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21 June 1973

MEMORANDUM FOR: Mr. William E. Colby
Deputy Director for Operations

SUBJECT : Everything Senators Might Want to Know
About Phoenix and You Were Afraid
They Would Ask

1. Attached is a package of material on Phoenix assembled to help you should this subject arise during your confirmation hearings -- as it undoubtedly will. The package has two components:

a. A seven-page summary or overview drafted in a form suitable for your use as a hand-out or as a statement.

b. A back-up notebook organized by topical category.

2. If much or most of the prose sounds familiar, it should. We based this text on your previous statements, partly to ensure consistency and primarily so any listeners familiar with your earlier testimony would not think they were hearing anything new. All the facts and figures, however, have been double checked. The package is, of course, unclassified.

3. You will know best how you want to play your hand. If you want to hit the matter frontally, you might want to think about volunteering a flat statement along the following lines:

I am, of course, familiar with the charge that the Phoenix or Phung Hoang program was an "illegal assassination program" designed to "murder" innocent Vietnamese civilians. This charge is false. I would like to take this opportunity to explain briefly what the Phoenix program actually was and to place in the record my own appraisal of and feelings about the program.

Approved: [Signature] 007 1981
Date

4. Two sections in the notebook may be helpful if the going gets sticky: the section on "Advisory Instructions" and the one on "Interrogation." They give the guidelines and restrictions imposed on US advisory personnel. The second paragraph on the next to the last page of the "Organization" section might also be helpful. It explains in some detail how most of the VCI killed, got killed, and why "killed" does not mean "executed."

5. One other point you may also want to float is a little delicate -- but it is valid and, if properly handled, could be telling. One of the best indicators of the Phoenix/Phung Hoang program's overall success is the intensity of the worldwide Communist propaganda effort mounted against it, a propaganda effort that has had its echoes (unwitting) in the United States and even in the halls of Congress.

6. The Phoenix package is rounded out with a supplementary note on one of the program's more vocal accusers, Kenneth B. Osborn.

7. This package has been checked with [REDACTED] and all other concerned offices. [REDACTED]

Attachment

O/DCI [REDACTED]

Orig - Mr. Colby [REDACTED]

22 June 1973

THE PHOENIX PROGRAM

(Background Material)

1. HISTORICAL SETTING

After the signing of the Geneva Agreement in 1954 which divided Vietnam into two zones, the Communists withdrew 75,000 native southern Viet Minh cadres and troops -- who came to be known as "regroupees" -- to North Vietnam. Another large pool of Lao Dong (Communist) Party members (approximately 40,000 to 50,000) -- also infrastructure -- did not regroup and remained in the South to spearhead the political struggle against the newly-formed Diem government. The Party's early hopes and expectations of Diem's collapse were frustrated by his successes in holding the newly formed State of South Vietnam together and maintaining it as an on-going, steadily improving nation. By the late 1950's, the Party organization in the South which had been left behind after Geneva was virtually paralyzed and shattered. To arrest the decline, rebuild the Party apparatus, and undermine the Diem government, the Lao Dong Party Central Committee in January 1959 at its 15th plenum resolved to initiate an armed struggle in the South. The infiltration of regroupees began in earnest. The regrouped cadres returned to their native areas, traveling through Laos and Cambodia and had the mission of reviving the weakened Party apparatus, rebuilding the infrastructure, organizing the population into farmers' groups, women's organizations, youth groups, etc., and reestablishing guerrilla groups.

The Party's policy of armed struggle was formalized at the Lao Dong Party's Third National Congress, which met in Hanoi in September 1960. In his political report at the Congress First Secretary Le Duan called for the establishment of the national united front in the South, and, several months later on December 20, 1960, the National Front for the Liberation of South Vietnam was announced. The front was to be the overt vehicle under which the liberation struggle would be waged, while the Lao Dong Party's actions, controlling hand, and personnel would be concealed. In the execution, this

policy failed as North Vietnam found in December 1963 (its 9th plenum) that the war in the South could not be won without escalation to the stage of introducing regular units of the North Vietnamese Army.

Following the creation of the NLF, there followed creation of the People's Revolutionary Party in December 1961, the ostensibly separate southern branch of the Lao Dong Party; in 1968, in the wake of the Tet offensive, the Alliance of National, Democratic and Peace Forces was established; and finally in June 1969, the so-called Provisional Revolutionary Government of the Republic of South Vietnam was formed. Several high ranking personnel in key positions at the COSVN level hold positions on the Lao Dong Central Committee which interlocks leaders of the PRP and Hanoi.

Together, the leaders and cadre of all of these organizations and their subordinate units throughout South Vietnam make up the Viet Cong Infrastructure (VCI). Collectively their task is to organize the South Vietnamese people into a Communist state.

