

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF HAITI
CONCERNING COORDINATION OF
ASSISTANCE IN THE DEVELOPMENT OF A
CIVILIAN NATIONAL POLICE SERVICE

Recognizing the objective of the Government of Haiti to create a civilian police force of high professional standing that will respect human rights and dignity and contribute to the institutionalization of democracy in that country, as well as the need to integrate that civilian police force into an effective criminal justice system, particularly in the area of criminal investigations; and

Considering that the Government of Haiti has requested a program of assistance proposed toward these ends by the International Criminal Investigative Training Assistance Program of the United States Department of Justice, hereinafter "ICITAP";

Considering further, the need to ensure that said assistance is fully coordinated with the resources being provided by the Government of Haiti;

Recognizing that the Government of Haiti retains the sovereign right to make all final decisions with respect to the police, including organization, development and training and that the United States retains the sovereign right to determine the conditions under which it will continue to make assistance available;

The Government of the United States of America, hereinafter "The United States," and the Government of the Republic of Haiti, hereinafter "Haiti", have reached the following understandings that shall guide their activities:

ARTICLE I

1/ The ICITAP project governed by this agreement involves ICITAP's assistance to Haiti in the organization and development of the civilian Haitian National Police (HNP) and the recruitment and training of members of this organization.

2/ For the purpose of this agreement, the civilian Haitian National Police is that entity under the control of the Ministry of Justice that has responsibility for maintaining law and order. Criminal investigative functions carried out by other entities within the Ministry of Justice, aside from certain parts of the investigation managed by the judge of instruction which are secret/classified, may also be considered to fall under the terms of this agreement.

3/ Effective police forces must be able to perform the full range of law enforcement services, in conformance with the Constitution, other national laws and with respect for internationally recognized standards of human rights. The civilian Haitian National Police structures recommended for implementation in Haiti shall be those consistent with the Haitian Constitution, relevant legislation, and those associated with civilian policing in a democratic society. Police shall be trained in humane techniques of arrest and respecting rights of detainees so as to ensure the appropriate use of force necessary to carry out their duties, and, in the case of supervisors, in police management. Investigators shall be trained in the development of evidence in a form admissible in courts and the need to work closely with prosecutors, court officials and officers and agents of the Judicial Police to bring offenders to justice. Since all law enforcement officers shall be accountable for breaches in their professional conduct, mechanisms for accountability and monitoring the individual responsibility of the civilian law enforcement institutions and their personnel shall be established, maintained and administered in accordance with the law.

ARTICLE II

1/ At Haiti's request, the United States, through ICITAP and any other law enforcement agency or program designated by the United States Ambassador to Haiti, and agreed to by Haiti, has undertaken to support efforts by the Government of Haiti to establish effective civilian policing institutions by offering on-going technical assistance throughout the life of the project. Agreed assistance will be provided in, but not limited to, the following areas:

- a/ Skills development training for all levels of the police, including executive and management training;
- b/ Development of policies and operational procedures for the police, including standards of conduct and professional responsibility and impartial control systems ensuring accountability and integrity, criteria for selection and retention, assignment and promotion of personnel based upon demonstrated professional skills;

- c/ Development of a Haitian National Police training center;
- d/ Development of specialized investigative capabilities; and
- e/ Development of forensic capabilities.

2/ All assistance provided by the United States under this arrangement will be in the form of goods and services. Grant monetary aid will not be provided except as otherwise agreed. Specific ICITAP activities and commitment of ICITAP resources are contained in annex A, which will be updated on an annual basis and further elaborated in the illustrative implementation plan set forth in Annex C. No assistance will be provided without the agreement of both parties as to the specific content, timetable and goals of each component of the program. Proposed changes in or additions to assistance being provided pursuant to this agreement will be discussed in advance between the appropriate officials of both parties, and the Minister of Justice will be kept fully and currently informed through the Advisory Coordinating Committee established under Article III. Significant changes in or additions to the assistance agreed upon will be reduced to writing at the request of either party.

3/ In order to assure that United States assistance is directed to the needs not fully covered by Haiti's own resources, Haiti has set forth its planned contribution of material, financial and human resources, including police equipment and salaries, in annex B to this agreement, which will be updated on an annual basis, further elaborated in the illustrative implementation plan set forth in Annex C.

