Public safety programs in South Vietnam have been supported by AID and its predecessor agencies since 1955. Until 1961, the U.S. AID program was largely limited to training. The present program as administered over the past 10 years has consisted of: 1) support for the national police force; 2) establishment of a police telecommunications system, and 3) support for GVN correction centers. Ambassador Colby testified: “CORDS does not really have a program of its own, but rather supports a Vietnamese program.” (Report, 34.)

The Government of South Vietnam’s Central Pacification and Development Council is responsible for planning, coordinating, and executing the annual pacification plans. The chairman of the council is President Thieu. It is composed of representatives from all Government ministries and agencies which participate in the plan and has the authority to issue pacification and development guidance to all other Government agencies, including the military joint general staff. Similar councils also operate the regional and province levels. (Report, 36.)

Therefore, these programs have been entirely subjugated to the tyranny of Thieu, and consequently, have been used in activities violating the Geneva conventions. AID finances, for example, the Phoenix program, which is 100 percent funded by the U.S., according to Ambassador Colby:

The Phoenix 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. (Report, 44.)

Apparently the Ambassador is misinformed, for, rather than protecting the Vietnamese people, the Phoenix program subjects them to terrorism and political, paramilitary, economic, and subversive pressure from the current repressive regime.

The first procedure in the program’s method of operations is the compilation of blacklist dossiers by the American military from information supplied by their “agents”.

The criteria for blacklistining include:

Information on a person, residents of the area who make suspicious utterances, such as, (1) expressions which distort Government of Vietnam policies and the action of Government of Vietnam cadres; (2) false rumors which confuse and frighten the people; (3) creation of division and hatred among the populace and between the populace and the Government of Vietnam cadres.

Those who act suspiciously:

(a) the hesitation or fearful attitude of a dishonest person;
(b) contact with those whom we suspect; or
(c) regular secret colloquies of a certain group of people in the area. (Hearings, 195).

Michael Uhl, a former U.S. military intelligence officer with the American Division, whose unit gathered information which was later used in Phoenix operations, testified:

It is difficult for us to think with respect to article 3 of any international obligation, that a program is directly at variance with a tradition of due process.

When a U.S. Ambassador is responsible “certainly does not seem to us that there should be both the State Department and the Armed Forces.”

In this election year, the majority of our colleagues are subject to investigation. Nevertheless, we convene, that our desire for peace under world law will rest on the peace and why we have come to any agreement to our own standards of peace. It would seem that wherever we have power as the world’s strongest, we protect the rights of those held captive, we respect the rights and the freedom of those who are free.

Denial of due process of law has been withheld by our government to thousands of people, the process of law to thousands of people and centers built under U.S. dollars to act swiftly and decisively and termined forthwith.
Our paid sources could easily have been either provocateurs or opportunists with a score to settle. Every information report (IR) we wrote based on our sources' information was classified as (1) unverifiable and (2) usually reliable source. As to the first, it speaks for itself; the second, in most cases was pure rationale for the existence of the program. (Hearings, 315.)

Ambassador Colby himself stated: I have never been highly satisfied with the accuracies of our intelligence effort on the Vietcong Infrastructure. (Hearings, 48.)

Mr. Luce stated that:

There is certainly a great deal of discussion that a lot of the people that are arrested are put on the black list by people who are jealous. There is a great deal of corruption involved. If a person will not pay a bribe, then he is apt to get his name put on the Phoenix list. This is sort of a general thing. (Hearings 108.)

Mr. Osborn, who served in Vietnam as an intelligence officer testified:

There was no verification and there was no discrimination. It was completely indiscriminate and at the best the individuals were either able to escape capturing by the people who either able to escape capturing by the people who were to pick them up and neutralize them or interrogated and let go. (Hearings, 321.)

An exchange at the hearings indicates what kind of “due process” is afforded suspects.

Mr. McCloskey. Mr. Ambassador, I have a document in front of me indicating that interrogation statements of confessions are admissible and used extensively in An Tri hearings. Is that correct?

Ambassador Colby. Yes. Quite frankly, Mr. Congressman, they used to be used exclusively, which was one of the major problems. They are not used exclusively any more.

