

# Research on Judicial Police and the efficiency of Criminal Justice System in Greece

## **EXECUTIVE SUMMARY**

Written by S. Vidali, Ch. Charagiannidis, A. Koufouli. S. Spyrea

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## Introduction to the Project

The purpose of the present study was to investigate the feasibility of establishing a Judicial Police in Greece and to propose a possible reform of the current but inactive legislative framework and other necessary legislative measures, in order to enhance the effectiveness of Criminal Justice at the stage of the criminal investigation of serious crimes related to corruption, financial and organized crime. These phenomena have been at the forefront of public policies and anti-corruption policy worldwide, but especially in Greece, over the last decade.

In particular, in March 2017, the SRSS on behalf of the European Commission and the Democritus University of Thrace signed a small value contract (see Title above) for a research study on the effectiveness of the criminal justice system to fight corruption and other related or encumbered serious forms of crimes in Greece.

The contract was undertaken by the Professor of Criminology and Criminal Policy, Mrs. Sophia Vidali, who serves in the Department of Social Administration and Political Science of the DUTH, flanked by a research team, attended by Mrs Alexandra Koufouli, Candidate Doctor of Criminology in the Department of Sociology of the Panteion University, Mr. Charalampos Karagiannidis Dr. Criminology at the Law School of Aristotle University of Thessaloniki. and Mrs. Sophia Spyrea, PhD Candidate, Criminology at the Department of Social Administration and Political Science of the Democritus University of Thrace.

The research study was carried out in this context

(a) to investigate scientific models of pre-trial investigations that the application of one or some of them or their adaptation to the Greek legal order will make the Greek penal system more effective and

(b) to investigate scientifically and to balance the need and the possibility of establishing a judicial police force in Greece specifically for pre-trial investigations in cases of corruption and serious cases of economic / organized crime; and

(c) to make specific recommendations and proposals on the organization and functioning of the Judiciary Police.

The aim of the program was to contribute to the adoption of measures that modernize the state and the public administration in Greece and, in particular, to identify policies and measures to (a) strengthen the capacity and resources of the criminal justice system (law enforcement) corruption and organized crime; (b) more effective coordination of criminal investigations into the above categories of crimes; been the effectiveness of mechanisms for coordination and exchange of information on pre-judicial investigation by the Greek judicial authorities.

Therefore, the program's main axis was the analysis of the judicial police institution and the elaboration of a proposal for its establishment in Greece, as one of the policies to improve the effectiveness of the criminal justice system in tackling corruption, economic and organized crime.

During the preparation of the program the necessary bibliographic, web-based documentation (theory, research, etc.) was collected using the desk research method. Based on this material, the institutional framework of the pre-trial procedure in Greece and its problems were identified and the basic conditions that have to be fulfilled for the establishment of a judicial police force in Greece were formulated. Then, the organization and functioning of the judicial police and / or the criminal trial (when there is no judicial police) in different jurisdictions in Europe and the United States were examined and their basic features were analyzed and compared. Based on the results of the desk research, the next phase of the program has been prepared: interviews were drawn up, and a focus group research was organized. The purpose of the focus group research was to investigate the

feasibility of establishing a Judicial Police service in Greece, and the problems faced by judicial functionaries, police officers and public officials dealing with corruption, financial and organized crime.

The research resulted

- (a) in conclusions on the necessity of establishing a judicial police service in Greece
- (b) on a classification of the problems that its foundation should have to solve;
- (c) on proposals to improve the effectiveness of investigating authorities and services, and finally
- (d) to a comprehensive proposal for the establishment of a judicial police force in Greece.

The executive summary of the final report is presented in this and in the next pages; the report includes and explains the findings and proposals of the program. The report is structured in two parts. **The first part** constituting the main report includes:

- (a) the theoretical approach and description of the institutional framework concerning corruption in economic and organized crime in Greece;
- (b) the theoretical approach of the operation of the police and especially the judicial police
- (c) the analysis of the efforts made in Greece during the past in order to establish a judicial police service,
- (d) the description of the positions and recommendations of international organizations regarding the effectiveness of the penal system in Greece in the field of corruption, economic and organized crime;
- (e) analysis of the institutional framework and operation of the investigative authorities in Greece and other countries sampled;
- (f) conclusions and proposals on the establishment of the judicial police and the improvement of the criminal-law system.

**The second part** of the final report includes the presentation (methodology, analysis and conclusions) of focus groups research. The report is complemented by Annexes, which include: the detailed comparative analysis and overview of the different versions of judicial police, and of investigating authorities in various States, and extracts from the standard lists of crimes relevant respectively to the Criminal and Judicial Police Service in the United Kingdom and Portugal.

## Key Findings

### 1. Preconditions for a successful institutional reform

From the Desk Research have risen a series of issues which constitute preconditions for a *successful reform in the Greek Criminal Justice System regarding the pre trial penal inquiry* and the institution of judicial police force in Greece. These *preconditions* are:

1. The theoretical re-elaboration and definition of certain concepts as “security police”, “judicial police”, “evidence”, and the revision of the process of officers’ and public servant nomination as *special investigative officers*.

- a. The need of a theoretical elaboration, clarification and redefinition of the concepts of “*security police*” and “*judicial police*”, and their combination to “*crime prevention*” and/or “*crime repression*”. These conceptual re-elaborations should reflect to organizational level and the range of competences between the different police functions will be demarcated and duplications, as well as conflicts of competence between security and judicial police, will be avoided. In this context, it is necessary to review particularly the Article 243§2 of the C.C.P., Article 95§2, P.C. 141/1991.

- b. Equally, a matter of concern should be the definition of the concept of “*evidence*”, taking in consideration individual and human rights’ protection in combination to the public interest protection. Even if there is an agreement of the police functionaries and judges regarding the meaning of the concept “*evidence*”, the classification of a wide range of acts and activities as “*evidence*”, depends on the discretionary power of the investigator judge or of the police investigator.
- c. Finally, it is necessary to revise the process of nomination of the “*special investigative officer*”, their qualifications and the local area conditions (e.g. accessibility to small remote islands) and specific aspects of certain types of crimes.

2. The rational organization of public prosecutors services and of various police services, which among other presupposes:

- a. Definition of the stage at which the operation and the judicial police service is activated and when it is activated to the preliminary inquiry, to review the latter’s total duration.
- b. Re-examination of overlapping competencies and cooperation issues which arise in the Special Prosecutor's Office and the services involved.
- c. Creation of a qualitative research tool based on the gained experience, which could identify the organizational needs, the staffing criteria for the special Prosecution Services and the selection criteria for assistant prosecutors.
- d. Organization of the Prosecution Services should take in consideration the need to facilitate cooperation with the Hellenic Police Services and to avoid duplication of investigations.