4/ The commitment of both parties to implement these plans on a timely basis are subject to the availability of funds.

5/ The parties may enter into further written agreements for the initiation and implementation of specific activities setting out, as appropriate, schedules for completion and standards of evaluation.

6/ The parties will take all appropriate steps to ensure the effective use of assistance furnished.

ARTICLE III

1/ An Advisory Coordination Committee shall be established to advise Haiti concerning activities under this arrangement and general policy priorities. This committee, called the Law Enforcement Advisory Committee, shall consist of the United States Ambassador to Haiti or his designee, the Minister of Justice and the Director General of the National Police or their designee(s) and any other Haitian citizen. The Committee shall meet on a regular basis as determined by the parties, but in no event less than four times a year. The liaison officers referred to in the paragraph 2 of this article shall serve as advisers to the Committee, proposing and jointly developing the agenda and attending all meetings.

2/ The ICITAP Project Director resident in Haiti and the designated Project Officer for the Haitian National Police shall act as principal liaison officers to deal with operational issues concerning the development of the HNP. They will inform themselves of the activities of other entities within their respective governments related to this arrangement and maintain continuous contact with one another, assuring that each party has the necessary information to carry out its obligations and that ordinary implementation issues are resolved as expeditiously as possible.

3/ A working group, comprising the Program Officers from ICITAP and the National Police, the Director General or his designee, the Inspector General and senior police executives, and other international representatives and organizations involved in providing assistance to Haiti to further the development of the HNP, shall meet (not less than twice a month) to advise Haiti, specifically the Minister of Justice, on technical issues, project priorities and timetables, and identify implementation problems.

ARTICLE IV

1/ It is the policy of Haiti that Haitian National Police personnel who successfully complete the basic police training course of the police training center will be deployed into active duty posts and be given full authority to perform those policing functions granted in the Constitution and the Police Law, as long as these officers maintain established standards of professional conduct and competence and are not disqualified for cause by the Minister of Justice.

2/ Haitian National Police personnel who successfully complete specialized training under this arrangement and who otherwise meet and continue to maintain established standards of professional conduct and competence should be retained in appropriate law enforcement or related positions for a minimum of two years after completing such training and shall be provided equitable consideration for participation in merit-based career development programs.

3/ Equipment furnished under this arrangement and any funds generated by the sale of this equipment shall be used to promote the objectives stated herein. The party receiving equipment shall be responsible for maintaining it in good working condition and to maintain accurate inventories. The party donating equipment shall have the right to verify its proper utilization and inspect records maintained with respect to the equipment.

ARTICLE V

1/ Haiti will expedite transit through Customs of supplies, materials, equipment or commodities for use under this agreement.

2/ This agreement will be free from any taxes, fees and other tariffs under laws in effect in Haiti.

3/ Any contractor, financed by the United States under this agreement, including any consulting firm, any personnel of such contractor financed under the agreement, and any property or transaction relating to such contracts and any commodity procurement transaction financed under the agreement, are exempt from taxes, tariffs, duties or other levies imposed under laws by the authorities of Haiti.

ARTICLE VI

1/ Either party may suspend the implementation of any or all of its programs or activities under this agreement or subsequent written agreements while consultations are in process. Unless explicitly stated, the suspension of one particular program or activity will not affect other programs or activities with respect to which consultations are not pending.

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ARTICLE VII

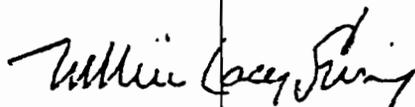
1/ Activities undertaken pursuant to this agreement will be carried out in conformity with all applicable laws, regulations, treaties and other international agreements in effect within or between the United States and Haiti.

ARTICLE VIII

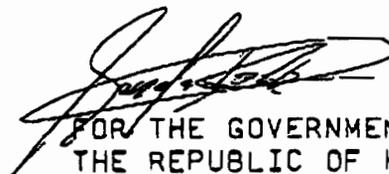
This agreement will enter into force upon signature and will continue for one year from the date of signature unless either party gives notice of termination, in which case the agreement terminates 30 days following such notice. The agreement may be extended year to year by agreement of the Minister of Justice and the Ambassador, which agreement shall be confirmed in writing as promptly as possible.