Mr. McCloskey. That also appears in the document, the American advisers to the Phoenix program should try to require a quantum of proof, other than by confession and interrogation. That brings me to the real problem that I saw personally with the Phoenix program, when I was there. If the evidence is insufficient to convict a man, and also insufficient to show a reasonable probability that he may be a threat to security, then he may still be sent to the Province interrogation center. (Report, 28.)

Ullt testified that

[A]ll CDs [civil defendants] because of this command pressure (the majority of our detainees were classified as CD's), were listed as Vietcong 1 Infrastructure. To my knowledge, not one of these people ever freely admitted being a cadre.
member. And again, contrary to Colby’s statement, most of our CD’s were women and children. Mr. Colby, in response to a direct question denied that Americans actually exercised power of arrest over Vietnamese civilians. In Due Pho, where the 11th Brigade base camp was located, we could arrest and detain at will any Vietnamese civilians we desired, without so much as a whisper of coordination with the Army of the Republic of Vietnam or Government of Vietnam authorities. But the impact of this oversight in Ambassador Colby’s testimony pales when compared to his general lack of understanding of what is actually going on in the field. (Hearings, 51.)

Mr. Jacqueney testified:

One wealthy old man I knew in Saigon was arrested and accused of being a Communist spy. Two American officials who knew this man intimately later told me that they believed that the old man had actually been a VC. Both of them on separate occasions told me that, once arrested, the old man had wanted to confess, but had been tortured horribly anyway, simply because it was standard operating procedure to torture prisoners. (Hearings, 252.)

Mr. Osborn testified on the treatment of suspects which he personally observed:

They antagonized him several times by taking him with his elbows behind his back, hands tied, running him up to the door of the helicopter and saying: “If you don’t tell us what we need to know we are going to throw you out of the helicopter.” They did this two or three times and he refused to say anything. He couldn’t respond. He wouldn’t respond. Therefore, on the fourth trip to the door they did throw him out from the helicopter to the ground.

I saw other interrogations, to describe them briefly: The use of the insertion of the 6-inch dowel into the 6-inch canal of one of my detainee’s ears and the tapping through the brain until he dies. The starving to death of a Vietnamese woman who was suspected of being part of the local political education cadre in one of the local villages. They simply starved her to death in a cage that they kept in one of the hooches at that very counterintelligence team headquarters.

There were other methods of operation which they used for interrogation, such as the use of electronic gear such as sealed telephones attached to the genitals of both the men and women’s vagina and the man’s testicles, and wind the mechanism and create an electrical charge and shock them into submission. I had a lot of conversations about the use of that kind of equipment, although I never saw it used firsthand. I did see the equipment sitting around but never saw it used.

Mr. Moorhead. Were these methods that you described conducted by American personnel or—

Mr. Osborn. Americans only. These were unilateral opera-
tions not in coordination or with the knowledge of the South Vietnamese Government. (Hearings, 319–20.)

* * * * *

I will say this: individually I never knew an individual to be detained as a VC suspect who ever lived through an interrogation in a year and a half, and that included quite a number of individuals. That may be my experience; may be a tremendous exception to the rule, but the experience of my peers there and my own experience firsthand, which I swear to, and have sworn to, was categorically inhuman and with no rhyme, reason or bureaucratic justification for a murder program which had gone way beyond the level of any competence at that level. (Hearings, 321.)

A story in the Baltimore Sun of May 27, 1971, noted that:

In the 3½-year-old Phoenix program, an average of more than 1,900 suspected Vietcong agents are being killed, jailed, or are defecting each month, according to official figures. This is far above the goal of 1,200 a month and better than last year's average of about 1,850 a month.

But less than 15 percent of these agents, estimated to total 68,000 nationwide, are eliminated because Government forces identified and tracked them down—the purpose of the Phoenix program.

According to official figures the number of people affected by these programs in 1970 was 6,405 sentenced, 7,745 rallied and 8,191 killed. To be “rallied” is to become a pro-Thieu terrorist. (Hearings, 183.)

The committee notes that, according to official figures furnished by Ambassador Colby, a total of 20,587 suspected VC were killed from the beginning of 1968 through May 1971. It is impossible not to wonder how many of those persons were the innocent victims of faulty intelligence. The committee can think of no other U.S.-funded or supported program in which the consequences of inefficient management are so extreme. (Report, 54.)

Mr. Reed. Could some of those have been incarcerated or interrogated for political reasons as General Minh has suggested, that Phoenix has been used politically?