3. The need for specialized education and training courses:

It is necessary to produce a programme for the special education and training of the judicial police personnel (prosecutors, police officers, other scientists) in matters concerning the mission of the judicial police, the practice and the institutional dimension of the penal inquiry and of the investigation on financial crime and corruption and, consequently, their development and transformation as criminal phenomena. This will result in a common understanding among personnel of the institution and will facilitate the collaboration.

## **2. A general model of Judicial Police: Desk Research Findings**

A general model of judicial police functions and organization cannot be existed since the powers and the structural rganization of judicial police is connected to the procedural system adopted n each country. Therefore the main model prevailed in Continental Europe – that is a specific service of Judicial Police under the Prosecutor- is the recommended model for a country as Greece which follows the mixed procedural system.

***The prevailing model of Judicial Police in European countries with mixed procedural system:***

- a) Judicial Police is an investigative function and / or organization under the Public Prosecutor Guidance.
- b) It is almost typical of a judicial police service, except for special cases, to deal with the most serious crimes.
- c) Its personnel should have specific qualifications and it is not only coming from the ordinary police’s forces personnel.
- d) Generally tasks of public security and public order are not assigned to the personnel of judicial police.
- e) The relationship between judicial police and ordinary police services are complementary each other than conflicting or overlapping.

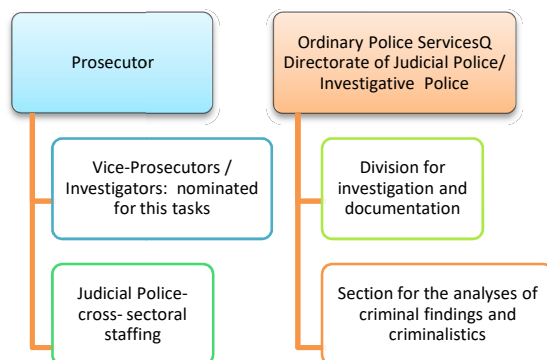
We conclude that although the structure of the judicial police services varies, in all cases

these services fall under the authority and guidance of the Prosecutor. The material jurisdiction of the judicial police may vary and is shared between police services of different police forces in the most of countries.

Beyond these general remarks in each country -examined in this research- there are specific aspects of judicial police's functions and organization. These could constitute either good "examples", suitable for adoption in Greece or should be avoided considering the Greek criminal justice system actual operational conditions. In particular, good practices for Greece (to be explored further) could be retrieved from the next specific rules regarding judicial police function and Public Prosecutor Competences.

- a) In Italy the Judicial Police are also at the disposal of the judicial authorities (art. 55§2 ItCCP), not only of the prosecutors (thus its competences are extended to the main process stage).
- b) In Portugal, the Judicial Police have also functions of General Prevention.
- c) In France, the Public Prosecutor comments upon criminal prosecution, when the case is in the inquisitor's hands, but it is the opinion of the latter that carries weight. The Prosecutor oversees the legality of the process.
- d) Also in France the so-called inquiry groups are operating. This practice is followed in Italy also.
- e) The French Public Prosecutor may abstain from prosecuting and remedy to conciliation alternatives etc.
- f) In Belgium, the institution of the so-called minor interrogation is in force. In this case the Prosecutor orders specific inquiry actions to the inquisitor, without assigning the case to him.

Accordingly, the following figure is formed



### 3. Judicial and Police functionaries and Experts views: Findings from the Focus Groups Research

The most important findings of the research with focus groups could be summarized as follows:

1. A number of individual, functional, organizational, substantive and institutional factors shape the **conditions of inefficiency** of the system of pretrial investigation in Greece. Of these, others are related to the legal-institutional gaps and contradictions of the framework governing the pre-trial process and other, are extra legal factors related either to third party interventions to serve their own interests or to issues of professional every-day

attitudes and practice or to organizational and functional issues etc. that arise in the day-to-day management of cases.

2. In particular, the **main factors of ineffectiveness** are related to understaffing in specialized staff, in combination to the heavy workload and the need for specialist knowledge, the low level of professional formation of the staff (prosecutors, judges, police officers, executives) regarding modern investigation issues.

3. Further, **deficits** are related to:

- a) the formation of the case's file process,
- b) the conduct that should be followed during an investigation and interrogation,
- c) the plethora of "special investigative officers" who are appointed because they are public servants, but without any qualification or previous training,
- d) the inability/failures of the whole system to protect the investigations from leaks,
- e) the low level of cooperation and information dissemination between services, and a lot of overlapping and conflicts of competence,
- f) the inability of the authorities to take precedence over crime, because of the fact that there is no systematic follow up research and study on the qualitative changes of the specific type of criminality,
- g) the overestimation of the value of tax audits to tackle economic and organized crime,
- h) the differentiated policies on certain types of serious crimes (situational crime prevention),
- i) the inability to assess and take advantage of the law on the specificities of corruption, economic and organized crime.

More specifically, the findings of the research with focus groups reflect the views of experts - functionaries of criminal justice system (Judges -Investigators, prosecutors, police officers) and those of state services who participated in it.

In details the most important – key findings of the focus groups Research are as follows:

**1. Ambiguity is alleged about the nature and the mission and the tasks of Judicial Police (§§2-3)** within the Greek Criminal Justice System.

**2. The strength of Judicial Police among the criminal justice system institutions depends on various factors (§5) be also indexes of this service's efficiency:** The strength (and prestige) of this service in the Greek penal system depends on a number of factors (such as is mission, the stage of activation within the penal process, its relationship with other police, control and independent authorities, etc.). These factors should be also indexes of this service's efficiency.

**3. Expectations and Reservations and previous reforms (§§7-9):** The various arguments in favor of the judicial police (independence from governmental interferences, priority to the investigative tasks, discharging the burden of work on solving conflicts of competence) as well as the reservations (compatibility to the existing system, concern of further fragmentation of services, etc.) should be indicative guiding directions on what need to be done, and what should be avoided, when judicial police should be established. Furthermore, concerns expressed, in the prospect of new reforms, due to the various concrete negative implications which past reforms had in the handling of the case file and in the functioning of various crime control and investigation services (§§11-15).

