Interdisciplinary Studies in Society, Law, and Politics 2027; 6(4): 1-21

ISSLP
Interdisciplinary Studies in Society, Law and Politics

Original Research

# A Comparison of Judicial Prevention and Criminal Prevention and an Analysis of Their Institutions in the Preliminary Investigation Phase

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**Received:** 2026-04-16 **Revised:** 2026-07-28 **Accepted:** 2026-08-05 **Initial Publish:** 2026-08-12 **Final Publish:** 2027-07-01

The preliminary investigation phase is one of the most sensitive stages of the criminal process because it is the point at which the state first exercises coercive authority in response to an alleged offense. Decisions adopted during this phase can prevent the continuation of criminal conduct, protect victims and witnesses, preserve evidence, secure the suspect's presence, and reduce the risk of repeated offending. At the same time, preventive measures may result in arbitrary arrest, excessive detention, unlawful surveillance, violations of privacy, and impairment of the presumption of innocence. This article compares judicial prevention and criminal prevention and analyzes the principal institutions through which they operate during preliminary investigations. Using a descriptive-analytical legal method, the study examines the conceptual foundations, objectives, instruments, institutional structures, and legal limitations of both forms of prevention. The findings indicate that criminal prevention is a broad category encompassing judicial, police, administrative, social, situational, rehabilitative, and victim-oriented interventions, whereas judicial prevention is a more specific form of legally regulated prevention exercised through prosecutors, investigating judges, courts, and mechanisms of judicial supervision. Although the two approaches overlap in areas such as pretrial detention, victim protection, evidence preservation, no-contact orders, asset freezing, mediation, and prevention of recidivism, they differ in institutional scope, legal basis, methods, timing, and accountability mechanisms. The article argues that judicial prevention also performs an independent rights-protective function by controlling coercive governmental power and preventing procedural abuses. Effective prevention during preliminary investigations therefore requires coordinated participation by police authorities, prosecution services, judges, forensic institutions, victim-support organizations, social and health services, regulatory bodies, and defense lawyers. Such coordination must be accompanied by legality, necessity, proportionality, individualized risk assessment, access to legal representation, periodic judicial review, data protection, and institutional accountability. The article concludes that a legitimate preventive model must simultaneously protect public security, victims' interests, procedural integrity, and the fundamental rights of suspects.

***Keywords:*** *Judicial Prevention; Criminal Prevention; Preliminary Investigation; Prosecutor; Investigating Judge; Crime-Prevention Institutions; Victim Protection; Pretrial Detention*

**How to cite this article:**

Fathi, M. & Mohammadi, J. (2027). A Comparison of Judicial Prevention and Criminal Prevention and an Analysis of Their Institutions in the Preliminary Investigation Phase. *Interdisciplinary Studies in Society, Law, and Politics, 6*(4), 1-21. https://doi.org/10.61838/kman.isslp.545

## 1. Introduction

Crime prevention has gradually moved from the margins of criminal justice policy to the center of contemporary legal and criminological debate. Traditional criminal law was primarily concerned with defining prohibited conduct, identifying offenders, establishing criminal responsibility, and imposing punishment after an offense had been completed. Contemporary criminal policy, however, increasingly recognizes that the effectiveness and legitimacy of the criminal justice system cannot be assessed solely by the number of prosecutions or convictions it produces. A criminal justice system must also be capable of preventing the initial occurrence of crime, interrupting ongoing criminal conduct, protecting individuals from repeated victimization, preventing suspects from obstructing investigations, and minimizing the social and personal conditions that contribute to recidivism. This broader orientation has generated various preventive models, among which judicial prevention and criminal prevention occupy significant positions. The broad approach to prevention includes social, situational, administrative, cultural, judicial, and criminal measures, whereas the narrow approach generally limits prevention to interventions directly connected with the criminal justice system (Ebrahimi, 2009). The distinction between these approaches demonstrates that prevention is not a unitary concept but a multidimensional policy field involving institutions with different authorities, objectives, methods, and standards of accountability.

The preliminary investigation phase provides a particularly important context for examining the relationship between judicial prevention and criminal prevention. This phase begins when criminal justice authorities receive information concerning a suspected offense and continues through evidence collection, identification or interrogation of suspects, protection of victims and witnesses, judicial examination of coercive measures, and preparation of the case for a prosecutorial or judicial decision. The preliminary investigation is therefore not merely a technical process for discovering facts. It is also a critical period during which the risks associated with the alleged offense may continue or intensify. A suspect may attempt to repeat the offense, escape from the jurisdiction, intimidate a victim, influence a witness, destroy evidence, conceal criminal proceeds, or exploit the delay and fragmentation of institutional responses. At the same time, investigative authorities may themselves create new risks by resorting to arbitrary arrest, excessive detention, coercive interrogation, unlawful searches, discriminatory practices, or unjustified restrictions on privacy. Judicial and criminal prevention during this phase must consequently address two categories of danger: the danger arising from crime and the danger arising from uncontrolled governmental coercion.

Judicial prevention generally refers to preventive measures adopted, authorized, supervised, or reviewed by institutions exercising judicial authority. It is connected to the role of courts, prosecutors, investigating judges, judicial officers, and other bodies functioning within the judicial system. The judiciary's preventive role is not limited to issuing judgments after a trial, because the structure and operation of the judicial process can influence criminal opportunities, repeat offending, victim protection, and public confidence in the law. The judiciary may perform a preventive role through the prompt initiation of proceedings, supervision of law-enforcement authorities, issuance of protective orders, control of arrest and detention, preservation of evidence, referral of cases to mediation, and use of individualized measures based on the circumstances of suspects and victims. The preventive responsibility of the judiciary has accordingly been treated as a distinct dimension of crime-control policy rather than as a secondary consequence of adjudication (Koosha, 2010). Judicial prevention also has an internal dimension, because judicial supervision is intended to prevent abuses committed by police officers, detention authorities, investigators, and other officials whose actions directly affect liberty, dignity, and privacy.

Criminal prevention is a broader and more complex concept. It includes interventions that use criminal law, criminal procedure, penal institutions, policing, prosecutorial authority, judicial decisions, and rehabilitative mechanisms to reduce the likelihood of offending or reoffending. In some classifications, criminal prevention is associated mainly with deterrence, incapacitation, punishment, rehabilitation, and the operation of criminal sanctions. In a broader institutional analysis, however, it also includes preventive activities undertaken before conviction by police, prosecutors, forensic bodies, victim-support institutions, regulatory agencies, social services, and specialized investigative units. The institutions of criminal prevention may differ according to the nature of the offense and the legal system involved. Military offenses, economic crimes, domestic violence, organized crime, cybercrime, juvenile delinquency, and environmental offenses may each require distinct institutional arrangements. Comparative analysis of criminal prevention demonstrates that preventive institutions are shaped by constitutional structures, legal traditions, prosecutorial organization, police powers, and the distribution of authority between judicial and executive bodies (Sadegh Manesh, 2022). Criminal prevention is therefore wider than judicial prevention, although many judicial institutions are also central institutions of criminal prevention.

The conceptual overlap between judicial prevention and criminal prevention creates both theoretical and practical difficulties. A prosecutorial order prohibiting a suspect from contacting a victim may be classified as judicial prevention because it is issued within a judicial proceeding, but it may also be classified as criminal prevention because it seeks to prevent further violence. An arrest warrant may preserve the effectiveness of an investigation, prevent flight, and protect the public, yet it may also lead to excessive deprivation of liberty when issued without an individualized assessment of necessity. A mediation referral may reduce the burden on courts, address victim interests, encourage offender accountability, and prevent future conflict, thereby combining judicial, restorative, and criminal-preventive functions. The institution of mediation has been recognized as a mechanism capable of resolving certain criminal disputes while involving the victim, offender, and community more directly in the response to crime (Roufian Naeini & Ebrahimi, 2019). These examples show that the distinction between judicial and criminal prevention cannot be established solely by examining the immediate effect of a measure. It requires consideration of the institution exercising the power, the legal source of the authority, the procedural context, the purpose pursued, and the safeguards available to affected persons.