Mr. Osborn. Very definitely. I would say this; with a program as treacherous as that, with as little control as that, it could be used to whatever ends were indiscriminately applied to it; yes, definitely. P. 357.

Mr. Jacquey testified that the Phoenix program is not at all successful in its stated American purpose of eliminating Vietcong political cadre, but it is widely used to arrest and detail non-Communist dissidents. (Hearings, 252.)

One may be deceived by reading that “The total number of inmates in civilian correctional institutions and facilities in Vietnam is approximately 29,500” (report, 31) unless one realizes that, as Mr. Luce testified:

One of the confusions about the police system is that there are so many different police systems, so many different prison
systems. For example, there are the national correction centers, provincial correctional centers, detention centers, interrogation centers, police station jails and military prisons. People are imprisoned into all these different categories of prisons. So when you try to count the number of political prisoners or when you consider what has happened to the prisoners it becomes very confusing as to which system these people fall under who is responsible. But the United States has been building the prisons. We furnish the tear gas which is used to repress the students and I found in Vietnam that it is very hard to get the information about what is happening from the U.S. officials (Report 25).

Luce and Jacqueny estimate that there are 100,000 political prisoners in Thieu's jails. The situation is perhaps best summed up in a letter sent to President Nixon by relatives of political prisoners:

Mr. President: Knowing that you share the responsibility for the severity of the prison regime in South Vietnam, knowing that you are paying special attention to all people deprived of liberty since many times in the past you have asked for the liberty of the Americans imprisoned by the North Vietnamese, we, the relatives of the Vietnamese arrested and incarcerated in detention camps and in prisons throughout South Vietnam, are sending this letter in order to present to you the painful realities of the prison regime in South Vietnam and ask you to take urgent action:

1. Throughout South Vietnam, U.S. intelligence agencies have been participating in the incarceration of the Vietnamese and are using systematically all the refined and scientific methods of torture in order to extract forcefully declarations of guilt and thus encroach upon human dignity and oppose the Declaration of Human Rights. As a result, many Vietnamese have become sick or disabled, died or secretly killed, the facts being hidden to the public through a curtain of secrecy.

2. The interrogation centers belonging to the security system of the Republic of Vietnam Government are now incarcerating the suspects, arrested without any proof of guilt or with the only proof of being guilty for "loving their country" and fighting for peace in Vietnam. These people are tortured in an utterly savage manner in order to obtain their declaration and consulting their file or false proofs of guilt are devised against them and sent to the tribunal.

3. The prisoners are ill-treated, repressed and brutally beaten throughout South Vietnam. The South Vietnamese administration is using the means provided by the U.S. aid such as tear gas, tear gas rockets, acid, and so forth in order to repress the prisoners. Many prisoners have died or become sick or disabled because of these repressions.

4. Prisons are too narrow, dirty, and too crowded, with not enough air for breath. In many prisons, typical of which are the tiger cages in Con Son, the prisoners are shackled day and night so that some of them have become paralyzed. Presently your government is helping with money and other means in
the construction of new tiger cages in Con Son. This has disturbed and angered us as well as the people of Vietnam.

5. The communication between us and our relatives in prison has been limited to the minimum or forbidden completely. Many of us have been denied to visit our relatives or to receive letters from them. Our demands are ignored by the Government, sometimes we have been repressed (for example, the repression occurred on March 19, 1970, in front of the Lower House.)

6. The food in the prisons is too poor composed mainly of rotten rice and bitter dry fish. Medicines are lacking. As a consequence, the majority of prisoners have lung disease, mental disease, paralysis or beri beri.

7. Many people have been arrested and incarcerated for months or for years without trial or sentenced or continued to be imprisoned under the regime of detention without any valid reason or they may imprisoned or deported although they are under probation.

8. There are people who are tormented or repressed to death and people who die of sickness in prison without their family being notified.

We have been presenting to you the real happenings in the prisons throughout South Vietnam. From this presentation, you may refer to the prison regime in your country as well as in other civilized countries in the world. You will see what your aid in human and material resources have contributed to the people of Vietnam. (Hearings, 121.)

In no way can we disclaim our involvement with these actions.

