

**MINISTRY OF EDUCATION AND TRAINING MINISTRY OF JUSTICE
HANOI LAW UNIVERSITY**

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**PREVENTION OF THE CRIME OF RESISTING
PERSONS IN THE PERFORMANCE OF THEIR OFFICIAL
DUTIES DURING THE CURRENT PERIOD IN VIETNAM**

**Specialty: Criminology and the prevention of crime
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ABSTRACT OF DOCTORAL THESIS ON LAW STUDIES

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PREAMBLE

1. The Imperative of Research

In recent years, the situation of the crime of resisting persons in the performance of their official duties in Vietnam are very worrying increase, causing adverse impact on security and social order. The offense not only obstruct the implementation of duties of officials, but also affect the effectiveness of this activity, disturbing public order, adversely affecting order and social security.

Many cases became "detonator" to create a "hot spot" of security, order and entice more people to participate, adversely affecting law and order and safety in the local society. The cases not only occur in big cities but also complicated in many other locations around the country, especially at the local level in the process of urbanization and industrialization. Besides, there is a wide range of criminals, possibly including scoundrels, local hooligans or conviction until the officers, civil servants, students, workers, farmers... Practices of these crime prevention in recent years but has been at all levels, departments, local focus, but due to various objective reasons and subjective, but the results have not achieved as desired.

Therefore, a comprehensive and systematic study the situation of crime of resisting persons in the performance of their official duties, find out the cause of this crime from which propose practical measures to prevent and effectively is essential. Up to now, no public works at the level of doctoral dissertation research in a systematic way, comprehensive the crime in Vietnam. Stemming from the demands of both theory and practice, the author has chosen the theme: *"Prevention of the crime of resisting persons in the performance of their official duties during the current period in Vietnam "* as author's doctoral thesis.

2. The Object and Scope of Research

The object of research: Subjects studied include situation of crime resisting persons in the performance of their official duties, causes of the crime and measures to prevent the crimes in Vietnam.

The scope of research: Regarding the scope of the study, the thesis studied criminology perspective on crime resisting persons in the performance of their official duties in Vietnam in 11 years (2005 - 2015).

3. Objectives and content of study

3.1 Objectives of the study

Research objectives of the thesis was to assess the crime situation of resisting persons in the performance of their official duties in Vietnam in period 2005 - 2015; identify the causes of crime and recommendations crime prevention measures of resisting persons in the performance of their official duties.

3.2. Research content

Firstly, analysis, assessment of the situation of crime resisting persons in the performance of their official duties in Vietnam in period 2005-2015.

Secondly, identify and analyze the factors to be evaluated is the cause of crime resisting persons in the performance of their official duties in Vietnam in period 2005-2015.

Thirdly, making forecasts on the situation of crime in the coming years and propose preventive measures to eliminate or the crime limit, contribute to the reduction of crime in society.

4. Methodology and research method

The thesis is researched on theoretical basis of dialectical materialism and historical materialism.

To achieve the kind of study, the research methods were specifically appropriate selection and use; Typical is the specific research methods headings methods of data collection, data processing methods and methods test a hypothesis. In addition, some other methods are also authors used in combination with the above method in solving the research content of the thesis, which is the method of analysis, synthesis and comparison.

5. New contribution of the thesis

The thesis is a scientific research project a systematic and comprehensive perspective on criminology on crime of resisting persons in the performance of their official duties in Vietnam in the current period.

The crime prevention measures in the thesis can contribute effectively limit this crimes in Vietnam, thereby contributing to the maintenance of social order and Vietnam increasingly stable, economy, society grown.

6. Scientific and Practical Significance of the thesis

In terms of theory, most of the issues are presented, analyzed in the thesis is the new problem was first studied systematically and comprehensively. The successful research issues that can be considered a remarkable contribution to criminology in Vietnam.

In practice, the research, evaluate the characteristics of the current situation on a national scale on crime of resisting persons in the performance of their official duties in the period 2005 - 2015 and identify the causes and propose measures to prevent crime practical significance for crime prevention the crime practices of agencies, organizations and citizens. In addition, the thesis also useful reference value for the teaching staff, researchers, students studying, researching criminology majors.

7. Structure of the thesis

The thesis consists of three main chapters as below:

Chapter 1. The current situation of crime of resisting persons in the performance of their official duties in Vietnam in the period 2005-2015.

Chapter 2. Causes of crime of resisting persons in the performance of their official duties in Vietnam.

Chapter 3. Forecast of crime and the prevention measures on crime of resisting persons in the performance of their official duties in Vietnam.

Besides the above three chapters, the thesis also includes an introduction, conclusion and a list of references.