The prosecutor occupies a central position in this intersection. In many legal systems, the prosecutor receives criminal complaints, supervises or directs police investigations, evaluates evidence, authorizes or requests coercive measures, protects public interests, and decides whether a case should proceed toward prosecution, diversion, mediation, or dismissal. The prosecutor's preventive role arises from the ability to respond to immediate dangers while also controlling the legality and direction of the investigation. Practical approaches to prosecutorial crime prevention include coordination with law-enforcement agencies, prioritization of high-risk cases, intervention in continuing offenses, protection of victims, and adoption of alternatives to conventional prosecution (Amiri & Roohalamini, 2017). The authority of the prosecutor must nevertheless remain legally defined and institutionally limited, because an excessively powerful prosecution service may weaken judicial independence, defense rights, equality of arms, and the presumption of innocence. The status and limits of prosecutorial authority are thus essential to any evaluation of prevention in the preliminary investigation phase (Salehi & Afrasiabi, 2018).

The victim has also become increasingly important in preventive criminal procedure. Earlier criminal justice models often treated the victim mainly as a source of evidence or as the person whose complaint initiated public prosecution. Modern approaches recognize that victims have interests in safety, information, participation, compensation, dignity, and protection from secondary victimization. The changing status of the victim in criminal procedure reflects a movement from a predominantly state-centered model toward a more balanced process that takes victim interests seriously (Parsa & Rahmani, 2018). During preliminary investigations, preventive institutions must determine whether victims require emergency protection, confidential communication, medical assistance, psychological services, safe accommodation, legal advice, or restrictions on contact by the suspect. Preventing repeat victimization is particularly important because certain offenses, including domestic violence, stalking, sexual violence, organized crime, and cyber harassment, may involve continuing relationships or repeated patterns of harm. Criminal prevention must therefore be sensitive not only to the abstract risk of crime but also to the concrete vulnerability of identified victims (Mirkhalili & Rahimi, 2012).

The suspect's rights remain equally important. Preventive measures are frequently imposed before criminal responsibility has been finally established. The preliminary investigation phase is characterized by incomplete information, uncertainty concerning the accuracy of allegations, and institutional pressure to act quickly. These conditions may encourage authorities to treat suspicion as proof and risk as guilt. A rights-based approach requires that arrest, detention, surveillance, search, seizure, and other restrictions be based on law, supported by sufficient reasons, limited to legitimate objectives, and subject to independent review. Principles of equality, fairness, and justice require that preventive criminal procedure not discriminate on the basis of social status, ethnicity, gender, political influence, economic resources, or institutional affiliation (Ashouri, 2003). Judicial supervision of deprivation of liberty is particularly necessary because detention may cause severe personal, familial, economic, and reputational consequences even when the suspect is later acquitted or the case is dismissed. Effective supervision over officials responsible for implementing measures that deprive individuals of liberty is therefore an indispensable component of lawful prevention (Moazenzadegan & Khodadadi, 2013).

The need for individualized decision-making is another central issue. Preventive decisions should not be based exclusively on the legal classification of the alleged offense. Authorities must also consider the suspect's personal circumstances, prior conduct, social relationships, employment, health, family responsibilities, risk of flight, potential for violence, and capacity to comply with non-custodial measures. The personality file has been developed in some criminal justice systems to provide judicial authorities with information relevant to individualized decision-making and the selection of appropriate legal responses (Shamloo & Gozli, 2011). Although personality assessment may improve the proportionality of preventive measures, it may also create risks of labeling, privacy violations, subjective prediction, and excessive reliance on psychological or social profiles. Such information must therefore be collected transparently, used for legitimate purposes, and interpreted by qualified professionals rather than employed as a substitute for evidence concerning the alleged offense.

The preliminary investigation phase also creates opportunities for consensual and restorative mechanisms. Charge bargaining, mediation, conditional prosecution, diversion, and reparative agreements may reduce unnecessary use of detention and formal adjudication while promoting accountability and compensation. The potential generalization of charge-bargaining institutions within the Iranian criminal justice system has been examined as part of broader efforts to increase efficiency and flexibility (Abbasian & Alipour, 2015). Nevertheless, consensual mechanisms must not become instruments of coercion. A detained or legally uninformed suspect may accept an agreement because of fear, fatigue, or inability to obtain effective legal representation. A vulnerable victim may agree to mediation under family, social, or economic pressure. Preventive institutions must accordingly ensure voluntariness, access to counsel, informed consent, equality of bargaining power, and judicial review.

The article aims to compare judicial prevention and criminal prevention, clarify their conceptual boundaries, and analyze the principal institutions through which they operate during the preliminary investigation phase. It also seeks to identify the circumstances in which their functions overlap, the legal safeguards that should govern preventive action, and the institutional reforms needed to achieve an appropriate balance between public security and individual rights. The central argument is that judicial prevention constitutes a specialized and legally supervised component of criminal prevention, but it also performs an independent rights-protective function by controlling the exercise of coercive authority. Effective prevention during preliminary investigations requires coordination among judicial, law-enforcement, forensic, social, and victim-support institutions, yet coordination must not eliminate institutional independence or weaken mechanisms of accountability. The legitimacy of prevention depends not only on its capacity to reduce crime but also on its consistency with legality, proportionality, human dignity, procedural fairness, and the presumption of innocence.

## 2. Conceptual and Theoretical Foundations of Judicial and Criminal Prevention

The concept of prevention is used in criminal policy to describe measures intended to reduce the occurrence, continuation, repetition, or harmful consequences of criminal behavior. It is broader than the concept of punishment because it may operate before an offense occurs, while criminal conduct is ongoing, during criminal proceedings, after conviction, and following the completion of a sentence. A broad conception of prevention includes social policy, education, urban design, economic regulation, family support, situational measures, policing, criminal procedure, punishment, rehabilitation, and post-release supervision. A narrow conception concentrates on measures directly adopted through criminal law and the criminal justice system. The distinction between broad and narrow approaches has important legal consequences because it determines which institutions are regarded as preventive bodies and which principles govern their actions (Ebrahimi, 2009). If prevention is defined too narrowly, the role of social, administrative, and community institutions may be neglected. If it is defined too broadly, nearly every governmental activity may be classified as crime prevention, making institutional responsibility and legal accountability difficult to identify.

Prevention is commonly classified as primary, secondary, or tertiary. Primary prevention addresses general social and environmental conditions associated with crime and is directed toward the population as a whole. It may include educational policies, employment opportunities, social welfare, public awareness, urban security, and the development of lawful methods of dispute resolution. Secondary prevention focuses on persons, groups, situations, or locations exposed to a heightened risk of offending or victimization. It may involve targeted youth programs, protection of vulnerable victims, intensive supervision of high-risk locations, or early intervention with individuals displaying serious behavioral difficulties. Tertiary prevention begins after a crime has occurred and seeks to prevent recidivism, repeated victimization, retaliation, or continuation of the harmful situation. The preliminary investigation phase belongs mainly to secondary and tertiary prevention because an offense has usually been reported, a victim may have been identified, and specific risks require immediate management. Juvenile delinquency illustrates the importance of linking these levels of prevention because effective responses must address both the child's personal circumstances and the family, educational, and social conditions surrounding the conduct (Abaachi, 2004).

Another influential distinction separates social prevention from situational prevention. Social prevention attempts to reduce criminal motivation by addressing economic deprivation, social exclusion, family conflict, educational failure, substance abuse, discrimination, and other structural or personal conditions associated with offending. Situational prevention does not necessarily seek to transform the offender's values or social environment. It attempts instead to reduce opportunities for crime, increase the perceived difficulty or risk of offending, protect vulnerable targets, and limit the benefits of criminal conduct. Islamic legal and ethical teachings have also been examined as a source of situational preventive principles, particularly where they encourage guardianship, protection of property, avoidance of dangerous situations, and regulation of opportunities for wrongdoing (Mirkhalili, 2004). During preliminary investigations, situational prevention may include securing a crime scene, restricting access to weapons, protecting electronic systems, freezing suspicious financial transactions, separating a violent suspect from a victim, or preserving digital evidence before it can be altered.

Social prevention is usually associated with executive, welfare, educational, and community institutions rather than courts and prosecutors. The executive branch may contribute to social crime prevention through employment policy, public health, education, housing, addiction treatment, youth services, and family support (Sarikhani & Soltani Bahlouli, 2016). Nevertheless, the preliminary investigation can create a connection between judicial processes and social prevention. A prosecutor may refer a juvenile suspect to counseling, an investigating authority may request a social assessment, or a court may replace detention with treatment or supervision. Such measures demonstrate that judicial institutions can activate social-preventive mechanisms even when they do not directly provide social services. Effective coordination requires clarity concerning institutional roles. Judicial authorities should not attempt to replace professional health or welfare institutions, while executive agencies should not exercise coercive judicial powers without legal authorization and review.

