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MEMORANDUM FOR AMBASSADOR ELLSWORTH HUNGER

SUBJECT: The Geneva Conventions and the Phoenix Program

Ambassador Colby was questioned closely on the conformity of the Phoenix Program with the Geneva Convention requirements when he testified on July 19 before the Foreign Operations and Government Information (Moorehead) Subcommittee of the House Committee on Government Operations.

Congressmen Moorehead, Reid and McCloskey were particularly penetrating in their questions. It was noted, for example, that the An Tri procedure authorizes the "sentencing" of VC1 suspects by province security committees to detention in prison for up to two years, and that the suspects have no right to appear in their own defense, to counsel, to confront their accusers, or to a hearing.

McCloskey cited Article 3, paragraph 1(d) of the Fourth Geneva Convention, on the protection of civilian persons, which prohibits:

"the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

We have approved the enclosed memorandum for inclusion in the Subcommittee's record, in accordance with your request. The memorandum points out that the provision of the fourth Geneva Convention cited by McCloskey
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It is not clear from the text provided how the information is classified as confidential. The text appears to be a legal document, possibly a contract or agreement, but the specific details are not clear due to the formatting and quality of the image. The document includes terms and phrases that are typical in legal agreements, such as "CONFIDENTIAL" and "CONFIDENTIAL IN nature," indicating that the content is intended to be kept private.

The document contains a section that appears to be a discussion or a statement, possibly about the rights and obligations of the parties involved. However, due to the quality of the image, it is challenging to provide a clear and accurate transcription of the text. Further analysis or a higher-quality image would be necessary to provide a more detailed interpretation.

Given the nature of the document, it is important to handle the information with care and ensure that it is used appropriately, respecting the confidentiality and privacy of the parties involved.
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In any case, it seems important that we make efforts with the GVN to deal with this serious problem. We are preparing a preliminary request to the Embassy in Saigon for a report on the steps which have been taken in the past and those under current discussion with the GVN to correct failings in the "An Tri" procedure and the Phoenix Program, particularly in light of the deficiencies noted in the Moorehead Subcommittee hearing. We will then be in a better position to decide where to go from there. We are, of course, aware that the prospects for GVN legislation and/or executive branch action to deal with the problem may also change substantially following the forthcoming Vietnamese elections.

In any case, we will continue to keep you fully informed of developments in Washington, particularly congressional interest in the matter.

Robert L. Starr
Acting Assistant Legal Adviser
for East Asian and Pacific Affairs

Attachment:
As stated

cc: EA - Mr. William Sullivan
    Saigon - Ambassador Samuel D. Berger