In colloquy with Representative Moss, Mr. Luce testified as to the use of the Vietnamese police for political purposes:

Mr. Moss. * * * I would assume from your statement that in quoting John Mossler, the AID Director, as you do on page 3 in the second paragraph:

"During 1970 the police continued to improve their capability on traditional police functions. Their timely and positive action effectively contained civil disturbances involving war veterans, students, and religious groups, thereby preventing the spread of violence."

Do you feel that in fact police in this instance have been engaged in suppression beyond merely containing civil disturbances?

Mr. Luce. Yes. I think that they have used the police for political control, you know, for political reasons. They have used the police against the religious leaders who were advocating peace and against the war veterans who were asking for better housing and better service to the war veterans. PP. 27B.

Mr. Jacqueney testified that:

[after many personal interviews in Vietnam on this subject, I came to the conclusion that no single entity, including the feared and hated Vietcong, is more feared or more hated than the South Vietnamese secret police. (Report, 28.)]
Contrary to the committee report, I in no way concede any propriety for USAID funds for police training, personnel, equipment, or technical assistance to the Government of South Vietnam. The committee's request that the Secretary of Defense make an "impartial" investigation of programs funded by AID is misdirected, as the Department of Defense should have no connection with AID programs. I concur with Representative Reid's comment that:

This program is without parallel in U.S. history. I have long felt that we should never have had anything whatsoever to do with it and the sooner we stop it completely and insist that the South Vietnamese stop it dead in its tracks and anything to do with it, the better; that it is a total and clear violation of the Geneva Convention. It places our officers and men in totally impossible situations and it is precisely the kind of thing the United States is opposed to.

Here we are participating in it or directing it, as the case may be. **I do not see how this committee can, with any kind of conscience at all permit this to continue.** (Hearings, 338.)

Recommendation

All AID funds to Security, Pacification, and CORDS programs should be ended. Through these, the United States is now supporting the very sort of police state that we allegedly went to Vietnam to oppose.

VIII. RECOMMENDATIONS FOR PROGRAM OVERHAUL

The USAID programs are marked by more than simple operational deficiencies. A program that ignores and subverts its stated aims deserves no support from the U.S. Congress. Such is the case with the bulk of the USAID programs in South Vietnam. We should eliminate, certainly, all of the police, all of the political, all of the paramilitary aid, and the economic aid, which is a very small part of what we are sending, should be channeled through international organizations. It requires a major overhauling of the whole AID program. As it is now, the Vietnamese hate us for our aid.

Bella S. Abzug.
John Conyers, Jr.
We wish to express, in these additional views, our strong sense of outrage and shame over the Phoenix program described in chapters VI and VII of this report.

The terrible truth revealed in the report is this:

The people of these United States, having finally achieved, after centuries of bloodshed, revolution and civil war, guarantees of due process of law for our own citizens, have deliberately imposed on the Vietnamese people a system of justice which admittedly denies due process of law.

In so doing, we also appear to have violated the 1949 Geneva Convention for the protection of civilian peoples at the same time as we are exerting every effort available to us to solicit the North Vietnamese to provide Geneva Convention protections to our own prisoners of war.

Some of us who have visited Vietnam share a real fear that the Phoenix program is an instrument of terror; that torture is a regularly accepted part of interrogation as testified to before the subcommittee by several witnesses; and that the top U.S. officials responsible for the program at best have a lack of understanding of its abuses. The testimony of our colleague Jerome Waldie with respect to his personal observations of the program's operation (pages 328-337 of the hearings transcript, "U.S. Assistance Programs in Vietnam," July 15-August 2, 1971), provides support for this fear.

Wholly aside from any speculation about what may actually happen inside the secret interrogation centers and prisons of Vietnam, however, the admissions of U.S. officials are sufficient in themselves to cause us grave concern and to justify further investigation.

Consider the following facts which are documented in the report itself:

The Phoenix program was initiated by United States advisors in 1968 as a means of neutralizing the so-called Vietcong Infrastructure (VCI) or "shadow government." The stated definition of persons to be "neutralized" were those "against whom there was insufficient evidence to convict" of any crime, but who were "considered dangerous to the national defense and public security" of the Saigon government.

By May, 1971, we claimed to have been successful in killing over 20,500 such persons, capturing and/or sentencing nearly 29,000 others and rallying (to the South Vietnamese cause) an additional 17,717 persons, leaving only perhaps 65,000 remaining VCI to be killed or apprehended, interrogated and sentenced.