Criminal prevention may be understood as prevention achieved through the institutions and doctrines of criminal law. Its traditional foundations include general deterrence, special deterrence, incapacitation, rehabilitation, and the expressive function of punishment. General deterrence assumes that the existence and enforcement of criminal sanctions may discourage members of the public from offending. Special deterrence seeks to discourage an identified offender from committing further crimes. Incapacitation reduces the immediate capacity to offend through detention, imprisonment, disqualification, or restriction. Rehabilitation attempts to change the conditions, attitudes, abilities, or behaviors that contribute to offending. Contemporary rehabilitation cannot be considered legitimate merely because it is described as beneficial to the offender. It must be fair, proportionate, respectful of autonomy, and consistent with criminal law principles (Ebrahimi, 2022). These theoretical foundations influence preliminary investigations because decisions concerning detention, treatment, supervision, and diversion often contain implicit assumptions about dangerousness, deterrence, and the possibility of behavioral change.

Judicial prevention is more difficult to define because it may refer either to prevention undertaken by the judiciary or to prevention achieved through judicial processes. The institutional definition emphasizes the identity of the actor: courts, prosecutors, investigating judges, judicial officers, and bodies formally located within the judiciary. The functional definition emphasizes the nature of the intervention: supervision of coercive powers, protection of procedural rights, preservation of evidence, prevention of flight, prevention of repeat offending, and protection of victims or witnesses. The institutional and functional definitions overlap but are not identical. A police action ordered by a prosecutor may be considered judicial prevention because it is exercised under judicial direction. A social worker operating in a victim-support unit attached to a court may contribute to judicial prevention despite lacking judicial authority. Conversely, a prosecutor performing an administrative management function may not necessarily be engaged in prevention. A satisfactory definition must therefore consider both the legal status of the institution and the preventive purpose of the measure.

Judicial prevention has an external and an internal dimension. Its external dimension is directed toward crime, offenders, criminal opportunities, and victimization. Its internal dimension is directed toward the criminal justice system itself. It seeks to prevent arbitrary arrest, unlawful searches, coercive questioning, excessive detention, manipulation of evidence, procedural delay, discriminatory treatment, and abuse of authority. The judiciary's role in prevention consequently includes both the prevention of private wrongdoing and the prevention of official misconduct. This dual orientation distinguishes judicial prevention from purely police-centered models of crime control. The role of the judiciary in crime prevention has been defended partly on the ground that judicial institutions possess legal authority, independence, and procedural mechanisms capable of controlling both criminal risk and governmental power (Koosha, 2010). Judicial prevention is therefore legitimate only when it protects the integrity of the legal process rather than becoming a justification for unlimited intervention.

The rule of legality provides the first foundation for preventive action. A restriction imposed during a preliminary investigation must have a clear basis in law, be exercised by a competent authority, and follow prescribed procedures. Authorities should not create informal penalties or preventive restrictions merely because they consider them useful. Legality also requires that legal provisions be sufficiently accessible and predictable to enable individuals to understand the circumstances in which their liberty, property, privacy, or movement may be restricted. The development of crime-prevention legislation demonstrates the difficulties of translating broad preventive objectives into precise institutional duties and enforceable legal standards (Shiri, 2020). Vague statutory language may allow authorities to act flexibly, but it may also create inconsistent practices, institutional conflicts, and opportunities for abuse.

Necessity and proportionality provide additional foundations. Necessity requires a rational connection between the preventive measure and a concrete, legally recognized risk. A person should not be detained simply because detention is administratively convenient or because the alleged offense has attracted public attention. The authority must identify the risk that detention is intended to address, such as flight, interference with evidence, serious danger to a victim, or imminent reoffending. Proportionality requires the intensity and duration of the restriction to correspond to the seriousness and probability of the risk. A less restrictive measure should be preferred when it can reasonably achieve the same objective. Reporting duties, travel restrictions, no-contact orders, bail, electronic monitoring, or placement under supervision may sometimes replace detention. Proportionality also requires periodic reassessment because a measure that was justified at the beginning of an investigation may become unnecessary after evidence has been secured or witnesses have been interviewed.

The presumption of innocence is especially important because preventive measures are imposed before final conviction. The state may manage procedural and safety risks, but it must not use preventive language to impose punishment in advance. Pretrial detention becomes inconsistent with the presumption of innocence when it is justified by public anger, an assumption of guilt, or a desire to impose an immediate punitive response. Public statements by prosecutors and police can also undermine the presumption of innocence by presenting allegations as established facts. Fairness requires that the suspect be informed of the reasons for restrictive measures and have a meaningful opportunity to challenge them. Concepts of equality, fairness, and justice require criminal institutions to treat individuals as rights-bearing participants rather than as objects of crime-control policy (Ashouri, 2003). This obligation applies even in cases involving serious or socially condemned offenses.

Procedural justice provides a broader theoretical basis for prevention. Individuals are more likely to respect legal decisions when they perceive authorities as neutral, respectful, transparent, and willing to hear their views. The preventive effect of the criminal process therefore depends not only on the severity of sanctions but also on the quality of institutional interaction. Humiliating treatment, unexplained detention, discriminatory policing, and denial of access to counsel may weaken trust and increase alienation. A procedurally fair investigation can reinforce the legitimacy of law even when it imposes necessary restrictions. This insight connects judicial prevention with long-term crime prevention, because public cooperation with police and courts depends heavily on institutional legitimacy. Witnesses are more likely to report crimes, victims are more likely to seek protection, and communities are more likely to share information when they believe the criminal justice system will act lawfully and respectfully.

Criminological knowledge is another foundation of preventive decision-making. Criminal legislation and procedure should be informed by empirical findings concerning offending patterns, victimization, recidivism, social risk factors, and the effects of sanctions. The incorporation of criminological findings into the evolution of criminal legislation has been identified as an important aspect of rational criminal policy (Sheikh al-Islami, 2003). Nevertheless, the use of criminological knowledge must be distinguished from uncritical prediction. Statistical associations cannot establish that a particular individual will commit a future offense. Risk-assessment instruments may assist professional judgment, but they may reproduce biases present in historical data and may assign excessive significance to poverty, neighborhood, family background, or prior police contact. Judicial authorities must therefore use risk information cautiously, transparently, and in combination with individualized evidence.

The concept of dangerousness presents one of the most controversial theoretical problems. Preventive systems often classify individuals according to the likelihood that they will flee, reoffend, intimidate witnesses, or cause serious harm. Some degree of prospective judgment is unavoidable during preliminary investigations. The decision whether to release a suspect necessarily involves an assessment of future conduct. Yet dangerousness is not a fixed personal quality that can be determined with certainty. It is a contextual judgment influenced by the person's circumstances, available support, the nature of the alleged conduct, access to victims, substance use, and the effectiveness of possible safeguards. Treating dangerousness as a permanent identity may produce discriminatory detention and undermine rehabilitation. The personality file can assist individualized understanding when it is used to identify supportive and protective measures rather than merely to justify restriction (Shamloo & Gozli, 2011).

Victimology has also transformed the theoretical foundations of prevention. Crime prevention was once discussed mainly in terms of controlling offenders, but modern victimology emphasizes exposure to risk, vulnerability, repeated victimization, secondary victimization, and institutional harm. Preventing repeat victimization may require rapid protective measures, security planning, emergency accommodation, restrictions on suspect contact, and coordination with social or health services (Mirkhalili & Rahimi, 2012). The development of the victim's status in criminal procedure has also increased expectations concerning information, participation, respect, and access to remedies (Parsa & Rahmani, 2018). Victim-oriented prevention must nevertheless remain compatible with the rights of the suspect. Protecting a victim does not authorize the automatic acceptance of every allegation as proven, just as the presumption of innocence does not justify neglecting credible threats.

Restorative justice provides an alternative theoretical framework. Rather than defining crime only as a violation of state authority, restorative approaches also view it as harm to persons and relationships. Mediation may provide an opportunity for acknowledgment, reparation, negotiated obligations, and reduction of future conflict (Roufian Naeini & Ebrahimi, 2019). Restorative processes can contribute to prevention by increasing offender responsibility, addressing victim needs, and strengthening community involvement. Their suitability depends on the nature of the offense, the voluntariness of participation, the balance of power between the parties, and the availability of safeguards. Cases involving severe violence, intimidation, dependency, or continuing coercive control require particular caution. Mediation should not be used to privatize serious crime, pressure victims into reconciliation, or reduce institutional responsibility for protection.