LITERATURE REVIEW

1. LITERATURE REVIEW OF THE CRIME OF RESISTING PERSONS IN THE PERFORMANCE

1.1. NON-VIETNAMESE LITERATURE

Within the scope of reference of the author, the author has not found any research projects directly related to topics the prevention of crime resisting persons in the performance of their official duties. The works of foreign criminology were researched by author as below:

- Clemens Bartollas và SimonDiniz, *Introduction to Criminology: Order and disorder*, New York: Harper and Row, (1989);
- Larry Siegel, *Criminology*, 4th ed, West publishing, (1992);
- Gennaro F.Vito và Ronald M. Holmes, *Criminology: Theory, Research and Policy*, Belmont CA: Wadsworth Press, (1994);
- Frank Schmalleger, *Criminology Today*, The University of North Carolina at Pembroke, Prentice Hall Publisher, (2002);
- Sue Titus Reid, *Criminal Justice*, Macmillan Publishing Company, (2005);
- Tim New Burn, *Criminology*, Willan Publishing, (2007);
- Mike Maguire, *The Oxford Hand book of Criminology*, Oxford University Press, (2012);
- Jame Treadwell, *Criminology: The Essentials*, Sage Pulishing Ltd, (2012);
- Criss Hale, Keith Haywrd, *Criminology*, Oxford University Press, (2013);
- Eamonn Carrabine, Pamela Cox and 5 more, *Criminology: A sociological Introducton*, Routledge Publishing, (2014).

1.2. VIETNAMESE LITERATURE

1.2.1. Group of works concerning to the theory of the thesis

Over the years, there have been a number of works on scientific criminology theory, notably:

About monographs have the following facilities:

- Monographs "Criminology, Criminal Code and Criminal Procedure Code of Vietnam" by the Institute of State and Law, The National Political Publishing, Hanoi, 1994.
- Monographs "Criminology Vietnam - Some theoretical issues and practices" of the Institute of State and Law, the People's Public Security Publishing, Hanoi, 2000.

- Monographs "Modern Criminology and Crime prevention" of Prof. Nguyen Xuan Yem, The People's Public Security Publishing, 2001.

- Monographs "Crime and constitutes a crime" by Prof. Nguyen Ngoc Hoa, Publisher People's Police, Hanoi, 2006.

- Monographs "Some theoretical issues about the crime situation in Vietnam" by Pham Van Tinh, Justice Publishing House, Hanoi, 2007.

- Monographs "Contemporary Criminology" by Assoc. Prof. Duong Tuyet Mien, Publisher Politics - Administration, Hanoi, 2013.

Besides these there are monographs criminology curriculum of the various training institutions such as the Hanoi Law University, People's Police Academy, Faculty of Law - Hanoi National University, Faculty of Law - University ... Hue University. The textbook also provides the very basic theory of criminology.

Based on the theoretical foundation of the scientific works mentioned above, the author has argued facility to cater to the study of crime of resisting persons in the performance of their official duties at criminology perspective for his thesis.

1.2.2. Group of works directly related to the thesis contents

1.2.1. Monographs on related topics

Monographs "Fighting against situation of crime resisting persons in the performance of their official duties - A model study specialized criminology" - the authors Dao Ba Son and Pham Van Tinh Hanoi, 2009.

1.2.2. On the subject of science, scientific seminars related to topics

- Subject scientific basis "Crimes against persons on duty in the work of ensuring order and road traffic safety - problems and solutions to prevent and stop the traffic police force" - Project leader Nguyen Van Position - Department of road traffic Police - railway, 2010.

- Proceedings of the scientific conference "Anti person on duty in the work of ensuring security and order of the people's police force - problems and solutions" - The Ministry of Public Security, Hanoi, 2008.

1.2.3. Master's thesis on related topics

- Master thesis "Crimes against persons on duty - problems, causes and solutions" - the author Nguyen Hoang Yen, Hanoi, 1996.

- Master thesis "Fighting crime prevention against people on duty in the clearance of the people's police force in the province of Hai Duong" - author Tran Anh Ngoc, Hanoi, 2005.

- Master thesis "The situation and solutions to improve operational efficiency prevention and combating against people on

duty in the field of clearance of the people's police force in the province of Bac Ninh" - Business Nguyen Minh Chieu author, Hanoi, 2007.

- Master thesis "The situation of crime against persons on duty for the officers and soldiers of the People's Police in the province of Ho Chi Minh City and the prevention solutions" - author Tran Duc Trung, city Ho Chi Minh City, in 2007.

- Master thesis "The struggle to prevent and combat crimes against persons on duty in Vietnam in the current period" - the author Dao Ba Son, Hanoi, 2009.

- Master thesis "The situation against police while on duty and preventive measures, treatment" - the author Hoang Minh, Hanoi, 2010.

- Master thesis "Prevention of crimes against persons on duty in Vietnam" - Vo Thi Thuy Giang author, Hanoi, 2015.

1.2.4. Regarding scientific articles published magazine

- "Administrative structure - the territory of the situation, crimes against persons on duty in our country these years," the author Pham Van Tinh, Dao Ba Son, Journal of State and Law No. 4 (264) in 2010.

- "Struggling with offenses against official duty: Patterns, causes and solutions", the author Ho The Hoe, The State Journal and Law No. 7 (279) 2011.

- "The prevention and control of crime against persons on duty in the city of Hanoi," the author Nguyen Duc Chung, People's Public Security Magazine No. 5, 2013.

- "The solution to prevent and stop acts against the police force while on duty," the author Doan Tat Kinh, People's Public Security Magazine No. 5, 2013.