**4. The present state of crime control mechanisms (§§ 19-21)** is characterized by a) the fragmentation of services, their dubious contribution to criminal cases, the multitude of inquiry officers, the incomplete system of services' inspection; b) the services' understaffing (§§23-28) in specialized staff; further the displacement and decentralization of corruption problems, through staff transfer from service to service frame the debate on staffing. c) The relationship between prosecution and control mechanisms (§§30-34) is described as problematic (even by a Constitution perspective) because it places all, even the prosecution services, under the discretion of an independent authority the so called AADE, a fact that raises serious questions in terms both of the object and effectiveness of this

situation. d) The trend due to which the coordination of services (§§36-42) and the targeting of controls occurs calculating firstly the collectability and, secondly seriousness and penal demerit of an act, or of a case, is doubtful whether it contributes to the effective prosecution of these crimes. (e) Finally, constitutes a problem the lack of dissemination and flow of information among competent services (§§44-49), the lack of further knowledge about the devices of complaints, the progress of cases before the judicial authorities or other particular elements, as well as the absence of any archives of the case files so as to have continuity in the concrete prosecution service function.

**5. The main organizational and operational problems (§§ 51-60)** in the Greek Criminal Justice System regarding the specific types of crime are related to: employment of staff in different tasks beyond investigation, during a working day; low level of knowledge in formatting case files' documentation; absence of modern technical tools for data cross-checking; lack of specialized staff to advise the prosecutors; delays in the execution of public prosecutors' orders (especially those of financial and tax investigation); plethora of inquiry officers categories; delays in the conduct of inquiries; repetition of the same investigative acts in the same case; indirect mistrust on the impartiality of police during the investigation; lack of standards and guidelines for conducting investigation; the dependence of tax/ financial investigation on the approval of the AADE;

Informal investigation groups are already “work” in Greece, however it is not alleged that they work together in the same case. Finally, (§62) is alleged the limited use of cases' archiving (further such option and it not evaluated in order to discharge the workload within the criminal justice system). However the reasons because of which the cases file archiving are of limited use among investigation judges.

**6. Professional formation and personal qualifications: (§64-72):** A series of everyday informal practices that are deeply well-established between judicial and police functionaries govern their informal system of training in investigation. It is crucial that beyond the basic academic studies the learning process and professional formation of judges, prosecutors and police officers lies largely in their own love of learning and initiative. Intense confidence has been shown by all the respondents, to the individual abilities that pre-exist their professional formation and any academic studies; transcendent characteristics such as talent, personality, intelligence, etc. are evaluated as the main tips for the success of an investigator. Particular qualifications are considered to be the inventiveness, imagination and ability to work under pressure, as well as being able to withstand pressures.

**7. The impact of legal and extralegal factors in the effectiveness of the system.** Among the legal factors (§§74-77) are included the impact of the AADE institution on the effectiveness of inquiries, the overlapping powers between services and the competition between services, the low level of cooperation with the authorities, the cash rewards for criminals, etc). **Extralegal factors (§§ 79-85)** can be classified into two categories such as the factors related to the organizational deficits and the factors related to criminal justice and police personnel everyday professional attitudes toward the criminal enterprises' operations and modus operandi changes:

- i) Extra-legal factors related to organizational deficits
  - a) Interventions that influence the outcome of the investigations (these are factors directed to the inactivation of the responsible persons);
  - b) Inadequate vocational training of those involved to the making the case file;
  - c) The failure to comply with the practical / technical conditions necessary to ensure the success of an investigation, in particular the surprise advantage;
  - d) The internal competition of the services;
  - e) The supervision of the investigation and prosecution services by more than one supervisor of different state agencies and the understaffing of these services or staffing with inappropriate staff.
- ii) Extra-legal factors related to human/personnel everyday professional attitudes toward



criminal operations:

- a) The physical protection of the personnel (§§87), which also depends on the general category of crimes they are handling,
- b) The prevailing use of technology in conducting the investigation (§§89-90),
- c) The changes of crime through the intensive “monitoring” to the ways that the crime control mechanisms are operating and adjustment of criminals’ modus operandi (§§ 92-96),
- d) the delayed comprehension by the authorities on the modus operandi (§98) of crimes committed

8. **The level of a criminal case solve**, is inversely related to violence used by the criminals and further, depends on level of understanding the dominant culture in public administration: The extent of violence, in the crimes under examination, can be considered as indicator of the crime solving level (§§100-101). Further, because of the specific aspects of corruption and financial crime (§§103-106), the understanding of the functioning of each such subsystem and its relations with the state institutions, and in particular the "decoding" of the dominant culture in the administration could constitute a tool for addressing crime effectively, and cope with the specialized knowledge of the perpetrators on the global financial system.

9. **Differences and heterogeneity are found in the trends of crime policy (§§108-112)** as regards financial crime in relation to tax evasion, corruption and organised crime. The emphasis on tax audits constitutes a last resort solution for the Greek authorities which secure the criminal justice and tax system, but it assists to reduce the importance of other forms of financial crime, its connection to corruption and to organised crime and facilitates the non-institutionalization of criminal responsibility for legal persons.

#### 4. Coping with ineffectiveness

Proposals to halt this situation are structured into the following themes:

Staffing and specialization	Coordination and cooperation
Management and flow of different types of information	Removal of legal and extra legal deficits
Education and Professional formation	Development of Scientific Research
New Crime Policy Strategies	

1. The staffing of any new service within the criminal justice system, should have a particular role to play in dealing with crime. Personnel should be appointed with special care to avoid displacement of subsystems and hotspots of corruption. It is therefore appropriate for the personnel of Judicial Police: to establish specific selection criteria in case of internal transfers and in case of new recruitments, to form an additional selection system (beyond the High Council of Personnel Selection- *in Greek* ASEP). Further, staffing with scientific personnel should include and other experts than economists and specialists in banking, and enriched with specialized in the specific fields experts as penal law experts, criminologists, sociologists, statisticians, software engineers etc.

2. It is necessary to clarify and revised (according to the Constitutional and Order of the country and in favor of the law enforcement authorities of the Greek State) the relationship between criminal justice institutions (and the Judicial Police) on the one hand and the independent authorities on the other (including the AADE): it is recommended to secure the exclusive competence of the prosecuting authorities to conduct tax audits following a public prosecutor's order.

3. The system of services’ coordination and effectiveness should be shaped on the basis of different qualitative criteria, both legal and extralegal: is necessary to establish a unified system of communication, exchange and flow of information between services and to monitor the progress of the cases, through compatible software/ operating systems.

In particular it is necessary

a) to create an automated system of qualitative and quantitative data collection and processing on the progress of cases and their outcome,

b) to create a system of case files keeping electronic records (see also next §4) and archiving (it is different of the process of putting a case in the Archive and not proceed further) and

c) to establish a system of periodic multidimensional qualitative research, the findings of which should be used by the prosecuting authorities, the researchers and academic community in order to evaluating the effectiveness of the criminal justice system and the general and specific directions of crime policy.

4. Establishment of common standards and rules for the formation of case files and for the processing of inquiry material should increase the effectiveness of the criminal justice system. The common standards should be formed following international standards and further following the indications and recommendations of high qualified and experienced Greek criminal justice functionaries and experts. After the establishment of these standards, a specific training on this subject should be needed.