Judicial discretion is another essential theoretical element. No legal code can predetermine every circumstance arising during preliminary investigations. Prosecutors and judges require discretion to select proportionate measures, prioritize cases, respond to emergencies, and consider individual circumstances. Discretion may promote fairness when it allows authorities to distinguish between cases that are legally similar but practically different. It may also produce inconsistency, inequality, or hidden bias. Scholarship concerning legal discretion in mitigation illustrates the broader tension between individualized justice and equal treatment (Najafi Abrandabadi & Amadeh, 2011). In the preliminary investigation phase, discretion must be structured by legal criteria, written reasoning, review mechanisms, professional training, and institutional data capable of revealing discriminatory patterns.

The theoretical relationship between judicial prevention and criminal prevention can therefore be described as one of partial inclusion combined with functional independence. Judicial prevention is part of the broader field of criminal prevention because it contributes to the prevention of offending, recidivism, victimization, and procedural obstruction. It is nevertheless functionally independent because it also prevents unlawful state action and preserves the legitimacy of the criminal process. Criminal prevention asks how institutions can reduce criminal harm. Judicial prevention adds the question of how preventive power itself can be legally controlled. This distinction becomes decisive during preliminary investigations, where authorities must often act quickly but where facts remain uncertain and coercive measures can cause irreversible harm.

## 3. Judicial Prevention in the Preliminary Investigation Phase

Judicial prevention during the preliminary investigation phase begins with the recognition that investigation is not a neutral interval between crime and trial. It is an active institutional process in which judicial decisions can increase or reduce the likelihood of further harm. The first preventive objective is to ensure that an alleged offense does not continue. The second is to preserve the evidence necessary for a reliable determination of criminal responsibility. The third is to protect victims, witnesses, and other participants from intimidation, retaliation, or secondary victimization. The fourth is to secure the suspect's presence without imposing unnecessary restrictions. The fifth is to prevent investigative authorities from violating legal rights. These objectives may conflict. Immediate intervention may be necessary to protect a victim, but hasty coercive action may produce wrongful arrest. Investigative secrecy may protect evidence, but excessive secrecy may prevent the defense from challenging detention. Judicial prevention is therefore a process of managing competing risks under conditions of uncertainty.

The prosecutor is frequently the most influential judicial actor during this phase. The prosecutor may receive complaints, direct police operations, determine investigative priorities, request judicial warrants, supervise evidence collection, decide whether to initiate or discontinue proceedings, and select alternatives such as mediation or conditional prosecution. Practical analysis of the prosecutor's role shows that prosecution authorities can contribute to crime prevention by coordinating institutional responses and intervening before harmful patterns become more serious (Miri & Roohalamini, 2017). The prosecutor's preventive role is strongest when it combines legal authority with reliable information and institutional accessibility. A prosecutor who receives timely reports from police, forensic experts, victim-support services, and social workers can make a more accurate assessment of immediate risks than one who relies solely on the formal case file.

Prosecutorial direction of police investigations is an important preventive mechanism because police possess operational capacity but may be exposed to institutional pressures favoring rapid arrest, confession-oriented investigation, or informal practices. Judicial supervision can ensure that police actions remain connected to lawful objectives. The prosecutor may require investigators to secure evidence rather than rely on prolonged detention, record interviews, respect access to counsel, protect confidential information, and avoid unnecessary public disclosure. The status and limits of prosecutorial authority must nevertheless be defined with precision (Salehi & Afrasiabi, 2018). Prosecutorial supervision will not protect rights if prosecutors identify exclusively with the investigative mission, accept police accounts uncritically, or evaluate success only through conviction rates. Institutional culture must recognize that preventing unlawful investigation is part of the prosecutor's public responsibility.

The prosecutor also performs a preventive filtering function. Not every complaint should lead to arrest, detention, or full prosecution. Some complaints are unsupported, legally irrelevant, retaliatory, or suitable for non-custodial intervention. Early evaluation can prevent unnecessary criminalization and reduce the harm caused by prolonged investigations. At the same time, premature dismissal of complaints may expose victims to repeated violence and reinforce offender impunity. The prosecutor must distinguish between cases requiring urgent protective action, cases requiring additional investigation, cases suitable for diversion or mediation, and cases that should be closed. This responsibility requires professional independence, transparent criteria, and protection from political, organizational, or media pressure.

The investigating judge or other independent judicial authority performs a different preventive role. Whereas the prosecutor is generally associated with investigation and prosecution, the judge should provide impartial control over measures that seriously interfere with liberty, privacy, property, or confidentiality. Arrest warrants, searches of homes, interception of communications, access to sensitive digital data, freezing of assets, and pretrial detention should ordinarily require judicial authorization when their level of intrusion is substantial. Judicial authorization should not be a symbolic endorsement of prosecutorial requests. It should involve a genuine assessment of legal basis, factual justification, necessity, proportionality, scope, duration, and the availability of less restrictive alternatives. The judge must also consider whether the proposed measure is sufficiently specific to prevent arbitrary implementation.

Judicial review of deprivation of liberty is among the most important institutions of judicial prevention. Arrest and detention may prevent flight, evidence destruction, witness intimidation, or serious reoffending, but they also create a risk of abuse. The official responsible for ordering detention may rely on generalized assumptions about the offense rather than individualized evidence. Detention authorities may impose unlawful conditions, restrict communication with counsel, or delay the suspect's appearance before a judge. Effective supervision over the executors of deprivation of liberty is necessary to ensure that legal limits are respected in practice rather than merely stated in legislation (Moazenzadegan & Khodadadi, 2013). Judicial review must examine both the original justification for detention and its continuing necessity.

Pretrial detention should remain exceptional because it imposes a severe restriction before guilt has been established. Its preventive purposes must be distinguished from punitive purposes. Detention may be justified where reliable evidence indicates a substantial risk that the suspect will abscond, interfere with evidence, threaten a victim, or commit a serious and imminent offense. It is not justified merely because the alleged offense is serious, the public demands punishment, or detention may pressure the suspect to confess. The duration of detention should be limited, and the reasons supporting it should be stated in individualized terms. Periodic review is indispensable because risks can change as the investigation develops. Once evidence has been collected, witnesses have been protected, or suitable guarantees have been arranged, continued detention may become disproportionate.

Alternatives to detention are therefore central institutions of judicial prevention. Bail, reporting obligations, travel restrictions, surrender of passports, residence requirements, electronic monitoring, no-contact orders, occupational restrictions, and supervision by designated institutions may protect the investigation while reducing the social costs of detention. The selection of alternatives should consider the suspect's financial circumstances. Excessive financial bail discriminates against poor suspects and converts economic inequality into unequal liberty. Non-financial conditions may be more appropriate where the principal concern is contact with a victim or access to a particular location. Conditions must also be realistically enforceable. An order that is too vague, complex, or impossible to comply with may produce technical violations unrelated to genuine risk.

The use of summons rather than arrest can also serve preventive justice. A summons preserves the authority of the investigation while avoiding the stigma, disruption, and coercion associated with arrest. Arrest should be used when there is a concrete reason to believe that the person will not appear voluntarily, may escape, poses an immediate danger, or must be prevented from interfering with evidence. Routine arrest for minor or nonviolent allegations may weaken public confidence and consume investigative resources without producing meaningful preventive benefit. A judicial prevention model based on minimum intervention requires authorities to select the least restrictive measure capable of achieving the lawful objective.

Protective orders directed toward victim safety are another essential judicial mechanism. A prosecutor or judge may prohibit a suspect from contacting or approaching a victim, entering a residence, possessing a weapon, communicating through digital platforms, or visiting particular locations. Such measures are especially important in cases involving domestic violence, stalking, harassment, sexual offenses, child abuse, and organized criminal intimidation. The evolution of the victim's status in criminal procedure supports a more active institutional duty to protect safety and dignity rather than treating the victim merely as an evidentiary resource (Parsa & Rahmani, 2018). Protective decisions should be based on prompt risk assessment, but they must also specify their duration, geographic scope, prohibited conduct, and consequences of violation.