2. ASSESSMENT OF RESEARCH RELATED TO THE THESIS TOPICS AND ISSUES TO BE CONTINUED

2.1.Result

These studies have confirmed the topicality, importance and significance of the research multifaceted problem prevention of crime of resisting persons in the performance of their official duties; fairly accurately assess the crime situation in a space resisting persons in the performance of their official duties time certain offenders; identify the specific, precise causes of crime resisting persons in the performance of their official duties, proposed many measures to prevent crime resisting persons in the performance of their official duties valuable references and applicable in practice. As research on the crime

situation of resisting persons in the performance of their official duties, in varying degrees, works outlined the level, structure and nature of crime resisting persons in the performance of their official duties and its evolution; give some identification, evaluation quite close to the situation, as a basis for determining the causes and proposing solutions resisting persons in the performance of their official duties prevent crimes in a space and time determine. Research on the causes of crime resisting persons in the performance of their official duties, the works were accessible at the overall level and parts, clarify each group of causes (group of economic reasons, social, group-related weakness in construction and implementation of economic policy, social, group-related weakness of the duty and the authority to manage, group related weaknesses in the handling of violations and crimes) of resisting persons in the performance of their official duties. When studying and proposing solutions to prevent crimes of resisting persons in the performance of their official duties generally works were based on the current situation and the causes of crime, which proposed solutions associated with each field, affecting the behavior of the offender (the solution of economic, social, construction and implementation of economic policy, social and solutions related to official duties and authorities, inter relating to the handling of violations and crimes resisting persons in the performance of their official duties). The research results of the project not only gives authors more information, data and identify meaningful but also suggest further research to solve problems due to practical problems posed.

2.2. These issues have not been studied

First, the practical work on crime prevention research crime of resisting persons in the performance of their official duties often limited on a narrow geographical areas or on a narrow field or just study about the current situation without associated with the study of the causes and solutions crime prevention. There is little research on a national scale so that we can see the full picture, full situation of crime of resisting persons in the performance of their official duties in our country, the causes of crime, the effectiveness of prevention measures and the threads overall production methods can be applied throughout the country.

Second, when each specific research content, the work does not answer many practical problems posed, such as:

- When assessing the situation of crime crime of resisting persons in the performance of their official duties, works often focus on evaluating the status (described in volume mainly) or just an assessment of crime clearly without evaluation or assessment of the crime hidden sketchy.

- Most studies crimes crime of resisting persons in the performance of their official duties situation is not conditional updated with new information and master so many precautions given will be outdated when the current stitution change.

- The work is not unified in the concept of cause groups, not to clarify the mechanism of action between the factors is the cause for offense. Many causes are mentioned are general, not specific, not interested in the new update causes arising in modern life.

- Many precautions are general, heavy on political slogans, not feasible; measures not involving crime of resisting persons in the performance of their official duties and causes of crime; less concerned with specific measures; arguments to prove the reasons for the selection methods and the ability to apply such measures have not been interested.

2.3. The problems that this topic should be studied

- The situation of crime of resisting persons in the performance of their official duties in Vietnam in period 2005 - 2015

The basic contents of the crime situation of resisting persons in the performance of their official duties in Vietnam in period 2005 - 2015 should be clarified is:

- + The reality of the level of crime of resisting persons in the performance of their official duties in Vietnam in period 2005-2015.

- + The reality of the nature of crime of resisting persons in the performance of their official duties in Vietnam in period 2005 - 2015. This research helps to assess the status of the nature of the crime.

- + Evolution of crime of resisting persons in the performance of their official duties in Vietnam in period 2005 - 2015. Thereby, see crime trends movement on the level and nature.

- The causes of crime of resisting persons in the performance of their official duties in Vietnam for 11 years from 2005 to 2015.

- Forecast of the crime of resisting persons in the performance of their official duties in Vietnam from now until 2020, and propose measures to prevent crime in our country.

CONTENT

Chapter 1

THE SITUATION OF CRIME OF RESISTING PERSONS IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES IN VIETNAM IN THE PERIOD 2005 – 2015

Research the situation of crime of resisting persons in the performance of their official duties needs to be clarified the reality and the change of the crime in certain space and time. Within the scope of this thesis, the author studies the situation of crime of resisting persons in the performance of their official duties in Vietnam period 2005-2015.

1.1. The reality of the crime of resisting persons in the performance of their official duties in Vietnam in the period 2005 - 2015

1.1.1. The reality of the level of crime of resisting persons in the performance of their official duties in Vietnam in the period 2005 - 2015

1.1.1.1. Cleared crime

According to the statistics of the Supreme People's Court, with the 11-years period from 2005 to 2015, courts at various levels in different localities in the country have brought 13.151 cases and 7.966 offenders to trial for the crime of resisting persons in the performance of their official duties. Thus, on average each year, courts at various levels have adjudicated 724 cases with about 1.195 offenders.

To see more clearly the status of the level of the number of cases and offenders have brought to the court in period 2005 - 2015, the author compares this data with data corresponding period 1994 - 2004 (stage 11 years ago) . It can be seen, the number persons commit of crimes of resisting in the performance of their official duties in the period 2005 - 2015 have been increasing compared to the previous 11-year period (period 1994-2004).

