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## INFORMATION ON WHICH TO BASE A RESPONSE TO THE CONSTITUENT

The Phoenix (Phung Hoang) Program of the Government of South Vietnam is designed to protect the Vietnamese people from terrorism and political, paramilitary, economic and subversive pressure from the Communist clandestine organization in South Vietnam. The Viet Cong Infrastructure, or VCI, is the leadership apparatus of the Communist attempt to conquer the Vietnamese people and Government. The VCI supports the military operations of the Viet Cong and North Vietnamese Army units by providing intelligence, recruits or conscripts and logistics support. It also directs and implements a systematic campaign of terrorism against Government officials, locally elected leaders and the general population.

The Phung Hoang Program is an integral part of the Vietnamese Government's war effort to bring security to its people since the VCI is a key element of the Communist war effort. The Phung Hoang Program includes 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. The Phung Hoang Program assembles intelligence on the VCI from all sources. Thus the National Police, the People's Self-Defense Force, the military and the village governments are charged with collaboration to develop a full picture of the VCI at the various levels. Special dossiers have been produced to assemble the information in the most useable manner. The Phung Hoang Program at each level is under the direct supervision of the appropriate government official; i.e., village chief, district chief, province chief, etc. The national Phung Hoang staff has been made a part of the National Police Command. Similar cooperation among all services is required in operations against the VCI. Thus the National Police, the Regional and Popular forces, the People's Self-Defense Force and the Chieu Hoi Program conduct joint and independent operations against VCI individuals and units as a part of the war effort. Goals have been established over the past several years for the reduction of VCI strength. These goals have been refined in order to focus the action on the higher level and more significant VCI.

The Phung Hoang Program is an essential element of Vietnam's defense against VCI subversion and terrorism. Considerable evidence has appeared from enemy documents and from former and even current members of the enemy side that, despite some weaknesses, the program has reduced the power of the VCI and its hopes for conquest over the people of South Vietnam. Phung Hoang is an essential part of the GVN's defense as the VCI is to the Communist attack.

### Question #1

What has been the extent of United States financing of the Phung Hoang Program by fiscal year since its inception? From what appropriation have these funds come? What has been the extent of financing by the South Vietnamese Government for each fiscal year?

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Response

Over the past several years, United States support has been provided for the Phung Hoang Program, principally for construction and office equipment expenditures.

	<u>U.S. Counterpart</u> (VN piasters in millions)	<u>U.S. \$ Equivalent</u> (millions @ 118/1)
1968	179	1.53
1969	172	1.46
1970	45	.38
1971	47.4	.40
1972 (end June)	<u>24.3</u>	<u>.11*</u>
TOTALS	467.7	3.88

These figures do not include advisory personnel costs which have not been quantified nor do they include wages paid U.S. Local National employees. Expenditures from the Government of Vietnam sources are classified.

\*Exchange rate @ 420 in April and 425 in June of 1972.

Question #2

How many purported members of the Viet Cong Infrastructure have been "neutralized" during each year in which the program has been in existence? Of those neutralized, how many have been killed, how many captured and how many have rallied?

Response

Members of the VCI are counted as neutralized in three ways: (1) when rallying to the Government's side, (2) when captured and receiving a sentence by a court verdict, or (3) when killed in battle or while being apprehended. Neutralization results during the past several years:

<u>Year</u>	<u>Rallied</u>	<u>Captured/Detained</u>	<u>Killed</u>	<u>Total</u>
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 (end July)	<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

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\*Beginning in 1969 only those VCI receiving sentences or administrative detentions of at least one year were counted as a VCI neutralization.

\*\*Over 85% of VCI in this category were killed in battle while serving with or accompanying enemy military forces.

### Question #3

How many Vietnamese have been taken into custody under the program? How many of these have been sentenced? How many are now in confinement? How many were released without having been sentenced? What is the average length of the period of their confinement?

### Response

In 1968, and during at least part of 1969, the GVN reported all VCI suspects taken into custody as neutralizations, regardless of the fact that many were soon released. In 1969 and subsequent years, the GVN reporting criteria was changed to count as "neutralized" only those who were actually found to be VCI and detained for at least one year. The figure for 1968 was 2,229. After 1969 the GVN did not maintain figures at the national level which reflect the total number of VCI suspects taken into custody, screened and released.

GVN figures for captured/detained for 1969 to the present reflect all those individuals who received detentions of at least one year, either from military courts, from civilian judicial courts, or from an emergency detention procedure called "An Tri". This "An Tri" procedure authorizes the detention of an individual after a review of his case by a Province Security Committee, consisting of the Province Chief, the Public Prosecutor, the Chairman or a member of the elected Province Council and other local security officials.

At province level information is kept on those presented for An Tri proceedings and released. These figures have not been kept at national level. No figures are kept on VCI suspects who are detained for short periods of time and then released without An Tri proceedings.