Repeat victimization requires close cooperation between judicial authorities and support institutions. A victim may face heightened danger immediately after reporting an offense because the complaint can trigger retaliation or escalation. Preventing repeated harm may require emergency accommodation, confidentiality, police protection, security planning, medical care, psychological services, and rapid judicial restrictions (Mirkhalili & Rahimi, 2012). Judicial institutions cannot provide all these services directly, but they can activate them through referral protocols and interinstitutional agreements. The effectiveness of a protective order depends on whether the victim understands it, whether police can enforce it, whether violations are reported promptly, and whether safe alternatives are available.

Witness protection serves both human safety and evidentiary reliability. Witness intimidation may cause individuals to withdraw statements, conceal information, or refuse cooperation. Judicial prevention may include confidentiality measures, controlled disclosure of identifying information, remote testimony, secure transportation, relocation, or restrictions on contact by suspects and associates. The scope of protection should correspond to the seriousness of the threat. Excessive secrecy may undermine defense rights, particularly where the identity or credibility of a witness is central to the case. Judicial authorities must balance witness safety with the accused's right to challenge adverse evidence. This balance requires case-specific solutions rather than absolute rules.

Preservation of evidence is a further preventive function. Judicial authorities may order seizure of documents, preservation of digital data, freezing of financial assets, forensic examination, or temporary restriction of access to a location. Digital evidence presents particular challenges because it can be altered, encrypted, copied, transferred across jurisdictions, or automatically deleted. Preservation orders may need to be issued rapidly, but access to the substantive content of communications should remain subject to stricter standards than the preservation of data. Judicial authorization must distinguish among different types of information and prevent general exploratory searches. The legitimacy of evidence preservation depends on maintaining a documented chain of custody, limiting access, and protecting information unrelated to the investigation.

Asset freezing and seizure can prevent concealment of criminal proceeds, continued financing of criminal activity, dissipation of property needed for victim compensation, or obstruction of confiscation. These measures are particularly relevant to economic crime, corruption, organized crime, money laundering, and cyber fraud. Because freezing orders may affect family members, employees, creditors, and legitimate business operations, courts should define their scope carefully. The property subject to restriction must be connected to the alleged offense or to a legally recognized confiscation claim. Affected persons should have access to review, and reasonable living or business expenses may need to be protected. Preventive effectiveness does not justify indiscriminate interference with property.

The personality file can improve judicial prevention by providing information relevant to risk, treatment, supervision, and alternatives to detention. Comparative study of the personality file in Iranian and French criminal law indicates its importance for individualized criminal justice (Shamloo & Gozli, 2011). During preliminary investigations, such a file may contain information about family circumstances, employment, education, substance use, mental health, prior offending, victim relationships, and available community support. The purpose should be to assist proportionate decision-making rather than to construct a prejudicial image of the suspect. Sensitive information should be collected with legal safeguards, and conclusions should distinguish verified facts from professional assessments. Personality information must not be treated as evidence that the accused committed the alleged offense.

Judicial prevention may also operate through mediation and other restorative institutions. Mediation can be particularly useful where the conflict is limited, the parties participate voluntarily, the facts are sufficiently clear, and the process does not expose a vulnerable victim to pressure. Analysis of mediation emphasizes its potential to create a structured dialogue, facilitate reparation, and reduce the continuation of interpersonal conflict (Roufian Naeini & Ebrahimi, 2019). A prosecutor may suspend or condition proceedings while the parties attempt mediation, but serious crimes affecting public safety should not be removed from public accountability merely because a private agreement has been reached. Judicial oversight is necessary to ensure that the agreement is lawful, informed, and consistent with the rights of both parties.

Charge bargaining and negotiated procedures can also have preventive implications. They may accelerate case resolution, reduce detention, secure cooperation, and enable earlier implementation of rehabilitative or reparative measures. The possible expansion of charge bargaining within Iran's criminal system has been discussed as a means of increasing procedural flexibility (Abbasian & Alipour, 2015). Nevertheless, negotiated justice can become coercive where the difference between the threatened charge and the proposed agreement is extreme, where the accused lacks effective counsel, or where detention pressures the accused to accept responsibility. Judicial prevention must include safeguards against false admissions and unequal bargaining. Efficiency is not a sufficient justification for sacrificing factual accuracy or voluntariness.

Juvenile investigations require a specialized preventive approach. Children and adolescents may be particularly vulnerable to intimidation, labeling, family instability, educational exclusion, and harmful detention conditions. Prevention of juvenile delinquency and victimization requires coordinated responses involving families, schools, social services, psychologists, specialized police, prosecutors, and juvenile courts (Abaachi, 2004). The preliminary investigation should emphasize protection, diversion, education, and reintegration. Detention should be used only as a last resort, questioning should occur in an age-appropriate manner, and the child should have access to legal and supportive assistance. The objective is not merely to determine responsibility for a past act but to prevent deeper involvement in criminal environments.

Specialized jurisdictions may require specialized preventive institutions. Military crimes, for example, may involve national security, command structures, classified information, weapons, and disciplinary relationships. Comparative study of criminal prevention in military offenses demonstrates that institutional design varies according to the relationship between military authority, prosecution, judiciary, and executive command (Sadegh Manesh, 2022). Specialized knowledge can improve prevention, but excessive institutional separation may reduce transparency and independence. Judicial prevention in specialized systems must retain impartial review, protection of defense rights, and effective accountability for officials.

Defense lawyers are also institutions of judicial prevention, although their role is not conventionally described in those terms. Counsel can prevent unlawful confession, clarify the legal significance of questions, challenge unsupported detention, identify exculpatory evidence, and propose alternatives to coercive measures. Early access to legal representation improves the reliability of the investigation and reduces the risk that authorities will mistake compliance or vulnerability for guilt. Legal aid is essential because preventive rights should not depend on the suspect's financial ability. The presence of counsel may initially appear to limit investigative efficiency, but in the long term it protects the validity of proceedings and reduces appeals, wrongful prosecutions, and institutional mistrust.

Judicial prevention ultimately depends on reasoned decisions and reviewable procedures. A preventive order should identify the facts, legal basis, risk, purpose, scope, duration, and reasons less restrictive measures are insufficient. Written reasoning disciplines institutional judgment and allows higher authorities, defense lawyers, victims, and oversight bodies to evaluate legality. Review mechanisms should be prompt because delayed review cannot effectively remedy a short but unjustified detention, search, or restriction. The preventive judiciary must therefore be accessible, independent, adequately resourced, and capable of responding rapidly to both public-safety risks and rights violations.

## 4. Criminal Prevention and Institutional Analysis in the Preliminary Investigation Phase

Criminal prevention during preliminary investigations extends beyond the judiciary and includes the coordinated activity of institutions responsible for detecting crime, managing immediate risks, supporting victims, collecting evidence, addressing criminogenic conditions, and reducing the likelihood of repeated offending. Its institutional structure is necessarily plural. Police authorities provide rapid operational intervention. Prosecutors direct or supervise investigations. Judges authorize and review intrusive measures. Forensic bodies produce specialized evidence. Social and health institutions address personal and environmental risks. Victim-support organizations reduce exposure to further harm. Regulatory agencies intervene in sectors such as finance, labor, public health, environment, and digital communications. The criminal-preventive system is effective only when these institutions cooperate without obscuring responsibility or weakening legal limits.

The police are usually the first formal institution to respond to a reported offense. Their immediate preventive responsibilities may include stopping ongoing violence, separating conflicting parties, securing dangerous objects, protecting injured persons, preserving a crime scene, locating missing or endangered individuals, identifying witnesses, and preventing suspects from escaping. These functions require speed and practical judgment. Delay may allow harm to continue or evidence to disappear. At the same time, the urgency of police work creates a heightened risk of excessive force, arbitrary arrest, unlawful entry, discriminatory profiling, or informal punishment. Police prevention must therefore operate within clear legal rules and under effective judicial or prosecutorial supervision.

Police institutions also perform intelligence-led prevention. Information concerning repeated offenses, organized groups, high-risk locations, criminal markets, financial transactions, or digital networks may help authorities allocate resources and interrupt planned conduct. Intelligence differs from admissible evidence, and the distinction is important. Information may justify further lawful inquiry without being sufficiently reliable to justify arrest or detention. Secret intelligence should not become an uncontestable basis for coercive measures. Where a prosecutor or judge relies on confidential information, procedures should provide an independent assessment of reliability and disclose as much of the basis as possible without creating an unacceptable threat to sources or investigations.