* Regarding crime index

Crime of resisting persons in the performance of their official duties in Vietnam in the period 2005 - 2015 with index crimes/100,000 population is 0.83 and index offender/100,000 is 1.37. To see more clearly the crime index of crime of resisting persons in the performance of their official duties in Vietnam period 2005 - 2015, we compare the figures with the period 1994 - 2004. We can see the

crime index of the crime in period 2005-2015 have an increase compared to the period 1994-2004.

* Compare the number of cases and offenders of crime of resisting persons in the performance of their official duties to the number of cases and offenders of crime in general across the country

Compared to the total number of criminal offenses in general, the proportion data of crime of resisting persons in the performance of their official duties is not large (representing 1.17% of the number of cases and 1.18% to the number of offenders).

* Compare the number of cases and offenders of crime of resisting persons in the performance of their official duties to the number of cases and the number of offenses under the Penal Code Chapter XX - The offense of violating administrative order in the country

The number of cases and offenders crime of resisting persons in the performance of their official duties occupies a fairly large proportion (73.2% and 66.8%) in the total number of cases and number of offenders of the crimes in administrative order Chapter.

1.1.1.2. Unreported crime

Through analysis of the level of disclosure of crime of resisting persons in the performance of their official duties and its relationships with other relevant subjects such as victims, witnesses, we can confirm, objectively hidden crime of crime of resisting persons in the performance of their official duties is very low.

To determine the extent of the of crimes hidden subjective of crime of resisting persons in the performance of their official duties, the author compares the data on the total number of cases and the number offenders with administrative penalties for a total number of cases and the number of offenders have being treated at the stage of criminal proceedings .

However, the author said that the assessment of subjectively hidden crime of crime of resisting persons in the performance of their official duties by methods comparable to the number of defendants accused of crime of resisting persons in the performance of their official duties with number of people have dealt for administrative violation of resisting persons in the performance of their official duties. Therefore, the author also uses additional methods of investigation by questionnaire for victims of crime to evaluate the hidden crime. A

survey was conducted by author with 350 people on official duty. The results of hidden crime of crime of resisting persons in the performance of their official duties around 12.5% total number of people who were tried on charges of the crime (ie about 1,520 people).

Since the method of determining the level of crime hidden of crime of resisting persons in the performance of their official duties as above, the author have concluded that the level of hidden crime of crime of resisting persons in the performance of their official duties about 10% of total deffendants have been brought to trial on charges of the crime.

1.1.2. The reality of the nature of the crimes of resisting persons in the performance of their official duties in Vietnam in the period 2005 - 2015

To study the reality of the nature of the crime is aware of the qualitative characteristics of the content inside of the current situation. In order to assess the overall the reality of the nature of crime of resisting persons in the performance of their official duties, need to select some criteria to determine the structure of this crime.

* The structure of crime according to provincial-level localities

Crime of resisting persons in the performance of their official duties occurred in all localities in the country but different.

* The structure of crime of resisting persons in the performance of their official duties according to rural, urban

In total 458 the criminal cases, there are 258 cases occurred in urban areas (56.3%); 200 cases occurred in rural areas (43.7%).

* The structure of crime of resisting persons in the performance of their official duties according to time that took place crime

Number of cases occur during the day (from 6 am to 18 pm) is the majority, approximately 69.4%; number of cases occurred in the evening and night (after 18 pm and before 6 am the following day) approximately 30.6%.

* The structure of offenders according to place

Number of cases where offenders have offense occurred in a public place is common, accounting for 67.7% rate; the number for which the offender carried out the offense at his home of the offender or the person whose rights and obligations related proportion 17.2%; the number for which the offender carried out the offense at the offices of state agencies accounted for 7%; Some cases occurred

elsewhere as forest roads, construction sites under construction ... is 8.1% proportion.

* The structure according to type of crime (crime classification prescribed by Article 8 of the Penal Code)

The persons commit crime of resisting persons in the performance of their official duties that in the case of less serious crimes is essential with 81.9%, the number persons commit of serious crime accounted for 18.1%.

* The structure according to the form of crime

Of the total 458 cases, with 266 cases of single crime (accounting for 58.1%), 192 cases in the form of crime accomplices (accounting for 41.9%).

* Structure according to the form of objective behavior

The number for which the offender uses force against forces on duty the highest proportion with 398 cases (87% proportion); number of subjects threatened to use force is 44 cases (9.6% percentage); number of objects for which use other tricks lowest percentage with 16 cases (3.4% percentage).

* The structure according to the criteria or the offender has no prior preparation done offenses

Criteria acts offender has prepared accounts for a significant share of the lead cases studied (111/458 cases, percentage of 24.2%). Criteria criminal acts no prearranged majority (347/458 cases, percentage 75.8%).

* Structure according to the criterion of damage or no damage due to the offense caused

Of the total 458 the cases trial on charges, has 398 cases offenders have caused direct damage (can be loss of health, loss of property and also can be both damaging to health health and property), there are 60 cases the offender does not cause damage.