This agreement may be amended by mutual written agreement of the parties.

Done in duplicate in the English and French languages, each text being equally authentic, at Port-au-Prince, this day of *November 27,* 1995.



FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA



FOR THE GOVERNMENT OF
THE REPUBLIC OF HAITI

ANNEX A

Subject to funding availability, the ICITAP project will be a five-year project. ICITAP responsibilities for the period from October 1994 through March 1996 will include:

A) Haitian National Police Training Center Development

- . Refurbishment of the Training Center to accommodate up to 1500 students
- . Development of curricula for basic police agent and specialized training programs
- . Provision of foreign police instructors through March of 1996
- . Training of a permanent core of Haitian instructors to assume long-term training responsibilities
- . Provision of training uniforms through March of 1996
- . Provision of technical experts to assist Haitian management staff in the operation of the Training Center.

B) Haitian National Police (HNP) Development

- . Draft an implementation plan for the development of the HNP mission statement, institutional goals and objectives and organizational structure
- . Provide technical advisors to assist executive-level HNP staff to implement organizational, managerial, and operational systems
- . Provide technical assistance in establishing and training an Inspector General function
- . Assistance in the drafting of internal directives, policies and procedures and the publication of manuals
- . Establishment and training of specialized units (e.g. crime scene specialist, urban disorder management, SWAT, etc.)

C) Basic Police Equipment

ICITAP will provide limited police equipment in the following areas:

- . Basic police equipment and supplies for approximately 11 precincts
- . Establishment of a basic vehicle maintenance facilities in up to three locations
 - Port-au-Prince (by October 1995)
 - Cap Haitian (by November 1995)
 - South Department (by January 1996)

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. Provision of approximately 78 repaired IMP vehicles; 2 buses
. for the HMPTC; 40 motorcycles; 200 mountain bicycles
. Provision of approximately 150 radios, 13 base stations

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ANNEX B

In order to assure the success of the Haitian National Police Development Project, the Government of Haiti will:

A) Personnel

- . Appoint qualified personnel to key management positions in the HNP, consistent with the Constitution and Police law
- . Designate official GOH representation to Ft. Leonard Wood for the duration of HNP training at that site
- . Assign personnel to fill professional and administrative positions in HNPTC and HNP HQ

B) Operational Expenses of the Haitian National Police

- . Make prompt payment of all HNP salaries
- . Provide equipment for the HNP, including uniforms and personnel equipment, weapons, communications, vehicles (cars, trucks, motorcycles, bicycles) and all maintenance facilities established by ICITAP
- . Assure the full rehabilitation, maintenance and up-keep of police stations
- . Provide for the operational expenses of the HNPTC, including food and food services, fuel, laundry, utilities, basic clothing, medical care and insurance, and security services
- . Establish and staff recruitment/selection facilities in Port-au-Prince area and roving recruitment teams for other departments

C) Policy Support

- . Publicly recognize the HNP
- . Continue to support and fund its respective portion of the program aimed at the demobilization and reintegration into society of former FAD'H personnel.

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**INTERNATIONAL
CRIMINAL INVESTIGATIVE TRAINING
ASSISTANCE PROGRAM**



LESSON PLAN

**OVERVIEW OF THE
HAITIAN CRIMINAL JUSTICE SYSTEM**

HAITI AUXILIARY POLICE 3-DAY ORIENTATION COURSE

SEPTEMBER 1994

Overview of the Haitian Criminal Justice System

**LESSON: Overview of the
Haitian Criminal Justice System**

ALLOTTED TIME: 4 hours

TARGET GROUP:

Entry-level Trainees

METHOD OF INSTRUCTION:

**LEARNING GOALS AND PERFORMANCE
OBJECTIVES:**

The participants will become familiar with:

1. Haitian Criminal Justice system and terminology
2. The main duties of the police
3. What the police must look for in a "warrant for arrest" or in a "committal order"
4. Behavior of the police while enforcing a "warrant for arrest" or a "committal order"
5. Legal provisions regarding searches
6. When the police may use force
7. Consequences of an illegal arrest, an illegal detention, or an abusive use of force
8. The typical criminal investigations initiated by the police

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INTRODUCTION

INSTRUCTOR NOTES

The Police is an armed corps created by Article 263 of the Constitution in order to guarantee law and order, and to protect life and property. The Police functions throughout Haiti under the Ministry of Justice. The following will present the powers and responsibilities of this organization's members: the police.

