

Appendix to the MOU – February 15, 2013
Terms of Reference (TOR)
Bureau of International Narcotics and Law Enforcement Affairs (INL)
and the New York City Police Department (NYPD)

NYPD Technical Advisors in Haiti

RELEASE IN PART
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Background:

Haiti remains the Western Hemisphere's poorest nation and a site of recurrent instability. Organized criminality, including gangland violence and kidnappings, has flourished in Haiti, particularly in the poorest Port-au-Prince neighborhoods and the numerous internally displaced persons (IDP) camps that sprang up after the earthquake in January 2010.

On September 02, 2011, the Department of State, Bureau of International Narcotics and Law Enforcement Affairs (INL), and the New York Police Department (NYPD) renewed a Memorandum of Understanding (MOU) establishing the framework for cooperation to support law enforcement and anti-crime efforts. Among cooperative activities contemplated at the signing of the agreement were training and advising HNP personnel. INL seeks to launch additional cooperative activities under that MOU framework.

Objective and Mission of the NYPD:

REVIEW AUTHORITY: Clarke Ellis, Senior Reviewer

INL requests that the NYPD provide six active-duty police officers who speak Creole to serve on 120-day rotations in Haiti. Such rotations will continue, subject to periodic reviews by both INL and NYPD.

These police officers will be embedded as technical advisors to the *Direction Centrale de la Police Judiciaire* (DCPJ) and provide training to other units as needed. In conjunction with HNP academy and regional commanders, a strong emphasis will be paid in establishing a community policing program. The INL Narcotics Affairs Section (NAS), in consultation with the Regional Security Officer (RSO), and in consideration of security guidelines of the mission, may change the deployment site locations at anytime. The NYPD Technical Advisors will be called upon to advise and coach HNP officers in principles of community policing and to improve the operational capacity of the HNP to investigate and develop criminal cases and make arrests.

NYPD Technical Advisors will work in close coordination with the NAS Director through the NAS Senior Police Advisor. One NYPD officer will be designated as the lead officer for each group of six deployed. Additionally, the NYPD will provide a program accountability officer, stationed in New York City, who will be available to assist the NYPD Technical Advisors in Haiti with accomplishing these goals.

Roles and Responsibilities of the NYPD Technical Advisors:

- NYPD technical advisors have no police powers in Haiti.
- The primary role of the NYPD Technical Advisors will be to serve as day-to-day advisors to HNP officers in the stations where they are assigned. They will not have arrest powers or other law enforcement powers in Haiti. They will coordinate with HNP command and police officers on community policing, police patrol operations, police ethics, investigative methods and techniques, law enforcement operations, developing operational plans (arrest/search, etc), search-and-seizure requirements and evidence maintenance, the use-of-force continuum, and defensive tactics. They will also be required to assess training needs of current programs and provide feedback to the NAS through the Senior Police Advisor.
- The NYPD Technical Advisors will not serve in any law enforcement capacity. They may accompany HNP officers in their operations but cannot lead or conduct operations on their own; HNP officers must take the lead for law enforcement operations. In accordance with Chief of Mission approval, at times where the NYPD wishes to participate in patrol operations with the HNP, a United Nations Police Officer (UNPOL) must also be present.
- NYPD Technical Advisors are expected to interact daily with HNP law enforcement officers, observing, coaching, and advising HNP personnel on the full range of law enforcement responsibilities and capabilities. They may evaluate training needs and propose courses to the NAS to improve the capacity of HNP officers. They will provide key on-the-job guidance and support to the HNP officers assigned to the DCPJ, and may be asked by the NYPD "lead officer" - a designated NYPD member in a supervisory position who will be the direct liaison officer to the NAS - to provide training in a more formal setting such as a classroom or seminar. The NAS will make the ultimate determination about such formal training courses.

- NYPD Technical Advisors must, in consultation with the NAS, coordinate with the United Nations Stabilization Mission in Haiti (MINUSTAH) and other U.S. government entities engaged with the HNP in law enforcement activities regarding crime or gang-related activities in their designated areas.

Development of HNP Capacity:

Working with the HNP, in coordination with the NAS, the NYPD Technical Advisors will review the capability of the HNP to perform meaningful community policing, maintain public order, and address crime in the key jurisdictions where they are assigned.

NYPD Technical Advisors will work with the HNP officers assigned to the DCPJ to assist them in collecting and reviewing all incoming complaints related to criminal activity. They will assist the HNP with collating, analyzing, and reporting complaint statistics, and maintaining a data base of such information for the HNP's operational intelligence purposes.

The fundamental goal of the NYPD Technical Advisors on a day-to-day basis is to develop the professional policing capacity of the HNP. Such professional development will include:

- Accompanying the HNP to meetings with community leaders to determine security concerns;
- Helping the HNP identify gangs and areas of gang activity and the structure and composition of such organizations;
- Helping the HNP determine types of crimes committed in the most crime ridden neighborhoods (thefts, violence, drugs, sex crimes, weapons, kidnappings, etc);
- Assisting the HNP with analyzing information and/or developing informants;
- Coaching the HNP on interviewing or questioning witnesses and suspects;
- Working with the HNP to develop operational plans and enhance its capacity to identify targets and make arrests; and
- Developing the capability of the HNP to collect and preserve evidence of crimes in conjunction with the Judicial Police and investigating magistrates.