5. The problems allegedly encountered during the conduct of the inquiry (at all stages) constitute issues, which are also related to the overloading of the system, the qualitative change in the characteristics of the cases, the weakness of the criminal-enforcement system up to date to respond in qualitative terms to the changes in the economic and organized crime, and particularly in the formation of a court case. It is therefore appropriate to address specific institutional arrangements and interventions in the establishment of the Judicial Police

Considering the various types of deficits and problems alleged by the focus groups research is recommended to be adopted a specific system of judicial police personnel training on standards and rules for conducting investigative research and interviewing witnesses, accused etc., for the specific types of crimes. It is further recommended the institution of an independent school of specialization for Judicial Police Officers. The school should offer basic education and training in judicial police features and competences and it could be a) included in the National School of Judicial Functionaries or b) a new School under the Ministry of Justice (recommended) to which will study personnel from all the range of public sector appointed to Judicial Police. By this point of view it should be different from the School of Judges.

In the same context, there is also the need to review the conditions for a case to be closed.

6. With a view to the establishment of the Judicial Police, it is necessary

a) to use all existing international and European directives, rules and guiding principles for conducting inquiries into cases of economic and organized crime through systematic education and training (see above), and

b) to develop a qualitative approach to intelligence analysis and research, and overcome the established concept of financial investigation's exclusive priority.

7. The function of judicial police must take into account both legal and extralegal factors, that undermine the effectiveness of criminal justice system. Extralegal factors, point to the need for also a special training system to ensure, in addition to the above- mentioned, a balanced specific training and education

a) in new technologies and their use in crime detection,

b) in traditional inquiry methods through interactive education and

c) on spot investigation and physical surveillance of suspects and accused persons, the use of information.

d) It is also necessary to standardize the system of cooperation between authorities with individual citizen and to provide guarantees for the use of information.

8. Understanding the way in which serious crime works and develops presupposes the

systematic use, and the scientific analysis of information. Such information could be collected in three levels:

- a) From case files, official reports, reports of investigations and covert operation etc. In this case a special department/ office, staffed with researchers, should be instituted within the Judicial Police Service structure. Furthermore, a similar department should operate (if it does not exist) in the Internal Affairs Department and the Economic Police (Hellenic Police) and in the SDOE. Last an official network of cooperation should be developed among them;
- b) From scientific qualitative research on criminal subculture, *modus operandi*, social organization etc, conducted appropriately in the purpose of increasing the effectiveness of criminal justice system;
- c) From specific follow up research on certain types of crimes which should focus on the structural changes of illegal markets of various types.

9. Increasing the effectiveness of criminal-law enforcement mechanisms is likely to increase levels of violence against law enforcement officials. It is therefore required to form a system of protection for law enforcement officers; further *forms of criminal conciliation* could be a policy of prevention of violence against judges and prosecutors however taking in consideration the need to cultivate among citizen the sense of justice.

10. The need for a comprehensive re-definition of crime policy at national and international level would be a positive development on the basis of the above. In any case, the development of crime policy should strive for a balanced treatment of the economic crime, of corruption and organized crime, as it is suggested by theory. Unilateral accents in practices that are only interested in the economic dimension do not contribute to the dismantling of social support of the phenomenon. In this case, the staffing and organization of the services of the Judicial Police and other authorities and services should be of first site significance.

## 5. The grounds for the foundation of a Judicial Police Service in Greece

In Greece, the term "judicial police" is adopted on a theoretical level. Nevertheless, it does not correspond to any specific institutional reality, because all the functions of the Judicial Police are identified to those of the Security Police. Actually, Greece lacks the organization of an exclusively Investigative Police Division especially lacks of a specific service that could frame the inquiring process carry out by the Public Prosecutors and Investigative Judges. In other countries this gap may not be so obvious, because there is a great tradition in the function Judicial Police.

Considering the need of more effectiveness of the criminal justice system in the fields of economic and organised crime in combination to the findings of our research, we conclude that the institution of a Judicial Police Service under the Prosecutor for specific types of crimes, operative during the pre-trial stage, is recommended. The reasons for this proposal could be analyzed as follows;

-The establishment of a Judicial Police should contribute to the effectiveness of the Greek Criminal Justice, especially regarding the inquiry and prosecution of corruption, serious economic and organised crimes. As *effectiveness should be perceived*, the qualitative inquiry attended to the reveal of the immediate motives and causes of crime, to understand the "mechanics" of *modus operandi* and to dismantle criminal networks of economic and organised crime. Therefore effectiveness of criminal justice should be considered beyond the culture of control and financial investigation and to be identified also to qualitative aspects of a penal inquiry. From this point of view the institution of Judicial Police is the more rather a unique option.

However taking in consideration the ambiguity and the confusion about Judicial Police mission and about security and investigation function lead to some general guidelines:

(a) in case of judicial police's establishment, for any reform to be successful, it must be explained to all competent services, including the Prosecution service, i.e. "what is" and

“what will do” the judicial police;

(b) the reform must not create new structural and substantive problems in the place of those which are to be solved, otherwise it will not reach the consensus of the executives who will be called upon to implement it.

## **6. General guidelines and principles for the institution of Judicial Police**

The establishment of a Judicial Police service in Greece must contain a wider reform of Criminal Justice System and Police forces in Greece, in order to avoid overlapping, conflicts of competences, and to strength specific rules of cooperation between the Judicial Police and other services and authorities. By this point of view formation of Judicial Police is strongly conditioned by the need to go beyond and reverse the guidelines of the existing law which view Judicial Police as a mere parallel police force to Hellenic Police and actually as an instrumental force under the Prosecutor. Additionally the formation of Judicial Police should be conditioned by a further theoretical elaboration of the concepts, which determine its function and relationship to other bodies. In this context, it is suggested the legislation of the theoretical distinction of police functions in

a) Public Order Police, b) Security Police, c) Judicial Police,

and the abolition of the distinction between administrative and judicial police, which today has no bearing on the social, administrative and police reality. These theoretical revisions should be introduced as appropriate to the Judicial Police and to Hellenic Police statutes and their legal framework.

### *Judicial Police Service*

- should be a new and specific service under the exclusive guide of the Prosecutor. It will be a service distinct and independent from the Hellenic Police, the Coast Guard, the Corpse of Economic Crime Prosecution (SDOE *in Greek*) and any other police force and penal control service existing in Greece.
- should be competent for certain categories of crimes and specifically for economic (including corruption) and organized crime, which are characterized by a particular penal and social devaluation and have been carried out in a complex and complicate method
- will carry out an inquiry at the stage a) of the preliminary Inquiry and, b) of investigation after the penal prosecution act has been filed.