OVERVIEW OF THE HAITIAN CRIMINAL JUSTICE SYSTEM

Expected members of the police, you have been assigned to become law enforcement officials having powers and responsibilities in a specific legal environment. In order to help you gain a good understanding of this particular judicial pattern, we have prepared the following overview of the Haitian Criminal Justice system. We suggest that you do your best to fully understand this section, as it will provide you with the terminology to be used in this legal segment of instruction, in which your legal powers and responsibilities as civilian police officers will be further explained

A. The Infractions

"Contraventions" (minor offenses), "Delits" (more serious offenses), and "Crimes" (very Serious offenses), are French words that respectively identify the three types of offenses that exist in Haitian legislation. They can be defined as follows:

1. "CONTRAVENTION" is an offense for which at least one of the following penalties is provided by a law article:
 - a) imprisonment for a period not less than one (1) day and not more than six (6) months
 - b) fine
 - c) confiscation of articles seized by police

Examples:

- Minor traffic violations

INSTRUCTOR NOTES

- Theft of any amount less than \$60.00
 - Insult
2. "DELIT" is an offense for which a fine is imposed, and at least one of the following penalties is provided by a law article:
- a. imprisonment for a period not less than six days and not more than three years
 - b. suspension of some civil and political rights for a specified time period
 - c. being placed under police surveillance for life

Examples:

- Slander
- Theft of any amount more than \$60.00
- Fraud
- Possession of narcotics

3. "CRIME" is an offense for which a fine is imposed, and at least one of the following penalties is provided by a law article:
- a. Hard labor for life
 - b. Hard labor for a period not less than three years and not more than fifteen years
 - c. Imprisonment for a period of at least ten years, not more than twenty years. (French name = "Detention")
 - d. Imprisonment for a period not less than three years and not more than nine years, while working partly for oneself
(French name = "Reclusion")

Examples:

- Attempted Murder
- Murder
- Rape
- Trafficking narcotics

B. The Penal Courts

As shown by the pyramid-shaped diagram (see figure 1), there are four (4) levels of courts in the Haitian Criminal Justice system:

1. The pyramid-shaped system is topped by the "Cour de Cassation" (Supreme Court);
2. Below the Supreme Court, there are 5 "Cours d'Appel" (Courts of Appeal);
3. Below the each Court of Appeal, there are at least two (2) "tribunaux de premiere instance" (first instance courts); there are 15 in all (see the diagram);
4. At the bottom of the system, we find about 180 "Tribunaux de Paix" or "Tribunaux de Simple Police" (Justices of the Peace or Police Courts);

Taking into consideration the importance of the two lowest levels of courts in this presentation, we are going to talk a little about them.

THE "TRIBUNAUX DE SIMPLE POLICE" (POLICE COURTS)

- A. In each town or community in Haiti there is at least one "Tribunal de Paix". This is the lowest court in the Haitian justice system. The "tribunal de paix" may try all small cases (commercial, civil matters, and "contraventions"). When the "tribunal de Paix" concerns itself with criminal matters, it is called a "tribunal de simple police" (police court).

INSTRUCTOR NOTES

Each "tribunal de paix" is headed by an official called a "Juge de Paix" (Justice of the Peace). He/she is normally a law graduate appointed by the President of the Republic. He is usually assisted by a "suppleant juge de paix" (deputy justice of the peace) who is empowered to fulfill all the duties of the acting judge.

