

END OF TOUR REPORT: Mr. Gage McAfee

COMMENTS OF REVIEWING OFFICER

TS AUTH. REASON(S)

EXEMPTED FROM DECLASSIFICATION

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Shortly after this report was written, events occurred which altered the factual context of the issues presented by Mr. McAfee. None of the problems he outlines has been solved, each remains an important issue or potential issue. However, I believe that an up-dating will afford to recipients of Mr. McAfee's report a better understanding of the problems and issues involved, and to show that the conscientious efforts of Mr. McAfee have finally borne fruit. It is unfortunate that Mr. McAfee could not remain to enjoy the rewards of his long and sometimes frustrating efforts.

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POST APPREHENSION PROCESSING OF VCI. On 1 August 1971 the Prime Minister issued Circular 1042 which institutes several far-reaching reforms of the procedures and powers of the Province Security Committees. The Circular grants suspects an absolute right of appearance before the Committee, expands and clarifies notice requirements, allows the assistance of an attorney to help prepare a suspect's case (the Circular is silent concerning appearance with the suspect at the hearing), narrows the voting membership to two civilians and one military man, and requires publication of the Committee's decisions. All this brings the An Tri procedure much closer to constitutionality, and, more importantly, de-fuses much of the public criticism that has engendered the still-pending National Assembly action to repeal the legislative base upon which the An Tri program rests. Potentially, the most important change made by Circular 1042 is the practical elimination of indeterminate terms of detention for VCI and VC supporters. Previously, the short terms imposed by the Province Security Committees often were extended repeatedly, thus allowing those believed by the Province Security Committees to present a continuing danger to be detained indefinitely. Under the terms of Circular 1042, Province Security Committees may not extend a detainee's term unless "new factors" are presented. In practice, "new factors" are expected to be limited to disruptive or recalcitrant behavior while under detention. Thus, even those most dangerous to the national security will have to be given their freedom if they behave properly while under detention. The practical effects of this radical change are yet to be felt.

END OF FOUR REPORT: W. Gage McAfee

COMMENTS OF REVIEWING OFFICER, Cont'd

GENEVA CONVENTIONS: The "residual responsibility" referred to by Mr. McAfee has been clarified and defined since his departure. The Legal Advisor to the State Department has determined that Article 3, para 1-4 of the Conventions does not apply to VCI and VC supporters detained pursuant to decisions of the Province Security Committees. Also, because VCI and VC supporters are not "protected persons" as defined by the Convention, it has been determined that no part other than Article 3 (minus para 1-4) applies to them. It has been determined that, through the use of National Police Criminal Identification System computerized information system, we will be able to identify and track all those to whom the "residual responsibility" attaches. Current estimates are that between 1500 and 2500 individuals, out of a VCI correction center population of about 17,000 are the subject of the responsibility.

Norman L. Sweet

NORMAN L. SWEET

Director,

Plans, Policy and Programs