Of the 398 cases where the offender has caused the damage, the number of the offenders that cause health damage is very high proportion corresponding to 327 cases with 82.2%, the second is the number of cases the offender has caused damage to health, has caused damage to property with 40 cases, accounting for 10% rate, the lowest number of cases where the offenders caused only property damage, with 31 cases, accounting rate of 7.8%.

* The structure according to type and level of penalties applied to offenders

In total 13.082 offenders, the penalty for which the offender be sentenced to less than 3 years is mainly the 12.111 offenders (92.6%), of which the number of offenders fined but less than 3 years in prison for probation with 3.798 offenders (29.1%); Some offenders be imprisoned from 3 years to 7 years with 533 offenders (4.1%); Some offenders received a custodial reform for 438 offenders (3.3%).

* The structure according to formula with or without use of criminal tools, means

In total 458 the crime, cases where the offender has used tools and means of crime very significant proportion accounted with 294 cases (64%), the number of cases where the offender does not use tools, means is much lower proportion with 164 cases (36%). It is noteworthy that out of 294 cases the offender has used tools and means to commit a crime shall have the proportion $151/294 = 51.4\%$ for the offenders have used weapons, support tools such as guns, knives, machetes, batons ...

* The structure according to the personal characteristics of the offender

+ Characteristics of the age of the offender: The subject of crime in the age is different from under 18 (in the cases bear criminal responsibility) to over 30 years old. The ratio of people under 18 years (in the cases shall be liable to criminal) offense accounted for 3.0% lower rate.

+ Characteristics of the sex of the offender: The offenders mainly men, accounting for 95.3% rate. Criminals are women is very low, accounting for only 4.7%.

+ Ethnic characteristics of the offenders: Offenders mainly accounted for 95.7% of Kinh; Some ethnic minorities are very small offenders, accounting for only 4.3%.

+ Characteristics of educational attainment of offenders: Offenders with low educational qualifications. Some people have high school degree or less accounted for 67.1%; of which, the number of primary level quite significantly, accounting for 25%, the number of illiterate people accounted for 4.2%.

+ Occupational characteristics of the offender: The offender agriculture and no jobs accounted for 60.6% majority.

+ Features on the judicial record of the offender (first time offenders, recidivism, dangerous recidivism): Since 2005 to 2015, in a total of 13.151 offenders that have been brought to trial 235 offenders is recidivism, dangerous recidivism, accounting for 1.8% rate; Some first-time offenders was 12.916 offenders, accounting for 98.2% rate.

* Structure of the offenders according to the criteria or not to use alcohol or drugs

* In 458 judgments for 948 offenders that have 129 offenders (13.6%) when making the offense had used alcohol. Since 2005 - 2015, a total of 13.151 offenders have been brought to trial that have 54 drug addict offenders, accounting for 0.41%.

* Structure according to some characteristics of the victim

+ About the sex of the victim: In 458 judgments with 857 victims, the number of male victims are relatively high proportion of victims 845/857 victims (percentage 98.6%); only 12 victims were women (proportion of 1.4%).

+ About sectors (trade) of duty: In 458 cases, there are 348 cases (76%) by the offender against the officers of the security service; 110 cases (24% proportion) that offenders against staff from other sectors.

+ About situations become victims of the crime: Situation become victims of crime while performing official duty are individual decisions or conducting other activities in nature without legally issued text applicable legal; no circumstances become a victim of the crime when issuing is individual decisions.

According to statistics, there are 458 judgment (62%) that have 284 cases the officials to become victims of crime while performance duty independently, single, no coordination, support force, that have 174 judgments (38%) the officials become victims of crime while on duty with coordination, support force.

+ About person on duty at fault / no fault: Number of victims that duty also relative percentage error significantly (17.2%).

Through the study of the structure of crime of resisting persons in the performance of their official duties in Vietnam in period 2005 - 2015, the author can draw some characteristics of this crime as follows:

First, the crime mainly occurred in urban areas, accounting with 56.3%.

Second, the time took place crime usually daytime with 69.4%.

Third, the location, the crime often occur in public places such as train station, bus stations, stadiums, commercial centers ... with 67.7%.

Fourth, criminal forms of sin relatively common form are single with 58.1%; however, some form of crime accomplices also quite large, accounting with 41.9%.

Thursday, mostly crimes of crime of resisting persons in the performance of their official duties is less serious offenses with 81.9%.

Friday, offenders often use force to combat duty forces with 87%.

Saturday, acts mainly have no preparation with 75.8%.

Eighth, the damage caused by the offense caused damage mainly in health, 82.2% proportion of the total number of victims.

Ninth, penalties apply to the offenders mainly imprisonment term of less than three years, accounting for 63.5% rate.

Tenth, the number of cases where offenders do not need any tools, means considerable proportion with 164 cases with 36%.

Eleventh, the personal characteristics of the offender has the following characteristics:

- The offenders are mainly men with 95.3%;
- Age over 30 years old are mainly with 65.9%;
- Offenders who are mainly engaged in agriculture and do not have a job, 60.6% proportion.
- Offenders with education from high school or less accounted for the majority with 96.3%;
- The majority of crime is first time offenders with 98.2%.