Feedback for INL/NAS:

During their deployment, NYPD Technical Advisors will provide monthly reports and status updates to the NAS Director through the Program Officer and Principal Representative, on topics that can include, but not be limited to the following, as appropriate:

- Assess HNP needs for personnel, equipment, and supplies to carry out its operational mission, and determine whether HNP can adequately provide such resources;
- Describe NYPD actions to mentor HNP throughout the month, including advances in HNP capacity, even anecdotally;
- Assess HNP needs for training, and in consultation with the NAS, develop the curriculum for, and in some cases offer, such training;
- Assess the adequacy of HNP's investigative resources;
- Evaluate HNP firearms and ammunition requirements;
- Advise on the adequacy of radio, base-station, repeater and general communications equipment for the assigned area; and
- To the extent observable, assess the administrative, legal, or policy issues impeding the operational success of the HNP.

Reporting Structure:

Once in Haiti, the team will report to the NAS Director through the NAS Senior Police Advisor. One NYPD Technical Advisor shall be designated the "lead officer" who will be the direct liaison officer to the NAS. Each NYPD Technical Advisor will also regularly report to the New York City-based program accountability officer. INL will require monthly reports from the NYPD team on the ground detailing their activities, recommendations, and progress.

Duty Hours:

The success of the advisory effort depends in large measure on the example set and the relationship of trust developed between the NYPD Technical Advisors and the HNP officers at each particular location. There is some flexibility in terms of specific work days and hours, but the technical advisors will be expected to work five (5) days a week for tours consistent with their normally assigned tours (e.g., 8 hours and 35 minutes for technical advisors in the rank of police officer assigned to

patrol duties). INL agrees to reimburse overtime if approved beforehand by both the NAS Senior Police Advisor and the NYPD "lead officer." Overtime, not to exceed 40 hours per 120 day rotation, should be a rare occurrence and will be approved only for exceptional operational, not administrative, requirements. The NYPD Technical Advisors will spend most of their days at the DCPJ and other HNP locations in and around Port-au-Prince. Each deployment in Haiti will last for a period of 120 days, barring any truncation of the program or recall of individual technical advisors. (Such recall may be predicated entirely on the discretion of the NYPD and/or INL and/or their representatives.)

NYPD Equipment/Weapons:

NYPD Technical Advisors will bring the following equipment with them, unless it is specifically listed that such equipment will be provided by INL.

- NYPD-issued Bulletproof Vest
- NYPD Polo Shirt
- NYPD Traffic Safety Vest
- Service Weapon, Ammo, Holster, and Gun Belt
- All-terrain Utility Boot or Shoe
- Khaki Pants
- Gloves
- Computers (DynCorp)
- Printers (DynCorp)
- Phones (DynCorp)

The NYPD will notify INL in writing in advance of any weapons and/or ammunition being brought into Haiti. In accordance with Chief of Mission (COM) approval, and with the concurrence of the Government of Haiti, NYPD Technical Advisors will be permitted to carry their weapons with them at all times while in Haiti. Authority to use weapons will be limited to self-defense. All NYPD officers will be required to acknowledge acceptance of the terms of post's firearms policy. This TOR shall constitute written approval of such permission.

Training of NYPD Technical Advisors:

Prior to deployment to Haiti, NYPD officers participating in the INL program will receive pre-deployment orientation and training to prepare them for the overseas assignment.

The training will be held in the vicinity of Washington, D.C. The training will include weapons qualifications, familiarity with self-defense use of force rules, and various lessons on providing technical advising services in a post-conflict or destabilized environment. During the training, INL's contractor, DynCorp, will provide immunizations, psychological screening, and medical screening. Costs will be covered by INL.

Salary, Costs, and Travel:

In accordance with the MOU, the NYPD will submit a budget to the INL principal representative (or his designee) and to the INL Haiti program officer, a budget that reflects an annual rate for NYPD personnel providing advisory/training assistance, so that INL can determine if sufficient funds have been appropriated to cover these costs under the terms of Section V (B)(1)(a)-(f) in the MOU. This budget will be used by INL to construct the total cost of the deployment(s).

The NYPD will provide the INL program officer with an invoice and supporting documents (receipts, explanation of charges, etc.), as well as bank account information needed to affect the transfer of funds from the INL or the U.S. Embassy to NYPD accounts. INL payments under Section V(A)(9) of the MOU will occur at the conclusion of each 120-day deployment and upon submission of invoices by the NYPD to INL.

The contractor designated with providing life support will arrange and pay for international travel on a commercial airline as well as all other associated travel expenses.

The NYPD will coordinate timing of travel to Haiti through the INL program officer and Embassy personnel. The INL program officer will request country clearances for NYPD personnel designated to travel in connection with the activities outlined under the MOU.