Situational prevention is closely associated with police and administrative institutions. Its purpose is to reduce the opportunity for crime by increasing guardianship, controlling access, protecting vulnerable targets, and reducing expected benefits. The situational approach has also been examined within Islamic teachings as a method of limiting opportunities and conditions favorable to offending (Mirkhalili, 2004). In the preliminary investigation phase, situational measures may include temporary closure of a dangerous location, improved protection of a victim's residence, removal of weapons, changes to digital access credentials, suspension of compromised accounts, preservation of surveillance recordings, or increased patrols around a threatened institution. Such interventions can prevent further harm without necessarily requiring detention, but administrative restrictions must still have a legal basis and should not become indefinite sanctions.

The prosecutor connects police operations to the judicial system. The practical role of prosecutors in crime prevention includes coordinating investigative institutions, prioritizing threats, supervising legality, and selecting an appropriate procedural response (Amiri & Roohalamini, 2017). The prosecutor may order urgent evidence preservation, request judicial authorization, refer victims to protection services, or direct police to avoid unnecessary arrest. A strong prosecutorial institution can improve consistency, but excessive concentration of power may create an imbalance. Prosecutorial independence should protect decision-making from improper political or police influence, while accountability should prevent arbitrariness and selective enforcement. The legal limits of the prosecutor's authority must be sufficiently precise to distinguish supervision from domination of the entire criminal process (Salehi & Afrasiabi, 2018).

Forensic institutions play a preventive role because reliable evidence reduces both impunity and wrongful accusation. Forensic medicine can document injuries, determine causes of death, assess psychological harm, and identify signs of abuse. Crime laboratories can analyze biological material, firearms, documents, chemical substances, and trace evidence. Digital forensic units can preserve devices, recover deleted information, analyze communication records, and identify unauthorized access. Financial investigation units can trace suspicious transactions and prevent the movement of criminal proceeds. Weak forensic capacity may lead investigators to rely excessively on confession, detention, or unverified witness statements. Investment in technical evidence therefore supports both crime control and procedural fairness.

Forensic independence is essential. An expert who is institutionally dependent on the police or prosecution may consciously or unconsciously favor the investigative hypothesis. Laboratories should use validated methods, document limitations, maintain chain-of-custody procedures, and disclose uncertainty. The defense should have an opportunity to examine expert findings and, where necessary, request independent analysis. Prevention is undermined when unreliable forensic conclusions lead to detention of innocent persons while the actual offender remains free. Technical institutions must therefore be evaluated according to accuracy, transparency, and scientific integrity rather than merely speed.

Victim-support institutions are equally central. The criminal justice system often expects victims to provide detailed information, attend repeated interviews, identify suspects, and remain available throughout the investigation. These demands may intensify trauma, particularly where officials are insensitive, procedures are delayed, or the victim fears retaliation. The developing status of victims in criminal procedure requires institutions to provide information, respectful treatment, participation, and protection (Parsa & Rahmani, 2018). Support services may include legal guidance, psychological counseling, emergency housing, medical care, translation, assistance with compensation claims, and accompaniment during interviews. Their preventive value lies in reducing repeated harm and enabling victims to participate safely and effectively.

Repeat victimization is not distributed evenly. Individuals who have already suffered certain offenses may face a heightened probability of further victimization because the offender retains access, the underlying relationship continues, or the environmental opportunity remains unchanged. Criminal prevention of repeat victimization requires early identification of risk and individualized protective planning (Mirkhalili & Rahimi, 2012). Domestic violence cases may require shelter, financial assistance, childcare, and rapid enforcement of no-contact orders. Cyber harassment may require preservation of online evidence, account security, platform cooperation, and restrictions on digital communication. Workplace abuse may require administrative intervention to prevent contact or retaliation. A criminal case cannot be treated as effectively preventive if the investigation proceeds while the victim remains exposed to continuing danger.

Social workers and welfare institutions contribute information and interventions that criminal justice bodies cannot provide alone. They may assess family circumstances, housing instability, child safety, addiction, mental health, disability, or access to community support. The executive branch's role in social crime prevention reflects the understanding that crime cannot be addressed exclusively through prosecution and punishment (Sarikhani & Soltani Bahlouli, 2016). During preliminary investigations, social institutions may propose alternatives to detention, supervise treatment, assist families, or arrange protective placements. Their participation should be based on professional standards and confidentiality. Information shared with judicial authorities should be limited to what is necessary for the preventive decision.

Health institutions may be required where offending is connected to substance dependence, acute mental disorder, cognitive disability, or medical vulnerability. Treatment can reduce risk, but compulsory treatment raises questions of autonomy, medical necessity, and proportionality. Rehabilitation must be fair and consistent with legal principles rather than used as an undefined form of control (Ebrahimi, 2022). A suspect should not be subjected to psychiatric intervention merely because behavior appears unusual or socially undesirable. Clinical decisions should be made by qualified professionals, and judicial authorities should distinguish between medical assessment, legal responsibility, and risk management.

Juvenile justice institutions require an especially integrated model. Prevention of juvenile delinquency and victimization depends on cooperation among specialized police, prosecutors, courts, schools, families, social workers, and child-protection services (Abaachi, 2004). A child may simultaneously be an alleged offender and a victim of neglect, exploitation, violence, or adult manipulation. Preliminary investigations should therefore determine not only what occurred but also whether the child requires protection. Formal processing and detention can reinforce criminal identity, disrupt education, and expose juveniles to more experienced offenders. Diversion, family intervention, education, counseling, and supervised community measures are usually more consistent with long-term prevention.

The personality file can facilitate cooperation among social, health, and judicial institutions. It provides a structured method for gathering information relevant to the individual's circumstances and the selection of appropriate measures. The comparative development of the personality file demonstrates its relationship to individualized justice and rehabilitative decision-making (Shamloo & Gozli, 2011). Its use during preliminary investigations should be carefully limited. Personal history must not become a substitute for evidence, and sensitive information should not be distributed unnecessarily among institutions. The individual should have an opportunity to correct inaccurate information. Properly used, the file can identify protective factors and alternatives to detention; improperly used, it can reinforce stigma and predictive discrimination.

Mediation institutions form another bridge between judicial and non-judicial prevention. Mediators may be attached to courts, prosecution services, community organizations, or independent professional bodies. Their role is not to determine guilt in the same manner as a court but to facilitate communication, acknowledgment, reparation, and agreement. The mediation institution has been analyzed as a procedural mechanism capable of responding to certain criminal conflicts outside conventional adjudication (Roufian Naeini & Ebrahimi, 2019). Its preventive effectiveness depends on follow-up and enforceability. An agreement concerning compensation, treatment, apology, restitution, or future conduct may reduce conflict, but failure to monitor compliance can leave victims unprotected. Mediation is inappropriate where participation is not genuinely voluntary or where power imbalance makes meaningful negotiation impossible.

Negotiated justice may also involve charge bargaining or agreements with the prosecution. Such institutions can shorten proceedings, encourage cooperation, and permit earlier imposition of rehabilitative or reparative obligations. The capacity to generalize charge bargaining in Iran's criminal system has been examined as part of comparative procedural development (Abbasian & Alipour, 2015). From a preventive perspective, early resolution may reduce prolonged detention and uncertainty. From a rights perspective, it may create pressure to confess. Effective defense counsel, judicial review, disclosure of essential evidence, and proportional limits on bargaining differentials are therefore necessary. The agreement must reflect informed choice rather than institutional coercion.

Regulatory institutions contribute to prevention where offenses occur within specialized economic or administrative fields. Financial regulators, central banks, tax authorities, customs bodies, labor inspectorates, environmental agencies, medical regulators, and cybersecurity institutions may possess information and powers unavailable to ordinary police. They can suspend dangerous activities, preserve records, issue compliance orders, revoke licenses, freeze transactions, or secure critical systems. Their intervention may stop harm before the criminal case is resolved. The boundary between administrative precaution and criminal punishment must nevertheless remain clear. An administrative body should not impose a punitive restriction merely to avoid the procedural safeguards of criminal law.

Military criminal prevention provides an example of specialized institutional design. Military organizations possess internal disciplinary systems, command hierarchies, investigative bodies, and security responsibilities. Comparative study of preventive foundations and institutions in military crimes illustrates how different legal systems allocate authority among military command, prosecution, judicial institutions, and civilian oversight (Sadegh Manesh, 2022). Specialized institutions may respond efficiently to risks involving weapons, classified information, or operational security. However, institutional proximity between investigators and commanders may threaten independence. Prevention in military cases must therefore include external or judicial safeguards capable of addressing conflicts of interest and protecting accused personnel.