Twelfth, the victim of the crime mainly police force with 76%.

Thirteenth, the situation becomes a victim of crime when the officials conducted mostly independent duty, single, no coordination, support force (62%) and mainly the prize handle traffic violations, fighting, disturbing public order, resolve disputes, grievances related to land issues, land clearance compensation (60.7%).

1.2. The change of crimes of resisting persons in the performance of their official duties in Vietnam in the period 2005 - 2015

1.2.1. The change of the level of crime of resisting persons in the performance of their official duties in Vietnam in the period 2005 - 2015

To evaluate changes in the level of the crime in Vietnam period 2005 - 2015, the author took some criminal cases and offenders in Vietnam in 2005 as the base year (considered 100%) and gather data respectively of the next year compared to the base year.

The authors found that the number of crimes increased in recent years, reducing irregular. Criminals from 2005 to 2015 also increased, reducing unstable. Overall, the year has increased the number of crimes, the number of offenders also increased and vice versa, the year has reduced the number of crimes, the number of offenders also decreased.

The author has compared the change of the crime with the group crimes of trespassing the administration order, found that the change of the crime and the group crimes trespassing administrative order were a similar number of strokes in the uptrend, declining.

By analyzing the change of the level of the crime can see the change of the crime unstable, level up, not decrease steadily over the years, but most have decreased in the year is likely to increase, particularly in 2012 and 2013 increased the most.

1.2.2. The change of the nature of crime of resisting persons in the performance of their official duties in Vietnam in the period 2005 - 2015

*The change of properties by type offense (less serious crimes, serious crimes)

The change of the number of offenders of less serious the crime tend to rise but its movement was not unexpected by movements in the number of serious offenders. Specifically, the number of serious offenders tend to increase sharply compared to 2005 but the rate of increase up to quite erratic.

* The change of the nature in the form of crime

The change of the nature of the crime according to the criminal form, number of the cases of form a single and accomplice are likely to increase, but increased levels of individual forms of crime varies in each year .

* The change of nature according to which the offender has used a weapon, tool support

The change of the nature of the crime for which the offender has used a weapon, tool support is very unpredictable, strong growth rates, especially in recent years (2011, 2012, 2013, 2014 , 2015), in 2007, the downward trend.

* The change of the nature of the offender in cases of recidivism, dangerous recidivism

Number of sex offender recidivism, dangerous recidivism tends movements very complex nature. In the 2007, 2009, 2010, 2015, number of cases the offender recidivism, dangerous recidivism tends to decrease compared to 2005; the rest of the year tends to increase over 2005.

For movements in the number of offenders not in the case of recidivism, dangerous recidivism, it tends to increase over 2005, only 2007 and 2015 is a downward trend.

* The change of the nature of the offender is a juvenile or adult members

The number of juvenile offenders is complex tendency. In 2008, 2010, 2012, the number of juvenile crime tends to increase over 2005, the remaining years, the downward trend compared to 2005. The number of juvenile offenders generally tend increase over 2005, only 2007 and 2015 is a downward trend compared to 2005.

Chapter 2

CAUSE OF THE CRIME OF RESISTING PERSONS IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES IN VIETNAM

Based on the research findings on the situation of crime of resisting persons in the performance of their official duties, the author draws the causes of crime of resisting persons in the performance of their official duties including groups basic reasons:

2.1. CAUSE RELATED TO ECONOMIC - SOCIAL

* The impact of the restrictions in the construction and implementation of economic policies - social, implementation of legal regulations on land and other related provisions, especially provisions on withdrawal land, compensation, land compensation, site clearance.

- First of all, it is inadequate, limited regulations on land compensation. Land compensation prices reasonable unsettled, not really respect and ensure the legitimate rights of the people, leading to a negative reaction by burning people.

- The implementation in practice of economic policy - social and provisions of relevant laws (especially the provisions of the land law) also has flaws, lack of transparency, have expressed bureaucracy, corruption, the lack of responsibility of competent cadres in many localities.

* The impact of unemployment or no stable jobs, since the gap between rich and poor in society.

2.2. CAUSE-RELATED OPERATING RESTRICTIONS IN THE MANAGEMENT OF STATE ORDER AND SOCIAL SECURITY

* Impacts from working loose management, control and limit social evils. Abuse of stimulants such as alcohol, drugs make people lose the ability to use restraint and self-control behavior. These objects are very irritable, easily provoked to commit acts of crime, including acts resisting persons in the performance of their official duties .

* The impact of restrictions in the management of weapons, explosives and support tools. The management of weapons, explosives and support tools in our country still has many weaknesses and shortcomings should the offenders of resisting persons in the performance of their official duties not too difficult to gain access to weapons and explosives, tools support for the implementation serves offense.

* The impact from limited control operations, government patrol base. In fact, the patrol and control of the forces now functions much longer loose. Do not regularly patrol and inspection to promptly handle violations should job insecurity and order has become "routine" in these loci. So when functional forces on duty appear, some objects are no longer living under the "habit", they should have fought desperately.

* The impact of constraints management, help and supervision of people released prisoners reintegrate into the community.