While traveling, NYPD Technical Advisors en route to Haiti will be under administrative and technical accreditation. Country clearances will be submitted by the INL program officer. NYPD Technical Advisors can travel on regular (blue cover) passports to Haiti and there are no visa requirements for travel to Haiti.

Once deployed in Haiti, NYPD Technical Advisors shall not travel outside of Haiti without express consent from the New York City-based program accountability

officer or counterpart, barring exigent circumstances. The technical advisors must also notify the NAS Senior Police Adviser of planned absences.

Danger Pay, Hardship Post Differential, and Per Diem Costs:

INL agrees to reimburse danger pay, hardship and post differential, and per diem costs in accordance with the Department of State Standardized Regulations (DSSR) which governs allowances and benefits available to U.S. Government civilians assigned to foreign areas. Allowances are calculated based on the rates included in DSSR Section 920. The DoS Bureau of Administration, Office of Allowances (A/OPR/ALS) routinely reviews and adjusts all allowances covered by DSSR. The allowance rates for Haiti are subject to change, and the rates noted below are current as of the date of this document. See <http://aoprals.state.gov> for details and current allowance rates.

NYPD Technical Advisors shall receive their normal base pay with the following additions:

- Danger Pay is calculated at 5% of the officer's base salary. Danger Pay is additional compensation above basic compensation for service at designated danger pay posts where civil insurrection, terrorism, or war conditions threaten physical harm or imminent danger to all U.S. Government civilian employees. Overtime, other premium pay, and other allowances are not factored into the calculation of danger pay. Danger Pay is paid only for hours for which basic compensation is paid.
- Post Differential, also known as hardship differential, is currently calculated at 30% of the officer's base salary. Hardship Differential is designed to provide additional compensation to employees for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental United States and warrant additional compensation.
- To become eligible for hardship differential, the employee must have served for 42 consecutive days on detail. Once the initial eligibility period has been acquired, the hardship differential prescribed for the post may commence beginning on the 43rd day. The hardship differential eligibility shall continue during periods of leave and other absences, including travel to the U.S for 30 days or less. An employee on leave for more than 30 days will be

required to meet the 42-day eligibility requirement on return to a hardship differential post.

- **Per Diem:** Each NYPD Technical Advisor deployed to Haiti will be eligible to receive \$111 per day for meals and incidental expenses (M&IE). This rate is subject to change. This per diem will be advanced and disbursed by the NYPD, to be included in the above-mentioned salary invoice and reimbursed by the INL. The per diem will be disbursed by the NYPD via direct deposit to each NYPD Technical Advisor's personal bank account.

Life Support during 120-Day Deployment:

DynCorp will provide all in-country support to include housing, medical care, and logistics. DynCorp will provide housing that is reasonably proximate to the area of assignment, but also in a stable, secure location. At a minimum, NYPD Technical Advisors will be housed in pairs. DynCorp has evacuation procedures in the event of medical emergencies and/or critical incidents, and will be responsible for evacuations in such instances. DynCorp will ensure that an in-country liaison or point-of-contact is available for any exigencies that may arise during the entirety of the NYPD deployment. DynCorp has security personnel and drivers in place to assist NYPD Technical Advisors getting to and from their work locations.

DynCorp will provide laptops and cell phones for use by NYPD Technical Advisors during their deployment in Haiti. At the end of each 120 day deployment, the laptops and cell phones will be turned over to the incoming team.

The NYPD will provide an accountability program officer, based at NYPD headquarters in New York City, who will ensure situational awareness of the program and its objectives. The accountability program officer will serve as a point of contact and assist NYPD Technical Advisors with achieving administrative and analytical goals, and will function as part of the reporting structure described previously.

NYPD Technical Advisors will be provided with contractor identifications by the Regional Security Officer (RSO) at the U.S. Embassy in Haiti in order to allow the technical advisors reasonable access to the Embassy.

NYPD Conduct:

NYPD Technical Advisors will remain in-service members of the New York City Police Department. NYPD Technical Advisors will be expected to conduct themselves in a manner consistent with the NYPD's standards, rules, and regulations as delineated in the NYPD Patrol Guide, excepting instances in which the Patrol Guide is in conflict with this TOR or INL policy. Furthermore, officers will be evaluated by their lead officer on their performance throughout their deployment period. The lead officer will prepare an evaluation report highlighting the officers' accomplishments and based on the members performance will recommend extending the members for a second deployment or redeployment at a later time. The final decision to extend a member will rest with NYPD.

Status:

Embassy Port-au-Prince will request administrative and technical accreditation from the Haitian Ministry of Foreign Affairs. NYPD Technical Advisors are required to respect Haitian law.

Program Continuity:

Rotations are expected to occur every 120 days; this program will last for three sets of rotations over a period of at least 12 months. Departing NYPD Technical Advisors will brief incoming NYPD Technical Advisors. Once the program is launched, an overlap of one week will be required, and the deployment timetable will be adjusted accordingly.