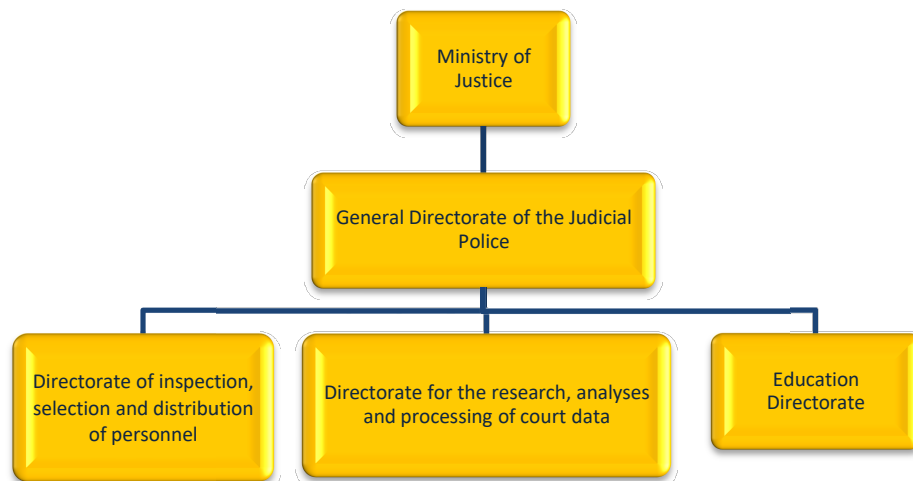
Further the alleged ambiguity and the confusion about Judicial Police mission and about security and investigation function lead to some general guidelines:

(a) in case of judicial police’s establishment, for any reform to be successful, it must be explained to all competent services, including the Prosecution service, i.e. “what is” and “what will do” the judicial police;

(b) the reform must not create new structural and substantive problems in the place of those which are to be solved, otherwise it will not reach the consensus of the executives who will be called upon to implement it.

## 7. The position of the Judicial Police Service in the system of Greek criminal justice institutions

**Figure 1 The Central Judicial Police Service**

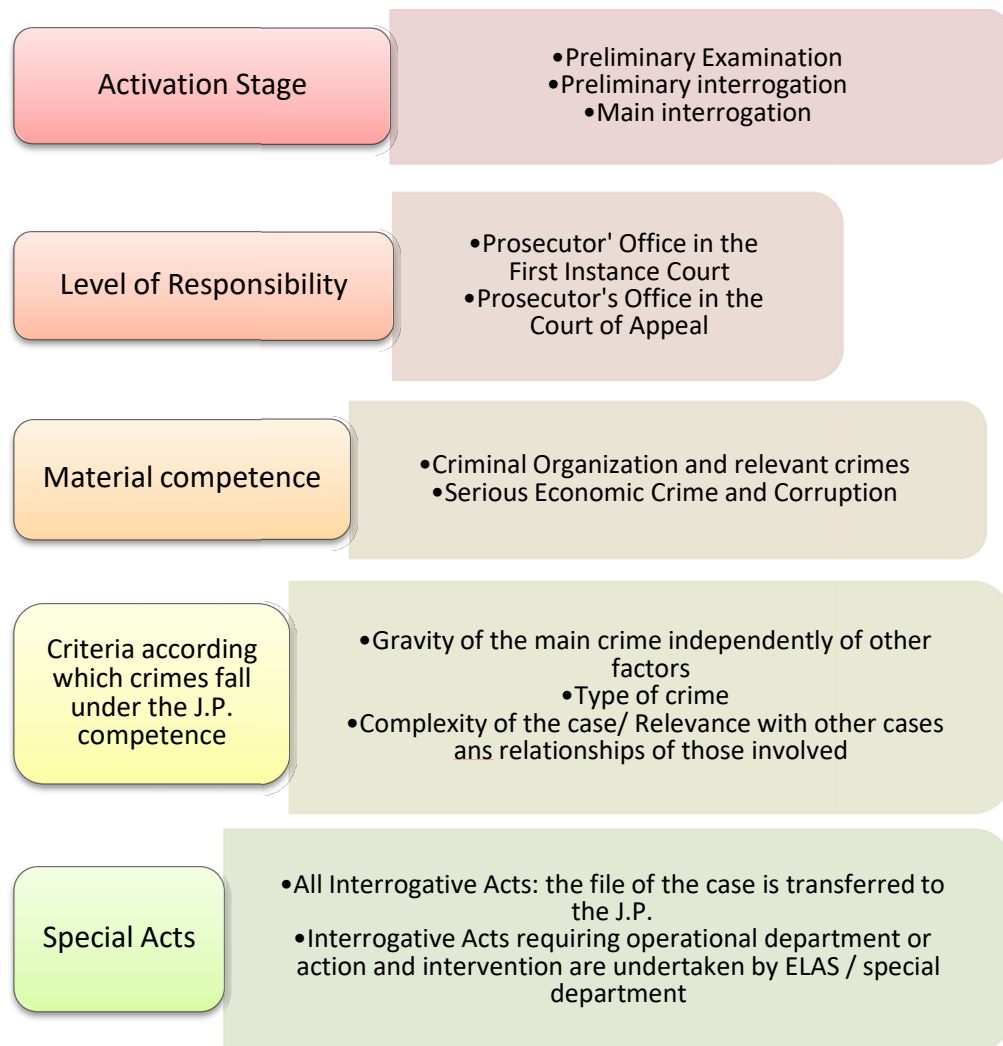


Taking in consideration the finding of desk research and research with focus groups it is suggested that to set up a Judicial Police Service at the Ministry of Justice, which should operate as sub-units in the Prosecutor's Offices is an appropriate and feasible solution. In particular, we suggest that Judicial Police should be a General Directorate of the Ministry of Justice, structured in central and regional offices. Regional offices will operate at Department and Office level, under the direction of the Chief Prosecutor at the Prosecutor's Office and will contribute to the preliminary of investigation of a case. If, after the preliminary investigation, a criminal prosecution has been initiated, it is suggested, that a special investigating magistrate / prosecutor should nominated for each case, who will also be assisted by a judicial police service. Judicial Police should be responsible for assisting the Prosecutor, only for certain categories of crimes of particular gravity and complexity, and by his point of view it should be competent