2.3. CAUSE OF RESTRICTED IN THE HANDLE AND THE FIGHT AGAINST VIOLATIONS AND CRIME OF RESISTING PERSONS IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES

* The impact of restrictions in the work of administrative sanctions behavior of resisting persons in the performance of their official duties. Due to the behavior of the object of resisting persons in the performance of their official duties should have been administratively sanctioned but not be sanctioned for administrative violations, prevent from the outset, thereby leading to these objects have legal disdain, contempt people on duty and continue to recur behavior of resisting persons in the performance of their official

duties. In some places, although the government has sanctioned administratively but do lightly, do not give a stricter sanction.

- * The impact of the limitations of the building plans, plans for dealing with incidents, responding to situations of crime of resisting persons in the performance of their official duties, plans on cooperation in combating crime of resisting persons in the performance of their official duties of some police agencies with some muscle state other jurisdiction.

- * Impact from limitation of armament activities, support tools, facilities, professional technical equipment dedicated to duty.

- * The impact of restrictions on the activities of the agencies conducting legal proceedings

- Limiting the activities of the investigating bodies: Many problems should have been treated as criminal sufficient signs of crime, but in fact only administrative sanctions. Some investigating authorities were irresponsible, did not properly investigate the crime left untried result. Investigation capacity of the investigating bodies are failing to meet the requirements.

- Limiting the activities of the People's Prosecutor: Business controlling the investigation and also the right to prosecute certain restrictions.

- Limiting the activities of the People's Court: The Trial of the courts at all levels have the shortcomings affecting the efficiency of the trial.

2.4. CAUSE-RELATED OPERATING RESTRICTIONS IN EDUCATION AND PROPAGANDA, COMMON LAW

- * Limitations in educational activities, advocacy, legal dissemination of state agencies competent, social organizations.

- The impact from limited awareness education activities live and work according to the Constitution and the law, preventive awareness and combating crimes of resisting persons in the performance of their official duties.

- The impact of restrictions on the dissemination, educating people to stay away from movies, books, games violence.

- The impact of restrictions in the management of mass media.

- The impact of restrictions on working in judicial cases of resisting persons in the performance of their official duties. The organization of working trial cases of resisting persons in the

performance of their official duties not meet the requirements of the real situation.

- * The impact of restrictions in general education and propaganda, in particular common law from the school.

- * The impact of limited educational family environment.

2.5. CAUSE FROM THE VICTIMS OF CRIME OF RESISTING PERSONS IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES

- * A unit on duty who have missing behavior standards, arrogance, power, handling work lacks objectivity and transparency.

- * A unit on duty who abuse their powers to violate the interests of the people.

- * A group of people on duty not to comply with the regulations and procedures in the line of duty.

2.6. CAUSE FROM THE OFFENDERS OF RESISTING PERSONS IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES

- * A portion of offenders have low levels of education, legal awareness is still limited, even some offenders are scorned, despite the law.

- * A division offender unruly personality, thugs, impatient, ready to resist persons on duty despite the law. Besides, some of the offenders also become thugs, aggressive under the influence of alcohol, beer.

- * A portion of offenders being pulled, affected by the "mob psychology".

Chapter 3

FORECAST THE CRIME AND PREVENTIVE MEASURES CRIME OF RESISTING PERSONS IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES IN VIETNAM

3.1. The forecast situation of crime of resisting persons in the performance of their official duties in Vietnam in some next years

According to the author, can forecast the situation of crime of resisting persons in the performance of their official duties from now to 2020 is as follows:

Firthly, crime of resisting persons in the performance of their official duties in general tends to increase the average level of increase is equal to or more than the period 2005-2015.

Secondly, the cases of crime accomplices still accounts for a high percentage.

Thirdly, the number of crimes using weapons, support tools tend to increase, but the offender is a minor, sexual offender recidivism, dangerous recidivism is not large proportion and tend to be relatively stable.

Fourthly, the crime of resisting persons in the performance of their official duties mostly without advance preparation and of the less serious offenses.

Fifthly, forcibly behavior is still the most popular acts, the highest percentage in three types of acts for crime of resisting persons in the performance of their official duties objective.

Sixthly, the crime of resisting persons in the performance of their official duties occurs mainly in urban areas, in public places and mostly occurred during the day; damage caused by the offense caused mostly physical damage; offenders are usually male, first offenders, aged above 30 years, no previous convictions, have a level of education from high school or less.

Seventhly, crime of resisting persons in the performance of their official duties occurred mainly in Ho Chi Minh City, Hanoi and some provinces such as Binh Phuoc, Binh Thuan, Tay Ninh, Ca Mau, Dong Nai and Nghe An.

Eighthly, the People's Police force is still the main victims of crime of resisting persons in the performance of their official duties. The victim fields remain focused on areas such as public order, road traffic safety, handling issues related to land clearance compensation, protection and implementation forestry and forest product management.

3.2. The prevention measures for crimes of resisting persons in the performance of their official duties

3.2.1. Measures related to economic - social

* Ensuring the appropriateness of economic policies - social, legal regulations (especially the provisions of the law regulating land relations) is not only consistent with the general plan, but must pay attention to the legitimate rights of citizens, limiting to the maximum extent the rules could create loopholes for abuse metamorphic officers causing damage to the legitimate rights of the people.