2. PURPOSE OF THE PHUNG HOANG/PHOENIX PROGRAM

The VCI lays down the caches for the troops coming from the border sanctuaries; it provides the guides and intelligence for the North Vietnamese strangers; it conscripts, taxes, terrorizes and -- in Communist controlled areas -- governs. The VCI has been an arm of Communist aggression in South Vietnam just as much as North Vietnamese main force military units have been. Protection against the North Vietnamese main force battalion or even the Vietcong guerrilla group does not give South Vietnamese citizens real security if the elected village chief is assassinated by terrorists of the VCI, or if the grenade explodes in the market place, or the traitor shoots the self-defender in the back.

During 1969, for example, over 6,000 South Vietnamese were killed in such terrorist incidents, over 1,200 in selective assassinations, and 15,000 wounded. Among the dead were some 90 village chiefs and officials, 240 hamlet chiefs and officials, 229 refugees and 4,350 of the general populace. This killing was the work not of Communist main force military units, but of the VCI.

The main object of the Phung Hoang/Phoenix program was to identify members of the Viet Cong Infrastructure and the Viet Cong apparatus of terrorism from the national down to the grass roots level. It was supposed to identify members of the VCI for apprehension and detention according to Vietnamese law. The goals of the program were to capture, induce the defection of, or kill members of the enemy apparatus through the normal government, police and judicial structure of the Vietnamese Government. The program was not in any way intended to "combat terror with terror", nor was it a program of "assassination". It represented (a) an intelligence collection mechanism, in the form of coordinating committees at the province, regional and national level; and (b) intelligence and operations coordinating centers at the province and district level, which aimed at a united total government effort against the VCI.

One of the major lessons we have learned about the Communist concept of the "people's war" has been the key role the infrastructure plays in it. This Communist apparatus has been operating in Vietnam for many years and is well versed in covert techniques. Since the VCI is a sophisticated and experienced enemy, experts were also needed to combat it. To fight the war on this level, the government of South Vietnam with U.S. assistance, started the Phung Hoang/Phoenix program in 1967, in order to bring together the police, and military, and the other government organizations to contribute knowledge and act against this enemy infrastructure. The aim of the program

was to coordinate the acquisition of information about the enemy organization, the identification of individuals active in that organization, and the planning and execution of operations against them.

These operations were varied in kind, form and size. They might consist of two policemen walking down the street to arrest an individual identified as a member of the enemy apparatus or they might involve a three-battalion attack on a jungle hideout of a district or province committee.

As a result of this program, members of the Communist apparatus were captured, induced to turn themselves in as ralliers, or were killed in fire fights. The U.S. government provided advisory assistance and support to this internal security program through the police, the administration, the information services and the intelligence services. Such support was parallel to and similar to the U.S. support of the military effort against the North Vietnamese battalions and Viet Cong guerrilla groups through the Vietnamese military forces.

Basically, however, the Phoenix/Phung Hoang program was a Government of Vietnam (GVN) effort to centralize and coordinate the activities of all military and civilian agencies engaged in the neutralization of the Viet Cong Infrastructure (VCI). The overall program contained four elements: an intelligence program to identify the members of the VCI, an operational program to apprehend them, a legal program to restrain them, and a detention program to confine them. Open announcement of the heretofore classified program was made by President Thieu on 1 October 1969. This announcement pointed out to the people that Phung Hoang was a program aimed at protecting the people against terrorism and political, paramilitary, economic and subversive pressure from the VCI. In the area of terrorism alone, the following statistics on killing and abductions committed by Viet Cong terrorists indicate the magnitude of the problem faced by the GVN.

**Persons Killed or Abducted by VC
Terrorists in South Vietnam**

	Killed	Abducted
1966	1,732	3,810
1967	3,706	5,369
1968	5,389	8,759
1969	6,097	6,097
1970	5,951	6,872
1971	3,537	5,006
1972	4,405	13,119

3. ORIGIN OF THE PHUNG HOANG/ PHOENIX PROGRAM

The United States, whose troops were engaged in Vietnam, encouraged the Republic of Vietnam in the development of intelligence coordination and exploitation against the VCI through its advisory relationship. In 1967, a trial program had proven successful in Quang Ngai province of Military Region 1. This trial program was called "Phung Hoang", which in Vietnamese denotes a mythical bird. The nearest English translation of this term was "Phoenix", although the Vietnamese Phoenix has no tradition of rising from the ashes. Phung Hoang came before Phoenix. By late 1967, the Government of the Republic of Vietnam instituted a nationwide program under the same name, Phung Hoang. This program was then made official in June 1968 by a decree by the President.