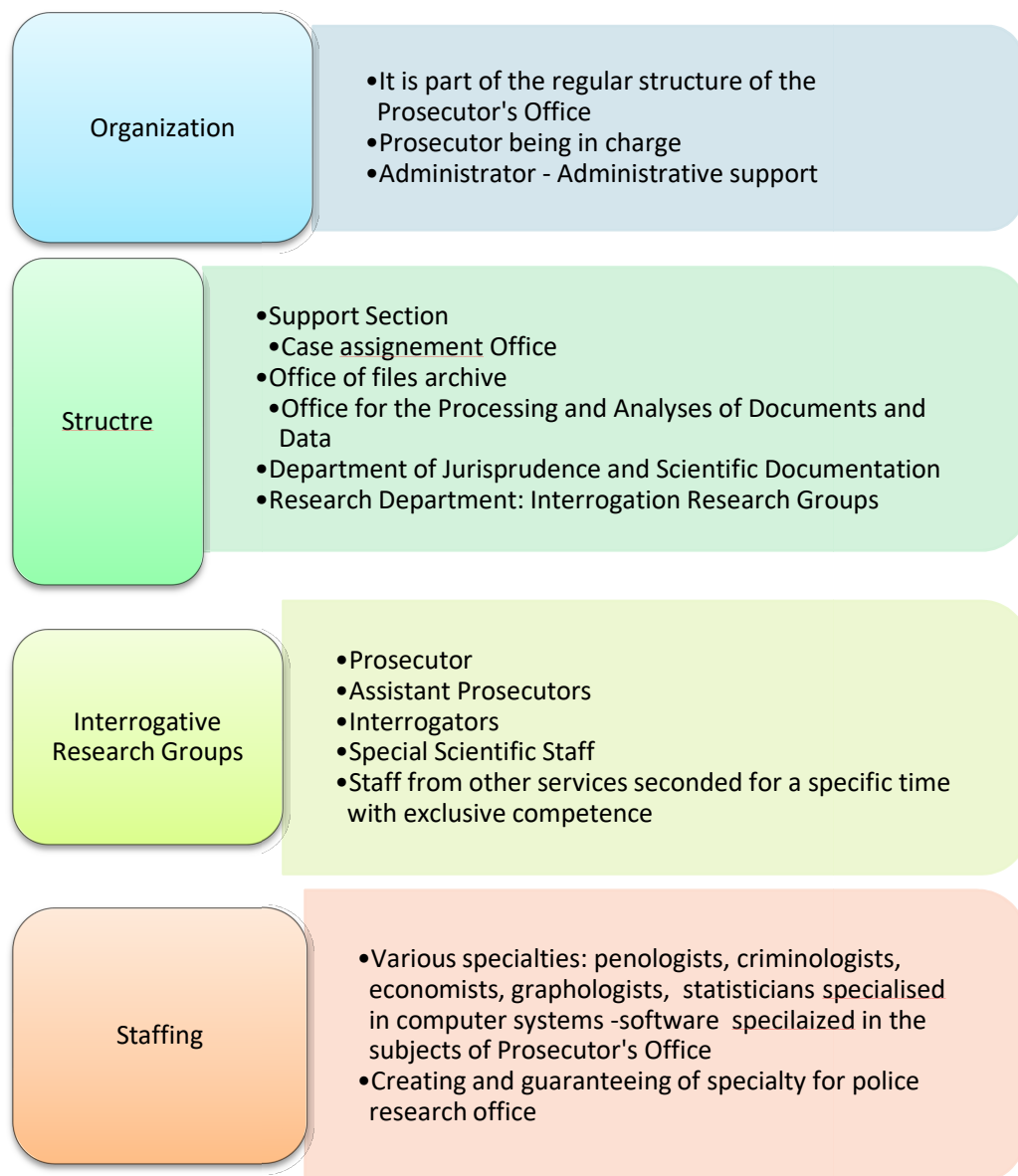
- a) to commit any act needed in the context of Preliminary Inquiry
- b) to conduct the main inquiry and investigations after the penal prosecution act
- c) to cooperate in joint operations with other services of the state in order to detect crime concerning specific cases.

-In particular, for each criminal case that fulfills certain criteria, once the Prosecutor of the Court of Appeal will be informed, will order a Preliminary Inquiry to be assigned to the competent Prosecutor for corruption, financial crime or organized (depend on the case).

-The Preliminary Inquiry will be carried out by the competent Prosecutor, who will be assisted by the competent investigation team and the Judicial Police Office under his/hers supervision and direction.

**Figure 2: Judicial Police Overview A**

**Figure 3: Judicial Police Overview B.**



-The Judicial Police operate under the direction of the Prosecutor or Investigator Judge, and fall under the relevant Public Prosecutor Office at the Court of Appeal (in cases of Preliminary Inquiry) and to Public Prosecutors' Offices of First Instance Courts (in cases of main penal inquiry).

- The existing Special Prosecutors against Economic Crime and Special Prosecutor against Corruption, fall under the new Penal Division B' of the Prosecution Office of Athens and Thessaloniki. A special Prosecutor for Organised Crime is instituted and under the same Penal Division B'. Special Prosecutors undertake a case based on the criterion of complexity/ complication, in combination to the penal seriousness of main crime (if it is a felony or not) and for specific types of crimes such as economic/ financial and organized crime.

A part from G.D. of Judicial Police in the Ministry of Justice should be instituted one distinct service, e.g. *Criminological Investigations Division* in the Central Services of the Hellenic Police Headquarter, to which certain security services belong.