Duties of the Justice of the Peace include:

1. Drawing up of statements when any type of infractions is committed in the geographical area over which he has jurisdiction
2. Issuance of warrants (when necessary) only for cases of "CONTRAVENTIONS" - (only the police may enforce a warrant)
3. Preparation of the "information preliminaire" (preliminary investigation) for cases related to "DELITS" or "CRIMES" (for these more serious crimes information is collected and sent to higher court for issuance of warrants)

THE COURT OF FIRST INSTANCE (formerly called "CIVIL COURT")

- A. This court has different sections that permit it to try many types of cases. Among those sections, we think it is necessary to briefly explain two of them:
1. The "tribunal correctionnel" (correctional court)
 - Only cases of "DELITS" come before this court.
 2. The "tribunal criminel" (criminal court)
 - Only cases of "CRIMES" come before this court. A jury of twelve members is needed only if it hears a case about a murder or political crime.
- B. In each court of first instance there are at least three judges. One of them is called "juge d'instruction". He is a lawyer appointed by the President of the Republic.

Duties of the Juge d'Instruction include:

- 1.. further investigation of only DELITS and CRIMES and issuance of warrants of committal orders, when necessary
- 2.. examination of the evidence found by him/herself, by the juge de paix or by the police against a presumed offender in a case of "DELIT" or "CRIME".
- 3.. issuance of "ordonnance de non-lieu" (a release order), if the evidence is insufficient
- 4.. issuance of "ordonnance de renvoi" (criminal charges) if the case merits a trial [the case is then sent to the "Commissaire du Gouvernement" for formal preparations of the trial

NOTE: The "Commissaire du Gouvernement" is an official appointed by the minister of justice in order to work jointly with the judges of the first instance court.

Duties of the Commissaire du Gouvernement include:

1. Prosecution of all presumed offenders in matters of "DELITS" and "CRIMES"
2. Control of the juge de paix of his jurisdiction in order to prepare prosecution

NOTE: He/she MAY NOT issue warrants (except, when by chance, he is at the scene of an infraction in "flagrante delicto")

THE EIGHT MAIN DUTIES OF THE POLICE

A. According to article 24.2 of the Constitution and articles 10, 31 and 77 of the Criminal Procedure Code, the eight (8) main duties of the police are:

1. WATCH AND SEARCH FOR "CONTRAVENTIONS", "DELITS", AND "CRIMES"
2. PREPARE POLICE REPORTS

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INSTRUCTOR NOTES

3. IMMEDIATELY ARREST ANY PERSON CAUGHT IN THE ACT OF COMMITTING AN INFRACTION (FLAGRANTE DELICTO) (NO WARRANT IS NECESSARY)
 4. IN THE CASE OF FLAGRANTE DELICTO, CARRY OUT IMMEDIATE SEARCHES (NO WARRANT IS NECESSARY)
 5. IN THE CASE OF FLAGRANTE DELICTO, IF THE OFFENSE IS EITHER A "DELIT" OR A "CRIME", GET THE "JUGE DE PAIX " TO COME TO THE SCENE OF THE OFFENSE AND ADVISE THE "COMMISSAIRE DU GOUVERNEMENT" (THE PUBLIC PROSECUTOR)
 6. IN THE ABSENCE OF FLAGRANTE DELICTO, OBTAIN A WARRANT FOR ARREST, A SEARCH WARRANT, OR A COMMITAL ORDER AND CARRY IT OUT
 7. GIVE NECESSARY ASSISTANCE FOR THE ENFORCEMENT OF ALL JUDICIAL DECISIONS.
 8. MONITOR AND CONTROL FIREARMS HELD BY CITIZENS.
- B. IMMEDIATELY ARREST (NO WARRANT IS NECESSARY) ANY PERSON CAUGHT IN THE ACT OF COMMITTING AN INFRACTION (FLAGRANTE DELICTO) and take him/ her within 48 hours to the "Juge de Paix " who has jurisdiction over the area where the offense was committed, together with any pieces of evidence and written police report.

NOTE: Flagrante Delicto (being "caught in the act"), according to Haitian law, is defined as:

1. Any criminal act in progress or that has recently taken place. (Haitian juris prudence defines the word "recently" as "having taken place in the last 24 hours"). This supposes that the police have themselves witnessed an infraction in progress or have good reason to believe that a suspect is an accomplice or the perpetrator of an infraction that has recently taken place.