Implementation of the nationwide concept, endorsed by the Presidential decree, led to the creation of a structure designed to collate information about the Vietcong infrastructure, coordinate the collection of such information and also to coordinate action against the VCI.

During this period, the U. S. side had its own organizational problems. In virtually every province, there were two parallel U. S. organizational structures: one civilian, one military. Despite good will and cooperation on the part of many U. S. officials (civilian and military), there was an enormous amount of institutional redundancy and overlap in the American provincial effort, particularly in the efforts of various components with intelligence responsibilities -- where these organizational and coordination shortcomings engendered the twin problems of duplication in some areas and (simultaneously) coverage gaps in others.

To tackle this mix of organizational problems, the U. S. encouraged the formation of entities known as District Intelligence and Coordination Centers -- DIOCCs. (During the 1967-early 1968 pilot stage, there were two such centers in 1 Corps and five in 3 Corps.) On an experimental basis, all agencies responsible for intelligence were put in one location, that is, had their input come to one location at (in) which representatives for all those agencies were present. The same center had authority to task an array of responsive units that could go out and react to the intelligence it developed or unearthed.

The civilian side of this civilian-military mix was primarily concerned with the infrastructure, the enemy's governmental members. Heretofore, most of the intelligence seriously and/or systematically considered had related only to tactical military matters, that is, the enemy's combat units.

When these early DIOCC's were formed, emphasis was placed on the important role of getting the intelligence on the enemy's organizational structure and secret governmental apparatus which was actually controlling and calling the shots for the enemy's tactical units.

In these pilot DIOCC's, the concept worked so well that efforts were soon made to expand the number of district centers, and to do the same thing at several other levels, i. e. at province, corps and national levels. Formally, then, Phung Hoang came into being by government decree in 1968. Under the title "Phoenix", the U.S. provided advisors, management guidance and financial support for construction and equipment expenditures of district and province centers.

4. ORGANIZATION OF PHUNG HOANG/PHOENIX

(1) Vietnamese side -

All elements of the government participated in the Phung Hoang program through a series of Phung Hoang Committees whose function was to direct the program at their respective levels from national to district. It was the responsibility of the Phung Hoang Committees, at the national, regional and provincial levels, and the District Intelligence and Operation Coordinating Center (DIOCC) at the district level, to coordinate the activities of the various military and civil agencies involved. In theory, these committees supervised the orderly collection, collation and distribution of information on individual members of the VCI and planned operations against identified Viet Cong operatives, using the appropriate police, military or paramilitary forces. These centers were advised by U.S. personnel.

It was at the district level that the coordinated intelligence effort against the VCI became most concentrated, and the main mechanism was the DIOCC. The Vietnamese District Chief was the DIOCC Chief; though he normally delegated responsibility for daily operations of the DIOCC to his deputy or Chief of Police. The District Senior Advisor (usually a United States Army Major) was the District Phoenix Coordinator. Also assigned to the advisory team was a trained intelligence officer who served as the full-time Phoenix advisor to the DIOCC. This officer advised and assisted the District Chief on DIOCC operations primarily in the area of organizational and management techniques and procedures of intelligence collection and files (i.e. Name Index Files, Dossiers, Area Files), first-level analysis and dissemination of intelligence.

At the national level, the Chairman of the central Phung Hoang Committee was the Minister of Interior; the Vice-Chairman was the Director General of the National Police. Its membership contained senior representatives of the Rural Development Ministry, the Military Security Service of the Army, the Special Police Branch, the Police Field Forces and the Joint General Staff. The composition of each of the lower level committees in the Military Regions and provinces was essentially the same. While all elements of the government participated in the Phung Hoang program, a leading role was played by the National Police, with the support of the Special Police, National Police Field Force (NPFF) and the Provincial Reconnaissance Units (PRUs).

A. National Police -

The primary responsibility of the National Police was to maintain law and order throughout the populated areas of Vietnam. It was the agency charged with the primary responsibility for protecting the people from the Viet Cong Infrastructure. The National Police was advised by CORDS Public Safety Advisors at the national, corps and province levels.

B. Special Police -

The Special Police were responsible for collecting, collating and evaluating intelligence pertaining to the Viet Cong Infrastructure, and coordinating available information with Phung Hoang centers at various levels. The Special Police also reacted to intelligence collection requirements levied by the Phung Hoang centers.

C. National Police Field Forces (NPFF) -

The National Police Field Forces were the paramilitary action arm of the National Police. They were responsible for protecting the people from terrorism by conducting police operations against the Viet Cong Infrastructure. The NPFF participated in anti-infrastructure operations generated by Province Phung Hoang centers (PIOCCs) and by District Intelligence and Operations Coordinating Centers (DIOCCs). They operated alone or in conjunction with military units. Once the Viet Cong Infrastructure had been driven from an area, the NPFF had the primary responsibility of preventing a resurgence. The final mission of the NPFF was to safeguard the extension of the uniformed National Police presence into the rural areas.