Defense institutions must be included in the criminal-preventive structure. Lawyers, legal-aid organizations, and professional associations prevent procedural abuse, wrongful detention, unreliable confession, and uninformed waiver of rights. Their participation improves the accuracy of information available to the decision-maker. A defense lawyer may present evidence of stable residence, employment, medical needs, family responsibilities, or willingness to comply with supervision, thereby enabling release under appropriate conditions. Counsel may also identify threats to the suspect, including vulnerability in detention or risk of retaliatory violence. Prevention should not be understood exclusively as protection from suspects; it also includes protection of suspects from unlawful or harmful institutional treatment.

Supervisory institutions provide accountability. Internal police inspection, prosecutorial supervision, judicial review, parliamentary oversight, national human-rights institutions, professional disciplinary bodies, and independent detention monitors may each examine different aspects of preventive activity. Supervision over officials implementing deprivation of liberty is particularly significant because the practical conditions of detention may differ substantially from the formal terms of a judicial order (Moazenzadegan & Khodadadi, 2013). Oversight institutions should have access to records, facilities, complaints, and statistical data. Their recommendations should produce corrective action rather than remain symbolic.

Institutional coordination is necessary but can create risks. Information sharing may help authorities identify dangerous patterns, protect victims, and avoid duplication. Yet broad databases may expose sensitive personal information, enable surveillance unrelated to the case, or preserve unverified allegations indefinitely. Coordination protocols should define what information may be shared, with whom, for what purpose, and for how long. Access should be recorded, and individuals should have mechanisms to correct inaccurate data. Digital technology can improve speed and continuity, but it must not eliminate professional judgment or judicial control.

Artificial intelligence and predictive tools are increasingly used in policing, risk assessment, facial recognition, financial monitoring, and case prioritization. These technologies may identify patterns beyond human capacity, but their operation can be opaque. Historical police data may reflect discriminatory enforcement rather than actual offending patterns. A prediction may appear objective because it is produced by an algorithm even when its assumptions are contestable. Preventive decisions that affect liberty should not be delegated to automated systems. Judges and prosecutors must understand the limitations of technological tools, provide reasons for their decisions, and allow meaningful challenge.

The relationship between judicial prevention and criminal prevention can be clarified through comparison. Judicial prevention is narrower in institutional scope because it is connected to judicial authority, judicial procedure, and legal supervision. Criminal prevention is broader because it includes police, executive, administrative, social, medical, and community measures. Judicial prevention generally begins after information about an offense has entered the legal process, whereas criminal prevention may operate before any individual offense is identified. Judicial prevention relies mainly on orders, review, procedural conditions, and legal remedies. Criminal prevention uses a wider range of social, technical, situational, administrative, and coercive methods.

Their objectives also differ in emphasis. Criminal prevention focuses primarily on reducing crime, victimization, recidivism, and criminal opportunities. Judicial prevention pursues these goals while also protecting procedural integrity and preventing abuse of state authority. A police patrol around a high-risk location is primarily a criminal-preventive measure. Judicial review of a search warrant is primarily a judicial-preventive measure. A no-contact order combines both forms because it protects a victim, prevents repeated offending, and is imposed through judicial authority. The categories should therefore be treated as analytically distinct but operationally interconnected.

The legal standards governing the two forms also differ. Judicial prevention is directly constrained by criminal procedure, judicial independence, reasoned decision-making, appeal, and the presumption of innocence. Non-judicial criminal prevention may be governed by administrative law, professional standards, internal regulations, or social-policy frameworks. This difference can produce accountability gaps. A restrictive administrative measure may have effects similar to a criminal sanction without providing equivalent procedural safeguards. Legislators should therefore regulate preventive measures according to their practical impact rather than their institutional label. The development of crime-prevention legislation demonstrates the importance of defining powers and responsibilities clearly (Shiri, 2020).

Institutional conflict often arises where police seek immediate action, prosecutors demand evidentiary sufficiency, judges emphasize legal limits, and social institutions prioritize treatment or family preservation. These differences are not necessarily weaknesses. They may reflect a healthy distribution of functions. Problems arise when authority is unclear, communication is delayed, or one institution dominates the process. The police should not decide the legality of prolonged detention without judicial control. Judges should not direct every operational detail of investigations. Social workers should not be compelled to disclose all confidential information. Prosecutors should coordinate but should remain accountable. Effective prevention requires differentiated cooperation rather than institutional merger.

Training is essential to this model. Police require training in evidence preservation, de-escalation, victim sensitivity, digital investigation, and legal limits. Prosecutors require knowledge of risk assessment, forensic science, restorative mechanisms, and non-custodial alternatives. Judges require the ability to scrutinize technical applications and recognize standardized or unsupported detention requests. Social and health professionals require familiarity with criminal procedure and confidentiality obligations. Joint training can improve communication, but each profession must retain its independent ethical standards.

Evaluation should examine outcomes rather than institutional activity alone. The number of arrests, searches, detentions, or prosecutions does not demonstrate preventive success. Relevant indicators include reduction in repeated victimization, compliance with release conditions, speed of evidence preservation, use of alternatives to detention, accuracy of forensic findings, victim satisfaction, frequency of rights violations, and rates of case dismissal following coercive measures. Data should be disaggregated to identify unequal effects on social groups. Prevention becomes credible when institutions can show that their measures are both effective and lawful.

A coherent institutional model should therefore begin with a rapid assessment by police and support services, followed by prosecutorial evaluation and judicial control of intrusive measures. Victim-protection institutions should respond immediately where danger is identified. Forensic evidence should be preserved through standardized procedures. Social and health assessments should be available when they can support treatment or alternatives to detention. Defense counsel should participate at the earliest legally significant stage. Restrictive measures should be individualized, reasoned, time-limited, and periodically reviewed. Information sharing should be purpose-specific and secure. Independent oversight should examine both institutional performance and individual complaints.

The ultimate distinction between judicial and criminal prevention lies not in an absolute separation of institutions but in the specific contribution each form makes to legitimate criminal policy. Criminal prevention provides the broader strategic framework for reducing harm. Judicial prevention ensures that strategies affecting rights are translated into lawful, proportionate, and reviewable decisions. Neither can function effectively without the other. Criminal prevention without judicial control may become arbitrary risk management, while judicial prevention without broader social and institutional support may become a formal process incapable of addressing the conditions that produce repeated harm.

## 5. Conclusion

Judicial prevention and criminal prevention represent two interconnected but distinguishable dimensions of contemporary criminal policy. Criminal prevention encompasses the broad range of measures intended to reduce the occurrence, continuation, repetition, and harmful consequences of crime. It includes social, situational, administrative, police, prosecutorial, judicial, rehabilitative, and community-based interventions. Judicial prevention is narrower in its institutional and procedural foundations because it operates through judicial authority, judicial supervision, and legally regulated decision-making. It nevertheless performs a broader normative function than ordinary crime control, since it seeks not only to prevent criminal harm but also to prevent arbitrary or disproportionate state action.

The preliminary investigation phase reveals the importance of this distinction more clearly than any other stage of the criminal process. At this stage, authorities must act before all relevant facts have been established. The alleged offense may be continuing, victims may remain exposed to danger, evidence may be vulnerable to destruction, and suspects may attempt to flee or interfere with witnesses. At the same time, the uncertainty surrounding the allegations creates a substantial risk of wrongful arrest, excessive detention, unlawful search, coerced confession, reputational damage, and infringement of privacy. Prevention must therefore operate in two directions. It must protect society and participants from criminal danger while protecting individuals from uncontrolled coercive power.

The comparison undertaken in this article demonstrates that judicial prevention should be understood as a specialized component of criminal prevention with an independent rights-protective identity. It is a component of criminal prevention because prosecutorial decisions, judicial orders, supervision of investigations, victim-protection measures, restrictions on contact, evidence-preservation orders, and alternatives to detention can reduce the risk of further offending and obstruction. It has an independent identity because judicial institutions must also examine the legality, necessity, proportionality, and duration of preventive measures. The judiciary does not merely participate in prevention; it legitimizes and limits the use of preventive power.

The prosecutor occupies a central position in the preliminary investigation because prosecution authorities connect operational investigation with judicial decision-making. An effective prosecutor can coordinate police, forensic bodies, victim-support services, and social institutions while ensuring that investigative activity remains lawful. The prosecutor can distinguish cases requiring urgent protection from those suitable for summons, mediation, diversion, or dismissal. This authority must remain subject to clear legal limits. Prosecutorial prevention becomes dangerous when the prosecutor identifies exclusively with law enforcement, treats allegations as established facts, or uses detention and procedural pressure to secure admissions.