Under the present circumstances, category "B" VCI generally receive detentions of one year. Category "A" VCI receive detentions of not more than two years. These periods of detention are for those processed under An Tri. Individuals whose crimes are more specific than mere membership in the VCI may be tried before either military or civilian courts and can receive substantially longer sentences, such as for murder, kidnapping, etc.

The number of VCI presently in confinement is classified.

### Question #4

What judicial processes are observed in the program? That is, are those who are captured tried and, if so, by what kind of tribunal?

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Response

A VCI member is subject to formal trial by military court, a civilian judicial court, or to an emergency detention procedure (An Tri) established by GVN legislation, analogous to the procedure used in many other countries in times of emergency. The GVN has endeavored to establish legal procedures to ensure fairness in the processing and detention of VCI in order to avoid abuses which would result in alienation of the people. The foundation of these legal procedures is contained in Article 4 of the 1967 RVN Constitution which makes Communism illegal. This provision is implemented by a series of ordinances, and laws regarding crimes against national security, such as treason, insurgency, revolt, etc. All persons suspected of committing these crimes can be tried by military or civilian courts. However, the volume of trials would soon hopelessly swamp these courts and would leave at large some VCI cadres who mastermind criminal/subversive activities but themselves avoid committing overt acts of violence. These formal judicial processes have therefore been supplemented by a procedure for administrative, or An Tri, detention for persons regarded as dangerous to national security. The latter rests on the declarations of national emergency and war of 1964 and 1965 respectively. This is not unique to Vietnam. Similar detention procedures have been used in other countries such as Malaysia, Kenya, the Philippines and most recently, Northern Ireland.

Although some VCI are tried by military courts, the majority are processed under the An Tri administrative detention system by province and autonomous city security committees. Specific periods of detention have been provided for by the Ministry of Interior, Decree Number 757, dated 21 March 1969 and are as follows:

- Category "A" VCI (Executive Level VCI): two years.
- Category "B" VCI (Cadre Level VCI): one to two years.
- Category "C" VCI (VC supporters, voluntary): immediate release to responsible officials. Note: extensions of detentions are possible if it is subsequently determined that a VCI was a higher level category VCI than originally determined, or if he engages in Communist activities while in confinement.

A major aim of the Phung Hoang Program is to rally VC supporters to the GVN. Consequently, rehabilitation has been and is a continuing goal. Some detained VC do not serve their entire term but are released as rehabilitated or as the result of general or special amnesties. It has been the express policy of the security committees to release low level supporters (Class "C") as soon as possible to prevent their alienation and to prevent them from associating with and being indoctrinated by hard core VCI.

On 2 August 1971, prime Ministerial Circular 1042 was issued. The purpose of the circular was to amend the An Tri procedures to insure the safeguards of the VCI suspect. The circular reduced to three the number of people on the security committees who could vote (the Province Chief, Public Prosecutor and



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a member of the Province Council). The security force members such as the Police Chief, although still on the committee, no longer have the right to vote. In addition, suspects must be informed of the charges against them. The suspect has the right to prepare a plea for submission to the security committee and to have the assistance of a lawyer. The suspect has the right to appear before the security committee to plead his case, and must be informed in writing of the committee's decision. Category "C" first offenders may be released to the custody of a notable citizen such as a village chief if that person will vouch for him.

As a result of the present North Vietnamese invasion, An Tri procedures are somewhat in a state of flux, as the government has found it necessary to apply emergency detention measures related to security in combat areas and imminent subversive threats. However, the government still recognizes the need to follow well defined legal procedures in all cases. At a recent meeting of the National Phung Hoang Committee, Prime Minister Khiem decreed that a legal study group be established in the National Phung Hoang Committee permanent office to study the An Tri procedures and to recommend possible changes.

Question #5

How many American advisors have been associated with the program in each year that the program has been in existence? How many are now involved? Of those presently involved, how many are military personnel and how many are civilians? From what government agencies do these civilians come?

Response

Strength figures are as follows:

1968: year-end authorized strength levels included 435 military and 13 civilian personnel.

1969: year-end authorized strength levels included 434 military and 20 civilian personnel.

1970: as of 31 December 1970, there were 704 military and two civilian advisors assigned to the program.

1971: as of 31 December 1971, there were 397 military and one civilian advisors assigned to the program.

1972: as of 28 August 1972, there were 125 military and one civilian advisors assigned to the program.

1973: there will be no military Phung Hoang advisors.

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Question #6

Are there American advisors attached to interrogation centers? What functions do American advisors presently perform? What functions have American advisors performed in the past but no longer perform?

Response

A very small number of American civilian advisors is attached to the major interrogation centers, thus representing a significant drop from the 26 U.S. civilian personnel who worked with the civilian centers in August 1971. In addition, there are military interrogation centers operated by the ARVN and Korean military units at appropriate levels at which interrogations are conducted. The function of U.S. advisory personnel at the interrogation centers is to provide advice on professional interrogation techniques, reporting the significant intelligence acquired, and observing the standards of treatment of inmates.

Question #7

What interrogation methods are used? To what extent has there been torture of prisoners?

Response

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

- (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.

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