D. Provincial Reconnaissance Units (PRUs) -

Provincial Reconnaissance Units were small platoon and company sized units operating under the control of Province Chiefs against the VC Infrastructure. They were funded by the United States until 1972 but in 1969 were placed under the national control of the Director General of National Police, with a Vietnamese Army officer in charge as national commander to collect intelligence on and conduct operations against the VC Infrastructure.

The RVNAF participated in the Phung Hoang program through its intelligence and security services and through the operations of its Regular, Regional and Popular Forces.

The People's Self Defense Force, the Information Services, local officials and all other elements further contributed to the effort.

(2) U.S. Role -

To coordinate and manage United States assistance and support to the GVN Phung Hoang Program, the Commander, United States Military Assistance Command, Vietnam (COMUSMACV) developed an advisory structure known as the Phoenix program. The advisory and assistance program was under the staff supervision of the Deputy to COMUSMACV for Civil Operations and Revolutionary Development Support (CORDS). There were some 450 United States military advisory personnel involved in the Phoenix program. Of this number, 262 served at district and city levels, which were the key operational elements, with the remainder of the personnel serving at the national, regional and province levels.

On the U.S. side, the concept of a coordinated intelligence effort against the VCI had its beginning in July 1967, when COMUSMACV established a joint civilian/military activity entitled "Intelligence Coordination and Exploitation (ICEX)" with the specific mission of assisting and supporting the GVN in a coordinated attack on the VCI. Initially this program received little official GVN attention and support. However, in December 1967, recognizing the need for a coordinated intelligence effort against the VCI, the GVN formally initiated the Phung Hoang program. At that time, COMUSMACV changed the name of its

advisory activity from ICEX to Phoenix. The term Phoenix was in turn dropped in 1970 and the word Phung Hoang was used thereafter.

The U.S. role with respect to Phung Hoang was one of advice and assistance. This relationship was maintained by CORDS under COMUSMACV. American Phung Hoang officers were present in most District Operations Centers and U.S. staffs were present at province and at the national level, to work with the appropriate GVN Phung Hoang committees at those levels. These officers worked closely with their Vietnamese counterparts in the Province Operations Centers/District Operation Centers, which operated on a 24-hour basis, receiving, collating, verifying and coordinating intelligence on the VCI from all sources on the one hand, and on the other hand facilitating the exploitation of the intelligence by the various action arms of the Phoenix program.

The U.S. officers also obtained and coordinated U.S. technical, material and fire support for the Province and District Operations Centers and its action arms. Most of the American personnel were military. In addition to those American personnel working directly with Phung Hoang committees and DIOCC's, other American personnel were closely involved with many of the GVN services participating in the program, such as the military, the police and others.

On 15 October 1969, a memorandum was distributed to members of the Phung Hoang U.S. staff and forwarded for inclusion in the training of Phung Hoang advisors in Vietnam and at Fort Holabird, Maryland. It pointed out that the Phung Hoang program against the VCI was an inherent part of the war effort in Vietnam and that U.S. personnel were under the same legal and moral constraints with respect to operations under this program as with respect to military operations against enemy units in the field.

To reduce the threat of the VCI, the GVN had established VCI operational goals for the Phung Hoang agencies in each geographic area of South Vietnam. These goals were based on the estimated strength of the VCI, local security situations and the capabilities of the various GVN agencies. These goals could be met by counting VCI who rallied or were induced to rally, those who were captured and sentenced and those who were killed in the course of security operations. The desirability of capturing VCI was stressed, for the intelligence and other values they can offer. Hoi Chanh (ralliers) frequently provided important intelligence and their information served as the basis of many operations.

Ways in which the GVN attempted to neutralize and exploit intelligence on the VCI within the concept of the Phung Hoang program were, in order of priority, defection, capture and exploitation, and discreditation or compromise. It must be recognized that some VCI were killed unavoidably during the normal course of combat reaction operations; however, the overall percentage was quite low. For example during 1968 when some 15,000 VCI were neutralized, 72 percent were captured, 13 percent defected and only 15 percent were killed. Defection and capture were the preferred methods of neutralization as the individuals often provide highly useful information which could lead to additional neutralization and in locating arms and supply caches.