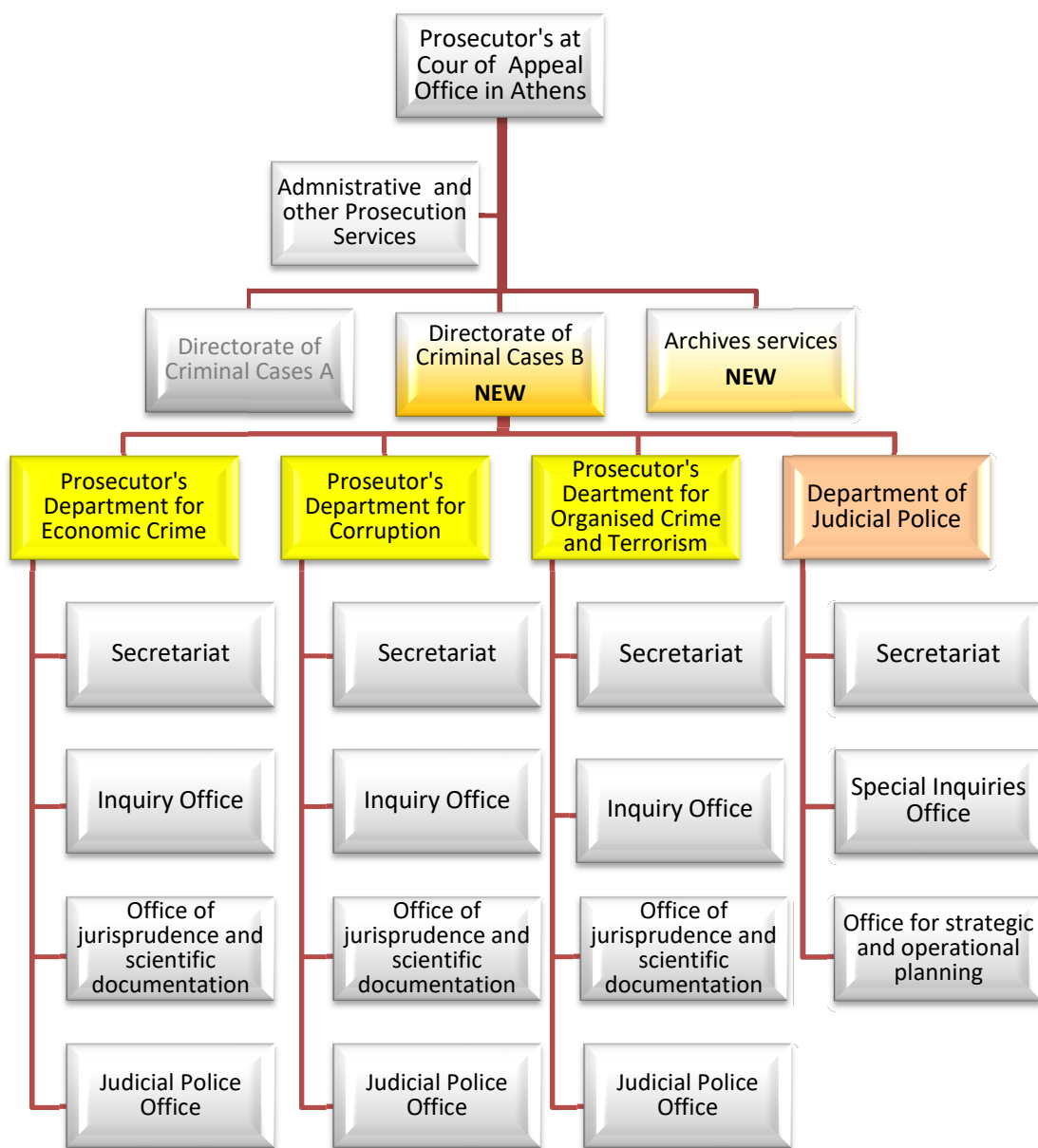
-*Criteria of Complexity*: Complex / complicate is a case or a crime when there is evidence of more than one of the following:

- (a) In committing and completing the crime contribute several individual or legal persons, perpetrators, co-operatives, surrogate persons and facilitators who cover the crime or, in any event, persons whose presence in a direct or wider circle of actions contributes to the commission or cover up or tolerance of the crime (see also Belgium and Portugal).
- b) Its commission has a cross-sectional or/and inter-temporal or transnational character and lasts over time (see also Portugal).
- c) It's commission requires specialized knowledge or experience in a field of activity (not necessarily scientific) or because of the number of perpetrators or victims (see also Portugal).
- d) In principle, the collection of proofs and generally evidence requires specialized knowledge (both in modern technologies and in traditional practices of crimes' commission) and experience (see also Portugal).
- e) Interviewing suspects, witnesses, accused persons, requires special knowledge of specific areas of activity, particular training and experience of the interrogator, particularly in the area of economic, organized crime and human rights.
- (f) Finally, when it is reasonably probable, that the disclosure and dislocation of criminal networks and organizations, and the arrest of perpetrators in any such case, involves the cooperation with different services in specific investigative acts provided by the law, the realization of specific inquiry strategies, specific qualitative analyses and risk assessments appropriate to certain categories of crime, and the use and elaboration of existing archive material.
- (g) The geographical dispersion of specialized investigative tasks that should be carried out (this is an option followed by Belgium).

These elements, entirely or in part, are criteria that determine the competence of Judicial Police.



**FIGURE 2: Prosecutors Office and Judicial Police/ Court of Appeal**



### *Instituting and structuring the Judicial Police*

In the Ministry of Justice a Central Service of Judicial Police at the level of the General Directorate is instituted. It is headed by a Senior Official of the Ministry of Justice with special qualifications and experience. It is structured in three Departments (Department of Inspection and Personnel, Department of Research and Department of Education). The Department of Inspection & Personnel of the Central Service is competent for staffing all the other Judicial Police Services.

At the Prosecutor's Offices at the Court of Appeal, Athens, Piraeus and Thessaloniki are instituted Judicial Police Services (Regional Offices ) in order to assist the Prosecutor to carry out the Preliminary Inquiry;

At the Prosecutor's Office at the First Instance Court of Athens, Piraeus, Thessaloniki and Patras, are instituted Judicial Police Services to assist the Prosecutor of First Instance to conduct the main inquiry ordered after the preliminary Inquiry. The prosecutor is specially appointed for the prosecution of the concrete types of crime (see above).

The Judicial Police Services are competent for certain types of crimes (see above), and are sub-units of the Central Office of the J.P.

Prosecutors of Appeal and Prosecutors of Misdemeanors who are entrusted with the task of dealing with corruption, economic and organized crime, are in charge of the relevant judicial police service and have exclusive jurisdiction over the cases dealt with, and are assisted by a similar range of investigating groups.

### *Investigative Groups and the Judicial Police*

At the Prosecutor Office at the Court of Appeal, at the beginning of each judicial year, the competent Judicial Council shall set up inquiry/ investigative teams to jointly handle a case, that will arise during the year. Investigative groups members may vary during the year depending on the case and after a decision by the Judicial Council. Each investigative group consists of at least one Prosecutor at the Court of Appeal, one Assistant Prosecutor, one Investigator-Judge, two or three police officers from the Judicial Police, two expert scientists. Each one of the above personnel cannot participate in more than two cases at the same time during a Court- Year.

### *Prosecution Office and Judicial Police Staffing*

1. The prosecution offices to which judicial police services are subject to are staffed with: a) Prosecutors, b) Assistant Prosecutors, c) Investigators – Judges, d) Staff of the Judicial Police.

2. The Judicial Police Office should be staffed by:

- a) Staff serving in the Public Sector or Independent Authorities, experts in the relevant issues of JP mission. They will be recruited after their request, for 5 years or if they are appointed obligatorily for 3 years,.
- b) Personnel qualified and experienced, serving in Hellenic Police Force, the Coast Guard, the SDOE etc.. They are detached to JP at their request for 5 years.
- c) Specialized/ Experts Scientists of Master or PhD level experts in Criminological Sciences, Criminal Law, Informatics, Economics and Statistics, recruited through a special ASEP Process.
- f) Administrative, technical and other support staff recruited through ASEP.