Examples:

- A police officer, himself, witnesses an individual breaking into a radio appliance store.
 - A police officer hears an alarm and, shortly thereafter, sees an individual running down the street carrying radio equipment.
2. Any criminal act perpetrated by a suspect accused of having committed that offense less than 24 hours ago and who is given to the police by the "clameur publique" (the clamor of a crowd). (Haitian law does not define what constitutes a "clameur publique")
 3. **IN THE CASE OF FLAGRANTE DELICTO, CARRY OUT IMMEDIATE SEARCHES (NO WARRANT IS NECESSARY)** in order to get back all stolen objects and seize all objects or papers that could be used as evidence; store them in a safe place. Then, together with the police report and the defendant, take them to the "Juge de Paix".

NOTE: In article 25, the Constitution holds that:

- a. In case of "flagrante delicto", the police may make all necessary searches in order to collect all possible evidence regarding offenses.
4. **IN THE CASE OF FLAGRANTE DELICTO, IF THE OFFENSE IS EITHER A "DELIT" OR A "CRIME", GET THE "JUGE DE PAIX" TO COME TO THE SCENE OF THE OFFENSE** in order to draw up the statement that will officially establish the circumstances of the perpetrated act.
5. **IN THE ABSENCE OF FLAGRANTE DELICTO,** OBTAIN A WARRANT FOR ARREST, A SEARCH WARRANT, OR A COMMITTAL ORDER (AND CARRY IT OUT) from the "Juge de Paix" (for Contraventions) or from the "Juge d'instruction" (Delits and Crimes) who has jurisdiction over the area where the offense was committed.

INSTRUCTOR NOTES

NOTE: In article 25, the Constitution holds that when there is no "flagrante delicto": \

- a. A warrant is necessary before any search. [It will be issued by the "Juge de paix" (for contraventions) or the "Juge d'instruction" (for delits and crimes)].
- b. Even with a search warrant, the police may not search before 6:00 am and after 6:00 pm.

NOTE: The Haitian Constitution ensures the right of Haitian citizens to armed self defense within the limits of his domicile. However, the carrying of arms is prohibited without written authorization of the Chief of Police.

Those are the eight main duties of the police in Haiti. Now we are going to examine what they must look for in a "warrant for arrest" or in a "committal order".

WHAT THE POLICE MUST LOOK FOR IN A "WARRANT FOR ARREST" OR IN A "COMMITTAL ORDER"

- A. The Police must ascertain that the "warrant for arrest" or the "committal order" is in accordance with the article 24-3 of the Constitution which holds that both may only be enforced if they meet the following criteria:

ALL WARRANTS FOR ARREST OR COMMITTAL ORDERS MUST:

1. Be written or printed in Creole and in French
2. Be signed by a legally competent official ("Juge de Paix" [or his deputy], "Juge d'Instruction", or, if there is flagrante delicto, "Commissaire du Gouvernement" having jurisdiction over the geographical area in question)
3. Include the reason for the arrest or the imprisonment, and state the law article which provides for such arrest or imprisonment

4. Be prepared with an additional copy which must be given to the defendant at the time of the arrest or the taking into custody (Haitian law specifies only that a "copy" be provided. We infer this may be a photocopy or a duplicate original).

Now, let's see what should be the behavior of a police officer while enforcing a "warrant for arrest " or a "committal order".

BEHAVIOR OF THE POLICE WHILE ENFORCING A "WARRANT FOR ARREST " OR A "COMMITTAL ORDER".

- A. Except in the case of "flagrante delicto" (when no arrest warrant is needed), the police, while enforcing a "warrant for arrest" or a "committal order", must make sure they do not transgress articles 24, 25, 25-1, and 28 of the Constitution. These legal provisions hold that the police must:
 1. Notify the defendant that he is under arrest or under detention
 2. Give a copy of the warrant or the order to defendant
 3. Notify the defendant of his right to:
 - a. Call a lawyer for his defense
 - b. Remain silent until the arrival of his lawyer or a witness of his choice
 4. Make sure the apprehended person is really the one for which the warrant or order is issued
 5. Avoid the use of force if the defendant does not display aggressive behavior
 6. When applicable, make sure that, within 48 hours, the defendant is delivered to the official who issued the warrant or order

INSTRUCTOR NOTES

Hand out the UN Code of Conduct

WHEN THE POLICE MAY USE FORCE

- A. The Constitution, in article 25, authorizes the use of force against the defendant only when it is necessary to apprehend the person, to remand him into custody, or to maintain him in detention.