1 Testimony of Donald Luce, pp. 25-27 and K. Barton Oshorn, p. 53.
3 Testimony of Hon. William E. Colby, p. 56.
4 Article 19, An Tri Law, p. 86.
A senior U.S. Ambassador, William E. Colby, admitted to us that he felt "responsibility for everything to do with this program," that it was initiated and supported by the United States,¹ that it involved U.S. advisors at every level of the identification apprehension, interrogation and sentencing process,² that large numbers of people had been improperly identified as VCI suspects,³ that a suspect was not entitled to a hearing,⁴ did not have the right to counsel,⁵ that he did not receive a trial,⁶ and the whole procedure of the Phoenix program did not meet American standards of due process.⁷

Nevertheless, the State Department concedes that article 3 of the 1949 Geneva Convention applies to persons apprehended under the Phoenix program.

Article 3 specifically prohibits:

The passing of sentences . . . without previous judgment pronounced by a regularly constituted court, affording all of the judicial guarantees which are recognized as indispensable by civilized people. (See pg. 74 of report.)

Ambassador Colby concedes that the great bulk of those "considered dangerous" and sentenced to prison never appeared before a court.⁸ In the Ambassador's own words:

... I would quite frankly say that he does not have a hearing today. His case is reviewed and he is interrogated and his case is looked at.⁹

And who provides this review? Only the local "Province Security Committee, consisting of the Province Chief, the public prosecutor, the chairman or member of the elected Province Council and other local security officials."¹⁰ (Italic supplied.)

Any Vietnamese citizen "considered dangerous to the national defense and public security" can be sentenced for a period of up to two years by his prosecutors. At the end of 2 years, his case can again be reviewed by the same governmental officials charged with his prosecution.

According to the figures furnished by Ambassador Colby, 215 "Class A" suspects had had their original two year terms of imprisonment "reviewed" at the end of their first 2 years. All were extended for an additional 2 years.¹¹

Thus, without the right to counsel, or even of a hearing, a Vietnamese citizen can suffer indefinite imprisonment merely because he is "considered dangerous" by a committee of security officials.

In the memorandum on the applicability of the Geneva Convention to persons "reasonably suspected" under the Phoenix program, the State Department argues rather weakly and without cited authority, that somehow Article 3 wasn't intended to apply to "administrative detentions" such as the Phoenix program imposes.

⁸ Colby, p. 29.
⁹ Colby, p. 54.
¹⁰ Colby, pp. 44-46.
¹¹ Colby, p. 48.
¹² Colby, p. 55.
¹³ Colby, p. 60.
¹⁴ Colby, p. 69.
¹⁵ Colby, p. 93.
¹⁶ Colby, pp. 56, 57.
¹⁷ Colby, p. 55.
¹⁸ Colby, p. 56.
¹⁹ An Tri statistics, p. 57.
It is difficult for us to understand the validity of the U.S. position with respect to article 3 of the Geneva Convention; but regardless of any international obligation, our creation and sponsorship of the program is directly at variance with our own cherished heritage and tradition of due process.

When a U.S. Ambassador concedes that a program for which he is responsible "certainly does not meet our concepts of due process" it seems to us that there should be a full investigation of the matter by both the State Department and the Congress.

In this election year, there has been a reluctance on the part of a majority of our colleagues on the committee to demand such an investigation. Nevertheless, we would hope, when the next Congress convenes, that our desire and goal of achieving an eventual world peace under world law will impel us to a careful examination of how and why we have come to acquiesce in a course of conduct so foreign to our own standards of protection for the rights of the accused. It would seem that wherever the United States seeks to impose our power as the world’s strongest nation, we owe an obligation to also protect the rights of those taken captive. Particularly should this be true of those held captive under programs we have ourselves initiated, financed and directed.

Denial of due process of law is not a minor thing. When it is admitted by our government that the U.S. civilian and military personnel have participated for over 3 years in the deliberate denial of due process of law to thousands of people held in secret interrogation centers built with U.S. dollars, we suggest that the Congress owes a duty to act swiftly and decisively to see that the practices involved are terminated forthwith.

Paul N. McCloskey, Jr.
Benjamin S. Rosenthal.
John Conyers, Jr.
Bella S. Abzug.

Colby, p. 56.