With respect to those killed, one further element of background context should be understood. The targets of Phung Hoang operations -- members of the VCI and, particularly its leadership -- were actively engaged in waging war against the GVN, endeavoring to overthrow it by force of arms. Members of the VCI were often armed, with the more senior leaders being protected by platoons or even companies. Major VCI installations, especially command headquarters, were usually located in Communist-controlled areas garrisoned and protected by troops. Capture operations, hence, usually involved an exchange of shots, often involved sharp firefights, and sometimes involved platoon or company size military operations. The bulk of the VCI "killed" were killed in combat situations. They were not, repeat not, murdered or executed as, or while, unarmed, defenseless prisoners.

In order to focus activities on key VCI personnel, Phung Hoang guidance designated certain elements for priority attention. These included all personnel operating at district level or above and specialists assigned to these four key components of the Viet Cong organization:

Revolutionary Committees

Current Affairs Committees

Security Sections

Finance and Economy Sections

Specific goals were set for higher level VCI, rather than permitting the entire goal to be met with lower level VCI.

(3) Popular Participation -

In October 1969, the GVN decided to mobilize the people in the attack on the Viet Cong Infrastructure. Under the slogan of "protection of the people against terrorism," the GVN publicized the program, the enemy against which it is aimed, and the assistance the average citizen could give it. In addition to general explanations, local Phung Hoang activities had been explained in more specific terms, in leaflets and posters featuring photographs of the neighborhood VCI. In a number of cases this had resulted in capture of a wanted person through information provided by the public, or in the individual turning himself in as a Hoi Chanh because of the pressure generated against him.

5. TRAINING

The training of U.S. Phung Hoang/Phoenix advisors was conducted at Fort Holabird, Maryland. During training, the Phung Hoang program was introduced as an integral part of the total war effort in Vietnam and it was emphasized that U.S. personnel engaged in it were under the same legal and moral constraints that applied to conventional military operations against enemy units in the field.

The U.S. Army Institute for Military Assistance (IMA) also conducted a twelve-week course (six weeks of language training included) for officers assigned to the Phung Hoang/Phoenix program. This training was designed to provide selected military intelligence officers with a working knowledge of the fundamentals and techniques of general advisor functions in the Republic of Vietnam and of the fundamentals and techniques of intelligence, the Phung Hoang program, and specialized intelligence skills as they applied to duties as a Province or District Intelligence Operation Coordination Center (PIOCC/DIOCC) advisor.

6. INSTRUCTIONS TO PHOENIX ADVISORS

Advisors to the Phoenix program were issued specific directions in MACV 525-36 relative to policies and responsibilities for all U. S. personnel participating in, or supporting in any way, Phoenix/Phung Hoang operations. The policy guidance was:

"The PHOENIX program is one of advice, support, and assistance to the GVN Phung Hoang program, aimed at reducing the influence and effectiveness of the Viet Cong Infrastructure in South Vietnam. The Viet Cong Infrastructure is an inherent part of the war effort being waged against the GVN by the Viet Cong and their North Vietnamese Allies. The unlawful status of members of the Viet Cong Infrastructure (as defined in the Green Book and in GVN official decrees) is well established in GVN law and is in full accord with the laws of land warfare followed by the United States Army.

Operations against the Viet Cong Infrastructure include the collection of intelligence identifying these members, inducing them to abandon their allegiance to the Viet Cong and rally to the government, capturing or arresting them in order to bring them before Province Security Committees for lawful sentencing and, as a final resort, the use of military or police force against them if no other way of preventing them from carrying on their unlawful activities is possible. Our training emphasizes the desirability of obtaining these target individuals alive and of using intelligent and lawful methods of interrogation to obtain the truth of what they know about other aspects of the Viet Cong Infrastructure. U. S. personnel are under the same legal and moral constraints with respect to operations of Phoenix character as they are with respect to regular military operations against enemy units in the field. Thus, they are specifically not authorized to engage in assassinations or other violations of the rules of land warfare, but they are entitled to use such reasonable military force, as is necessary to obtain the goals of rallying, capturing, or eliminating the Viet Cong Infrastructure in the Republic of Vietnam.

If U. S. personnel come in contact with activities conducted by Vietnamese which do not meet the standards of the rules of land warfare, they are certainly not to participate further in the activity. They are also expected to make their objections to this kind of behavior known to the Vietnamese conducting them and they are

expected to report the circumstances to next higher U.S. authorities for decision as to action to be taken with the GVN.

There are individuals who find normal police or even military operations repugnant to them personally, despite the overall legality and morality of these activities. Arrangements exist whereby individuals having this feeling about military affairs can, according to law, receive specialized assignments or even exemptions from military service. There is no similar legislation with respect to police type activities of the U.S. military, but if an individual finds the police type activities of the Phoenix program repugnant to him, on his application, he can be reassigned from the program without prejudice."