Independent judicial control is especially necessary for measures that substantially affect liberty, privacy, property, movement, and confidential communications. Judicial authorization should involve genuine scrutiny rather than formal approval. The decision-maker must identify the concrete risk, examine the available evidence, consider less restrictive alternatives, and define the scope and duration of the measure. Review must remain available throughout the investigation because risk is not static. A detention order that was initially justified may become unnecessary after evidence has been secured, witnesses have been interviewed, or suitable protective conditions have been established.

Pretrial detention is the clearest example of the tension between preventive necessity and anticipatory punishment. It may be justified to prevent flight, obstruction, serious intimidation, or imminent reoffending, but it should never be used merely because the allegation is serious or socially condemned. Detention must remain exceptional, individualized, reasoned, and temporary. Alternatives such as reporting obligations, travel restrictions, bail, supervised release, no-contact orders, residence requirements, and electronic monitoring should be developed and used whenever they can manage the identified risk effectively. Financial conditions must not transform poverty into a basis for detention.

Victim protection must be treated as a central preventive responsibility rather than an incidental part of evidence collection. Victims may face retaliation, repeated violence, intimidation, social pressure, economic dependency, or secondary trauma during the investigation. Effective protection may require judicial orders, police enforcement, confidential procedures, emergency housing, medical care, psychological support, financial assistance, and legal guidance. No single institution can provide all of these forms of protection. Judicial authorities must therefore maintain accessible referral and coordination mechanisms with specialized support services.

The protection of victims must remain compatible with the presumption of innocence and defense rights. A rights-based system does not force a choice between victim safety and suspect protection. It uses temporary, reviewable, and proportionate measures to manage credible risks without treating allegations as final proof. The defense must have access to legal representation, sufficient information to challenge restrictions, and an effective opportunity to present alternatives. Early participation by counsel improves the accuracy and legitimacy of preventive decisions.

Police institutions are indispensable because they possess the operational capacity to intervene rapidly, stop ongoing harm, secure crime scenes, preserve evidence, and protect endangered persons. Their powers must be defined and supervised because urgency can easily become a justification for arbitrary conduct. Police prevention should prioritize de-escalation, minimum necessary force, reliable evidence preservation, and protection of vulnerable persons. Intelligence may guide inquiry, but secret or unverified information should not automatically justify coercive measures.

Forensic institutions strengthen prevention by replacing speculation and confession-centered investigation with reliable scientific evidence. Their independence, methodological quality, transparency, and chain-of-custody procedures are therefore essential. Digital and financial investigations require particular technical capacity because evidence can be transferred, altered, encrypted, or destroyed rapidly. Preservation should occur promptly, but access to private content must remain limited to what is legally authorized and relevant to the investigation.

Social, health, educational, and welfare institutions contribute to prevention by addressing circumstances that cannot be resolved through coercion. Substance dependence, mental illness, family conflict, homelessness, educational exclusion, and economic vulnerability may influence both offending and victimization. Judicial bodies should be able to refer individuals to appropriate services, but professional treatment should not become an undefined extension of penal control. Medical and social interventions must remain lawful, necessary, professionally justified, and respectful of dignity.

Juvenile cases demonstrate the need for the strongest form of institutional coordination. Children may be accused of offending while simultaneously experiencing neglect, abuse, exploitation, or adult influence. The preliminary investigation should therefore combine accountability with protection, education, diversion, family assessment, and reintegration. Detention and stigmatizing procedures may increase rather than reduce long-term risk. Specialized personnel and age-appropriate processes are necessary to prevent the criminal justice system from deepening the child's vulnerability.

Mediation, restorative procedures, and negotiated justice can contribute to prevention when they are voluntary, transparent, and suitable for the case. They may reduce conflict, facilitate compensation, encourage responsibility, and avoid unnecessary detention or prosecution. They must not be used to pressure vulnerable victims, conceal serious offenses, or obtain admissions from suspects who lack legal assistance.

Judicial review and effective counsel are necessary to preserve the fairness of consensual mechanisms.

The institutional analysis also shows that coordination must not eliminate separation of functions. Police, prosecutors, judges, forensic experts, social workers, health professionals, mediators, and defense lawyers have distinct responsibilities and ethical obligations. Their cooperation should be organized through clear protocols, secure communication, defined time limits, and documented decisions. One institution should not dominate the entire preventive process. Functional differentiation creates checks and balances and improves the quality of information available to decision-makers.

Data protection is an increasingly important part of preventive justice. Information concerning allegations, health, family circumstances, finances, communications, and risk assessments may circulate among several institutions during an investigation. Unrestricted sharing can produce stigma, discrimination, and surveillance extending far beyond the original case. Information should be collected and shared only for legitimate and specific purposes. Access should be recorded, retention periods should be limited, and individuals should have mechanisms for correcting inaccurate information.

Technological tools should assist rather than replace human and judicial judgment. Risk-assessment software, facial recognition, automated case prioritization, and predictive policing may improve speed, but they can conceal assumptions and reproduce historical bias. A person should not lose liberty because an opaque system assigns a high-risk category. Preventive decisions must remain attributable to legally responsible officials who can explain the evidence, reasoning, and limitations involved. Meaningful challenge must remain possible.

The success of prevention should not be measured by the volume of coercive activity. High numbers of arrests, detention orders, searches, or prosecutions may indicate institutional severity rather than effectiveness. A legitimate system should evaluate whether repeated victimization has declined, whether evidence has been preserved reliably, whether suspects comply with non-custodial conditions, whether victims receive timely assistance, whether investigations are completed without unnecessary delay, and whether rights violations are reduced. Statistical evaluation should also identify unequal effects on disadvantaged groups.

Legal reform should provide precise definitions of preventive authority and establish clear relationships among police, prosecution services, courts, and non-judicial institutions. Intrusive measures should require independent authorization. Detention decisions should contain individualized reasons and be subject to prompt periodic review. Alternatives to detention should be sufficiently funded and available throughout the jurisdiction. Victim-support and witness-protection systems should be accessible from the beginning of the investigation. Legal aid should be available before the first decisive questioning or restriction.

Institutional reform should also improve forensic capacity, professional training, digital security, and independent oversight. Joint training can help institutions understand one another's functions, but each profession must maintain its independence. Complaint mechanisms should be accessible to suspects, victims, witnesses, and families. Oversight bodies should possess the authority to inspect detention facilities, examine records, investigate misconduct, and require corrective measures. Preventive authority without effective accountability will eventually undermine public confidence and cooperation.

The most appropriate model for preliminary investigation is therefore an integrated but rights-centered model. Police should identify and respond to immediate danger. Prosecutors should coordinate the investigation and evaluate the appropriate procedural route. Judges should authorize and review serious restrictions. Forensic institutions should preserve and analyze evidence independently. Victim-support bodies should respond to safety and welfare needs. Social and health services should address relevant personal and environmental conditions. Defense counsel should ensure that restrictions can be challenged and alternatives presented. Oversight institutions should examine legality and institutional performance.

Judicial prevention and criminal prevention should ultimately serve the same fundamental purpose: the reduction of human and social harm through lawful, rational, and proportionate institutions. Prevention loses legitimacy when it is based on fear, prediction without evidence, institutional convenience, or public pressure. It also fails when rigid procedural formalism prevents authorities from responding to genuine and immediate danger. The required balance is not achieved by choosing security over liberty or liberty over security. It is achieved by designing procedures in which protective action is possible, coercive power is controlled, decisions are individualized, and all affected persons are treated with dignity.

The preliminary investigation should therefore be understood as a preventive legal process rather than merely an evidentiary stage. Its institutions shape whether crimes continue, whether victims remain safe, whether evidence remains reliable, whether suspects are treated fairly, and whether the eventual judicial decision is legitimate. An effective system must prevent both impunity and injustice. It must be capable of acting rapidly without acting arbitrarily, coordinating institutions without erasing their independence, and protecting the public without converting suspicion into punishment. Only such a system can reconcile the practical demands of criminal prevention with the normative commitments of judicial prevention.

## Authors' Contributions

Authors contributed equally to this article.

## Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

## Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

## Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

## Declaration of Interest

The authors report no conflict of interest.

## Funding

According to the authors, this article has no financial support.

## Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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