecting Crimes and Tracking Offenders, p. 262.

Munir Riyad Henna, Forensic Medicine and the Scientific and Police Methods Used in Detecting Crimes and Punishing Paradise, p. 205.

Strauss, P. L. (2012). Deference" Is Too Confusing—Let's Call Them" Chevron Space" And" Skidmore Weight. *Columbia Law Review*, 1143-1173.

Uchida, C. D. (1993). The development of the American police: An historical overview. *Critical issues in policing: Contemporary readings*, 3, 19-35.

Wartier, D. C., Howard, S. K., Rosekind, M. R., Katz, J. D., & Berry, A. J. (2002). Fatigue in anesthesia: implications and strategies for patient and provider safety. *The Journal of the American Society of Anesthesiologists*, 97(5), 1281-1294.

Wilkinson, S. (2004). *Bodies for sale: Ethics and exploitation in the human body trade*. Routledge.