7. QUOTAS AND INCENTIVES

(a) Quotas

One of the problems in Vietnam had been motivation of various governmental forces to do things. The Vietnamese, responding to knowledge of their own people, decided to establish a quota system to get a real push against the infrastructure. Such quotas were used as a management tool to measure the effectiveness of the Phung Hoang/Phoenix program in the districts and provinces of Vietnam. Goals were established according to identified enemy strength and the ability of GVN forces in the area.

(b) Incentives

Some informants were paid through GVN and U.S. intelligence channels according to the value of their information. The payments ranged from nothing for citizens who contributed information out of a sense of public duty to large amounts for critical information concerning members of the enemy apparatus provided at great risk to the informant. In addition to informant payments, rewards were offered for information leading to the apprehension of identified VCI personnel. Careful restrictions were instituted to ensure accuracy, to encourage capture rather than attack and to offer the individuals the option of rallying under the Chieu Hoi program.

8. CLASSIFICATION OF DETAINEES

In a series of directives, the GVN's Central Phung Hoang Committee classified all members of the Communist movement into three categories: Category A included only the leading officials of the VCI; Category B included other VCI members who held important but not leading positions; and Category C included those individuals classified as "followers" but who were not considered as members of the VCI.

All Viet Cong listed in Category A were also People's Revolutionary Party members. Category B VCI members held important positions in the various front groups, and in party committee organizations, but they were not People's Revolutionary Party members.

According to the working definition used in the field, the following were members of Category C and were not to be considered as members of the VCI at all: (a) Rank and file guerrillas; (b) Rank and file members of front organizations; (c) Soldiers and members of organized VC/NVA military units; (d) Persons who pay taxes to the VC; (e) Persons who perform miscellaneous tasks for the VC; and (f) Members of the populace in VC-controlled areas.

9. PROSECUTING AND SENTENCING VCI

The Government of Vietnam took positive steps to ensure justice. In Ministry of Interior Decree 2212 of 20 August 1969, a detailed procedure was established by which information would be assembled and recorded to warrant the arrest of an individual member of the VCI. The 1970 Pacification and Development Plan, Annex II on Protection Against Terrorism, stated the importance of treating the population and detainees in a fair, current and humane manner and set out requirements for the implementation of the program. Prime Minister's Directive No. 1293-Th. T/PCI/M dated 27 November 1968 outlined a set of regulations for rapid screening of their cases. The government engaged in a program of improving and upgrading its detention facilities for detainees. Higher ranking VCI were sent to maximum security detention facilities on Con Son Island. Other specialized national correction centers were designated for women. While the Geneva Convention does not require it, the GVN permitted the International Red Cross to inspect facilities where VCI detainees and convicted VCI were held.

From a legal standpoint, members of the VCI were subject to two legal procedures:

1. Prosecution for crimes against national security. These involved full judicial proceedings in military courts, and resulted in criminal convictions to sentences in accordance with law.

2. Administrative detention under emergency powers (an tri). These were similar to emergency measures used by other countries such as Malaya, Kenya and the Philippines during periods of insurgency or national emergency and in both Great Britain and the United States in times of war. (See U.S. Code Title 50, Section 812 et seq.) Detention was determined by a Province Security Committee, comprising the Province Chief, the Province Judge, the Chairman of the Provisional Council and other officials.

Ministry of Interior Decree 757 of 21 March 1969 provided specific definitions of classes of Communist offenders and outlined the appropriate periods of detention, depending upon their Party status and responsibilities. The preamble to this decree stated "the government policy is to completely eliminate the VCI by capturing as many as possible, while the lenient rehabilitation policy was aimed at releasing as many as possible."

The administrative detention procedure (an tri) was limited to a two-year maximum sentence, although this was renewable on reconsideration at the end of the two-year period. Military courts could sentence offenders to any period of time, including death. Sentences were for a determined period of years. The justification for release while the war is still going on was found in the government's program of rehabilitation. The government had sought to rehabilitate its prisoners and detainees and release those it believed rehabilitated.

Technically, subordinate elements of the VCI, such as the security, military proselyting and military intelligence sections of various Viet Cong Party Committees, had specific clandestine missions to collect, under false pretenses and without uniform, information on government military operations. Therefore, under the Geneva Convention of 1949, such members qualified as spies and were not entitled to protection under the Geneva Convention relative to civilian persons captured in time of war because Article 3 applies only "to persons taking no active part in the hostilities." VCI civilians actively and directly taking part in the hostilities were thus not entitled to any protection -- including sentencing by a regularly constituted court -- as provided for in Article 3 of the Convention. In spite of this, the Government of the Republic of Vietnam elected to ensure humanitarian treatment of captured VCI regardless of whether the individual was considered a protected person within the meaning of the Convention.