- * Implement transparency in the implementation of economic policies, social, legal regulations locally.

- * Improving the quality of application processing activities, a people's grievances.

- * To reduce the unemployment rate of eating more produce, jobs for people as well as to narrow the gap between the rich and poor in society, according to the author, the State should implement the following measures:

- Investing in economic development, facilitate solving more jobs for laborers. Encouraging diversity development in lines producing effectively exploit the potential available land, natural resources and human resources to develop the economy, improve labor productivity, create jobs each.

- Need to implement solutions alleviation, sustainable poverty reduction, especially for those with large families and disadvantaged economically.

- Overcoming the negative impact from the process of industrialization and urbanization.

3.2.2. Measures to overcome the limitations of state management of order and social safety

- * Strengthen control and limit social evils, especially drug use, alcoholism, beer.

- * Strengthen the management of weapons, explosives and support tools.

- * Good performance control work, patrolling the base authorities.

- * To properly managed, help, supervise the prison community reintegration.

3.2.3. Measures to improve operational efficiency and handling violations and crime of resisting persons in the performance of their official duties

- * Handling of flexible, resolutely, thoroughly and differentiation behavior of resisting persons in the performance of their official duties. Need to overcome limitations not strict handling, yet resolutely, thoroughly for acts of resisting persons in the performance of their official duties. In addition, officials should use reputable local movement, explains for the people to understand the policy and the law of the State in dealing with related cases, in time to curb their urgent so that people understand, sympathize and does not continue to

commit crime of resisting persons in the performance of their official duties.

- * To ensure the coordination between the competent authorities in dealing with acts of resisting persons in the performance of their official duties.

- * Focus on the review, additions and new construction plans, plans for dealing with incidents, responding to situations of crimes of resisting persons in the performance of their official duties, plans on cooperation in combating crimes of resisting persons in the performance of their official duties, especially in the areas of occurrence high risk of the act of resisting persons in the performance of their official duties.

- * Investment in technical equipment, weapons, vehicles, tools to support better service duty requirements.

- * Improving the professional ethics, anti-bureaucracy, corruption, negative phenomena in the staff of the judiciary.

- * Fostering working capabilities, strengthening the staff of the judiciary to meet the requirements of the judicial reform strategy.

- * Improving the efficiency of the work of controlling and exercising the right to prosecution.

- * Renewal of judicial activities of the Court.

3.2.4. Measures on education and propaganda, popularization of laws

- * Improving the effectiveness of general education and propaganda, in particular common law of the State agencies competent, social organizations.

- * Promote the propaganda and educate people to stay away from movies, books, games violence.

- * Enhanced management of mass media. Central Propaganda Department should coordinate closely with the Ministry of Information and Communications in the management of mass media, including newspapers and television, in newspapers so that this network is an effective tool in preventing and combating crime in general and in particular crimes of resisting persons in the performance of their official duties.

- * Agency Court trial should enhance mobility in the locality where the occurred crimes of resisting persons in the performance of their official duties.

- * Overcome the limitations of education and propaganda, popularization of laws from the school.

- * Overcome the limitations of environmental education in the family.

3.2.5. *Restrictive measures risk becoming victims of crime of resisting persons in the performance of their official duties.*

- * Leaders of ministries at both central and local government leaders at all levels should further strengthen the leading role, inspect, examine, urge and remind to proactively detect and handle them the irregularities and shortcomings in the duty of the person assigned to duty performance.

- * The agency, unit manager on duty who need to conduct regular, ongoing work of fostering moral quality, professional ability of the duty.

- * Renewal of the recruitment and use of cadres, civil servants and construction process of staff recruitment and public objective, fair and transparent.

3.2.6. *The preventive measures from the offender*

- * Limit the unruly properties, thugs, temper, contempt, despite the law.

- * We ourselves need to limit the conflicts with others; for those who already have their conflict with the need to avoid, limit contact.

- * Propaganda limited to people exposed to the cultures of violence.

- * Propaganda and take measures to limit drug use, alcohol use for those who use drugs or drink preferences, beer and has the potential to become drug addicts, wine, beer.

- * Quickly remove the causes leading to the formation of the crowd while on duty.

LIST OF AUTHOR' THESIS-RELATED PUBLICATIONS

1. Tran Ngoc Duong (2011), "A few comments on the work of preventing and combating crime of resisting persons in the performance of their official duties," Journal of the People's Police, (8), tr.62-64.

2. Tran Ngoc Duong (2013), "The legislation on the management and use of weapons, explosives and support tools in the prevention of crime against persons on duty", Journal of Science and Strategy, (6), tr.77-80.

3. Tran Ngoc Duong (2014), "The legislation on prevention, combat and handle crime of resisting persons in the performance of their official duties in the new situation", Journal of Crime Police, (44), tr.67-71.

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5. Tran Ngoc Duong (2016), "Improving the efficiency of prevention of crime of resisting persons in the performance of their official duties in the current situation", Journal of democracy and law, (1), tr.15-19.

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