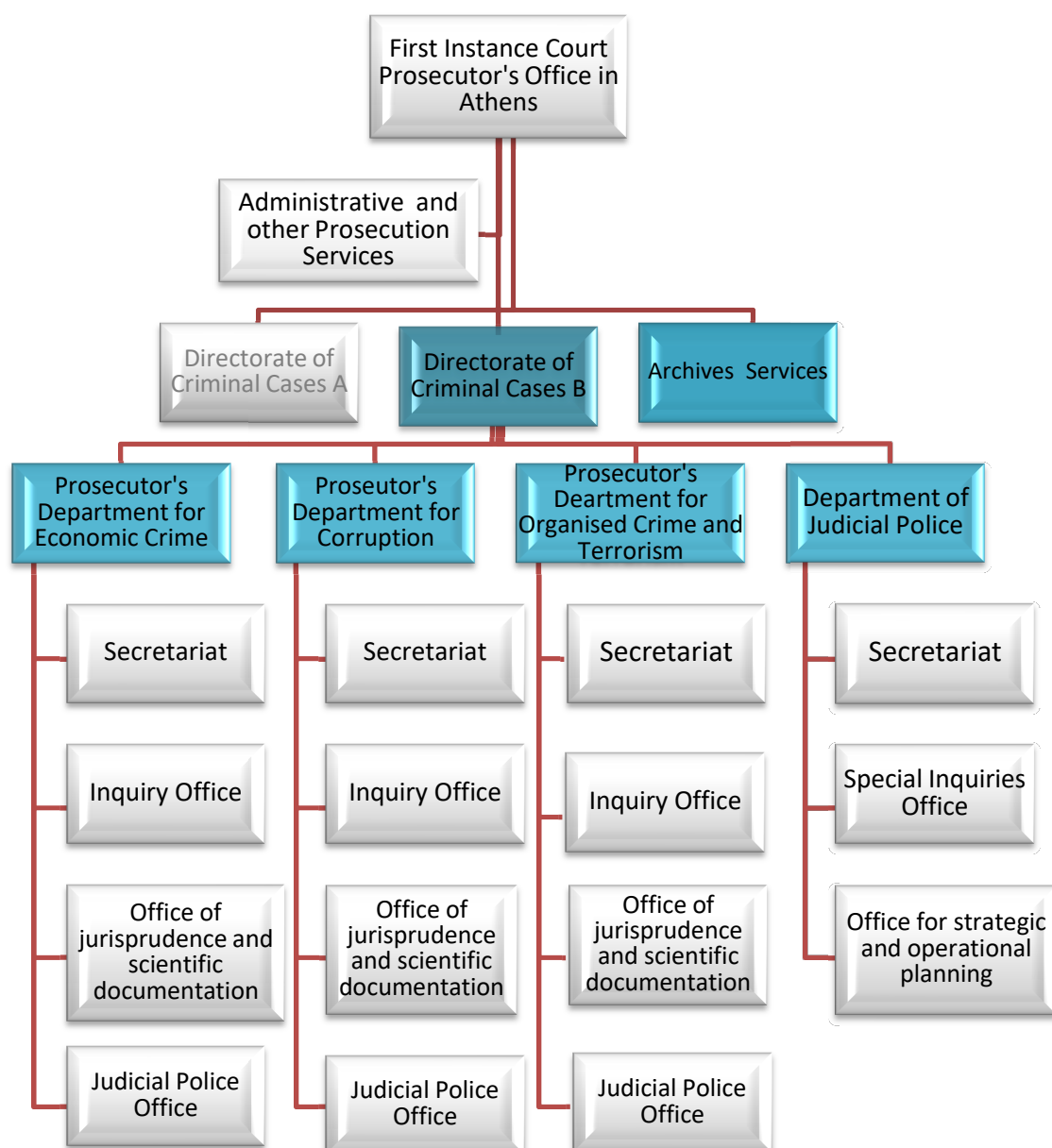
- In cases handled by the Chief Prosecutor in charge of the Judicial Police, prosecution and arrest is carried out by the Judicial Police, if it is judged that these actions should be done solely by it. Otherwise, the pursuit and arrest is done by the regular police or by both services.

3. Personnel posted for a period to the Judicial Police are selected following a special

selection procedure. These personnel execute exclusively the responsibilities assigned to this service.

4. *Number of staff should be calculated by taking in account (for a given period of time) workload, relationship between workload and quality of Justice, crime figures, needs' assessment. On this basis should be calculate the number of personnel.*

**FIGURE 3: PROSECUTOR OFFICE AND JUDICIAL POLICE / COURT OF FRIST INSTANCE**



### *Service and Administration*

The staff of the Judicial Police, is qualified as investigative officer, is employed under the Ministry of Justice and serves in the Judicial Police Offices in local Prosecution Offices.

The staff serving in the local Prosecution Offices is under the Direction of Public Prosecutor at the Court of Appeal or of First instance.

For as long as these staff is serving in the Judicial Police their status is ruled by:

- specific disciplinary law related to the specific conditions of employment and task
- civil servants law
- a special payroll system of salary payment.

-It is recommended a) to elaborate further the eventual abolition of Investigator Judge, and the institution of a preliminary hearing Judge, and b) to rationalize the conditions under which a case is put in archive and is decided not to proceed. *In the case in which the existing investigator- judge is being abolished*, investigators who are already handling unsolved cases, should continue to investigate until they complete the case.

#### *Relationship of the Judicial Police with other services*

The relationship of the Judicial Police with the Hellenic Police, the SDOE, the Coast Guard and any other service of the criminal justice system and the Greek state, as well as Independent Authorities (including IAPR –AADE in Greek) is subject to the provisions governing the relationship of the Prosecutor with those authorities and services. However it is recommended that the financial controls' outcome conducted by Economic Police, SDOE and other services under the Special Prosecutors' order, should not be revisited by the IAPR. Further it is recommended an integrated regulation of the relationships between Special Prosecutors and any other authority, especially in the prospect of the constitution of Judicial Police Service – as described up to now-under the Public Prosecutor

#### *Relationship of the Judicial Police with Special Prosecutors*

Following the institution of the Judicial Police, the Special Prosecutors of Economic Crime and Corruption are abolished. They and the all the staff and judicial functionaries who are under their direction, are “transferred”, to the new Judicial Police Service which is established under the Prosecutor's at the Court of Appeal Office in Athens and Thessaloniki respectively.

The pending cases which have already been in the competence of the Prosecutor against Corruption or the Prosecutor against Economic Crime or the relevant investigators –judges, continue to be under their responsibility, unless these functionaries reasonably request their further reinforcement by assistant prosecutors or their discharge.

**Figure 4: Judicial Police and other services****FIGURE 5: Education , Training and Research/ options**