Of the VC captured, five to ten percent were tried by military court and received an average sentence of five to six years. Of those sentenced under the administrative detention procedure, the average sentence was nine to twelve months.

In South Vietnam, a person suspected of an offense against the national security could be arrested and taken into custody and held up to 24 hours for questioning and investigation by an apprehending agency other than the National Police; though he had to be placed in National Police custody no later

than 24 hours following apprehension. All arrests were made pursuant to a warrant issued by a competent judicial authority, which included Province Chiefs, Mayors, District Chiefs and Police Chiefs. An arrest made without a warrant, however, could later be "corrected" by issuance of a warrant ex post facto by an official having authority to do so initially. U.S. personnel were not authorized to arrest GVN citizens. Only the following could execute an arrest order:

- a. Judicial police;
- b. Military police;
- c. Military Security Service (MSS);
- d. National Police (NP; which includes individuals of the National Police Field Force (NPFF); and
- e. Any person who witnesses the commission of a crime, "in flagrante delicto," -- citizen's arrest.

Once an individual had been turned over to the National Police, that agency had to complete its preliminary inquiry and identification processing within two days. Following that, a maximum of three more days could be allowed for transfer of the suspect to an Interrogation Center, where a supplementary investigation could continue for as long as 30 days. The Province Chief next could expend three days in reviewing the dossier for adequacy, after which the case was forwarded to the Province Security Committee, which was required to sentence, release or refer the individual for trial by military court. The Committee had seven days within which to act. Deviation from the foregoing time schedule had to be authorized by the Ministry of Interior.

Phoenix advisors were instructed to frame their advice as to the classification of detainees as civil defendant or PW according to MACV Directives 381-46 and 20-5. VC and NVA military personnel had to be accorded PW status and the rights of a PW under the Geneva Convention. Civilian PRP members and VCI cadre were considered civil defendants. Certain members of the VC/NVA military could be occupying positions within the VCI. When captured these military VCI were to be accorded PW status but were to be reported as neutralized VCI even though retained in PW channels.

10. DETENTION OF VCI

The detention of VCI was the responsibility of National Police. In 1963, a U. S. program of advice and assistance to the GVN prison system was initiated, which was taken over by CORDS in 1967. The program initially focused on a vocational skills training program. In 1967, the problems of overcrowding because of the war and loss of prisoners to VC attacks became serious. Thus, a substantial program of fortification and expansion of prison facilities was undertaken. To this was added a variety of programs to improve facilities and procedures in the correction and detention systems, both before and after the Con Son incident of 1970. Advisory attention to these centers had been increased using both civilian and military personnel, including six members of the United States Federal Bureau of Prisons. As a result of the overall program (and the more stringent standards of apprehension established under the Phoenix program), overcrowding was eliminated except in a few facilities, the death rate in the correction centers had dropped from 1.56 per thousand per month in 1967 to .36 per thousand per month in 1970, medical care had substantially increased and feeding and sanitary facilities had been improved. U. S. advice and assistance improved the GVN's operation of detention centers, as well as the circumstances of their inmates.

VCI captured by U. S. military forces were turned over to the GVN civil authorities for disposition under GVN laws.

11. INTERROGATION

In instructing and training the Vietnamese, the U.S. side emphasized good systems of interrogation. Except for the innermost hard core Communist leadership, most captured members of the infrastructure could be induced to talk freely about their associates if they were handled sympathetically. For interrogation guidance, the Phoenix program used Sir Robert Thompson's advice, "Well-treated and carefully interrogated individuals can provide a tremendous amount of information. A situation gradually develops whereby any later individual who is captured or surrenders can then be interrogated on the basis of a mass of information already available to the intelligence organization. This shocks the truth out of him far more effectively than torture."

U.S. personnel were primarily advisors with respect to GVN interrogation of Viet Cong or North Vietnamese Army suspects. Thus they were sometimes present and sometimes not during interrogation sessions. There was no fixed rule in this regard, other than that of helping GVN personnel to meet professional (and ethical) interrogation standards. If U.S. personnel came in contact with activities conducted by Vietnamese which did not meet the standards of land warfare, they were directed to:

- (1) Not to participate further in the activity.
- (2) To make their objections to this kind of behavior known to the Vietnamese conducting them.
- (3) To report the circumstances to the next higher U.S. authority for decision as to action to be taken with the GVN.

12. FINANCIAL EXPENDITURES TO PHOENIX

U.S. expenditures for the Phoenix/Phung Hoang program were:

1968	1.53 million
1969	1.46 million
1970	.38 million
1971	.40 million
1972	<u>.24 million</u>
	4.01 million

This total was expended in support of U. S. civilian personnel and for necessary supplies and equipment for U. S. Phoenix advisory staff officers. This sum does not include the pay and allowances of U. S. military personnel assigned to the Phoenix program. These costs did not include U. S. support of other programs such as the RF/PF, National Police, intelligence services, information services, etc., which participated in the Phoenix effort. It is not possible to segregate the portion of those costs devoted to Phoenix since Phung Hoang/Phoenix was a program designed to coordinate and consolidate the efforts of a number of different agencies against one of the several aspects of the Communist attack against South Vietnam.

United States financing of the Phung Hoang program should be considered during two distinct time periods. The first period covered the time from early 1968 to 1 July 1969, while the second covers the time from 1 July 1969 to the end of 1972.

Prior to 1 July 1969, financial and logistical support to the Phoenix/Phung Hoang program by the Office of the Special Assistant to the Ambassador (OSA) was limited to one-third of the cost, with MACV paying two-thirds. MACV used assistance in kind (AIK) funds generated through Public Law 480. OSA financial support was for such items as OSA managerial personnel, office space, air transport and communications.

13. EFFECTIVENESS OF PHOENIX/PHUNG HOANG PROGRAM

The Phoenix program was an essential element of Vietnam's defense against VCI subversion and terrorism. While some unjustifiable abuses occurred over the years, as they have in many countries, the Vietnamese and U.S. Governments worked to stop them, and to produce instead professional and intelligent operations which would meet the VCI attack with stern justice, with equal stress on both words. Considerable evidence had appeared from enemy documents and from former members of the enemy side that, despite some weaknesses, the program had reduced the power of the VCI and its prospects for conquest of the people of South Vietnam. Phung Hoang/Phoenix was an essential part of the GVN's defense as the VCI is to the Communist attack. U.S. support was fully warranted.

Members of the VCI were counted as neutralized in three ways: when rallying to the Government's side, when captured and receiving either a sentence by a court verdict, or when killed. Neutralization results during the past several years are as follows:

Year	Rallied	Captured/Detained	Killed	Total
1968	2,229	11,288	2,259	15,776
1969	4,832	8,515	6,187	19,534
1970	7,745	6,405*	8,191	22,341
1971	5,621	5,012*	7,057	17,690
1972	<u>1,586</u>	<u>2,138*</u>	<u>2,675</u>	<u>6,399</u>
Totals	22,013	33,358	26,369	81,740

Aside from the direct losses of personnel captured, rallied or killed, there is considerable evidence that the VCI operated under considerable limitations as a result of concern for exposure and capture under the Phoenix program, that its organizational structure in a number of areas was reduced to skeleton status instead of its previous full panoply of committees and members, that it had difficulties maintaining contact in many villages, et cetera.

*Beginning in 1970 only those VCI receiving sentences or administrative detention of at least one year were counted as a VCI neutralization.

On 1 July 1969, management and support responsibilities for the Phung Hoang program were officially transferred from OSA to COMUSMACV, who assumed responsibility for providing or arranging monetary and logistical support through American channels. It was directed that the primary method of monetary and logistical support would be the use of Vietnamese piasters for the purchase of local commodities and services through local procurement.

GVN financing had primarily been in the form of the wages paid GVN officials by their parent agencies. No precise information is available concerning the extent of this financing. The best estimates of direct expenditures available from classified Vietnamese sources are as follows:

- 1969: The Ministry of Interior (MOI) was directed to support Phung Hoang in 1969. The MOI contributed approximately 500,000 piasters in the form of supplies and the renovation of a few facilities provided for the use as Phung Hoang centers.

- 1970: The MOI was assigned budget responsibility for Phung Hoang in 1970 and expended 1,800,000 piasters for support of Phung Hoang.

- 1971: The MOI, although responsible for support, did not budget or spend funds for Phung Hoang. However, the National Police Command (NPC) estimates that it expended a total of 1,704,000 piasters for the Phung Hoang program, principally for office supplies, and to a smaller degree for psyops in support of the Phung Hoang program.

- 1972: Neither the MOI nor the NPC budgets contained funding provisions to support Phung Hoang. However, NPC estimated it would spend over 1,800,000 piasters in support of Phung Hoang, primarily for office supplies and miscellaneous expenditures. Additionally, 12,000,000 piasters were authorized for psyops in support of counter-terrorism information activities.

The best statements of the effectiveness (or lack of it) of the Phung
ang program comes from captured documents and the testimonies of
lliers. These have indicated that the size and activities of the VCI had
en reduced considerably in many areas, although the essential
adership structure was relatively intact. They also state, however, that
e VCI could carry on many of its earlier activities at a much reduced
vel and serve as a base for future expansion. Internal VCI documents
id Hoi Chanh also have reported morale problems for the VCI stemming
om the existence and effectiveness of the program.