NOTE: The Code of Conduct for Law Enforcement Officers adopted by the United Nations on 17 December 1979 holds that law enforcement officers may use force, when it is strictly necessary, but only to the extent required for the performance of their duty.

Example: If a defendant verbally insults a police officer who in turn uses his bayonet or firearm, the legal consequences could be those explained in "VT" below.

CONSEQUENCES OF AN ILLEGAL ARREST, AN ILLEGAL DETENTION, OR AN ABUSIVE USE OF FORCE

- A. If while enforcing a warrant for arrest or a committal order, a police officer fails to observe the measures outlined above, in sections III, IV, and V, the resulting arrest or detention may be found illegal by the court. If such a case would unfortunately happen, the policemen involved in the arrest, detention, or abusive use of force could be taken to court by the victim. The latter could bring an independent action for damages on the basis of articles 1168, 1169 and 1170 of the civil code. Moreover, he/she would be able to lodge a complaint against the persons who caused the incident in order to have the "Commissaire du Government" institute criminal proceedings against them.

LEGAL PROVISIONS REGARDING SEARCHES

- A. In article 25, the Constitution holds that:
1. In case of "flagrante delicto", the police may make all

necessary searches in order to collect all possible evidence regarding offenses

INSTRUCTOR NOTES

2. If there is no "flagrante delicto", a warrant is necessary before any search. It will be issued by the "Juge de paix" (for "contraventions") or the "Juge d'instruction" (for "delits" and "crimes").
3. If there is no "flagrante delicto", even with a search warrant, the police may not search before 6:00 am and after 6:00 pm.

TYPICAL CRIMINAL INVESTIGATIONS INITIATED BY THE POLICE

Here is a decoded explanation of the four sketches shown in figure 2.

SCENARIO #1

CONTRAVENTION, with "Flagrante Delicto". In this case:

A. THE POLICE:

1. Arrest the presumed offender (except for minor traffic violations)
2. Collect evidence
3. Prepare police report

NOTE: The police report must include:

- a. What happened
- b. In what circumstances
- c. At what time
- d. Where the incident happened
- e. Who was arrested
- f. Who are the other suspects and witnesses (names and addresses)
- g. What evidence has been found

INSTRUCTOR NOTES

4. Within 48 hours, the police will deliver to the "Juge de Paix":
 - a. The defendant
 - b. The collected evidence
 - c. The police report

B. THE JUGE DE PAIX:

1. Immediately tries the case and makes final decision
2. Pronounces sentence

SCENARIO #2

CONTRAVENTIONS reported to the police (no "flagrante delicto"). In this case:

A. THE POLICE:

1. Collect evidence
2. Prepare police report
3. The police will deliver to the "Juge de Paix":
 - a. The collected evidence
 - b. The police report

B. THE JUGE DE PAIX:

1. Issues summons against suspect(s) (THE POLICE will deliver summons)
2. Immediately bears the case, continues investigation and/or makes final decision
3. Pronounces sentence

NOTE:

In matter of CONTRAVENTIONS, when there is no flagrante delicto, if a defendant fails to appear, no arrest is necessary; a defendant may be tried in absentia.

SCENARIO #3

INSTRUCTOR NOTES

DELITS or CRIMES with "flagrante delicto". In such cases:

A. THE POLICE:

1. Arrest the presumed offender
2. Collect evidence
3. Prepare police report
4. Within 48 hours, the police will deliver to the "Juge de Paix":
 - a. The defendant
 - b. The collected evidence
 - c. The police report

B. JUGE DE PAIX:

1. Will prepare the "information preliminaire" (preliminary investigation). In other words, he/she will receive the statements of the witnesses and the defendant.
2. Will deliver to the "Commissaire du Gouvernement":
 - a. The defendant
 - b. The police report
 - c. The statements
 - d. The evidence

C. "COMMISSAIRE DU GOVERNMENT"

1. Will prepare a letter named "requisitoire d'informer" (a brief, which requires the Juge d'instruction to continue the investigations)
2. Will deliver "1", "2", "3", and "4" stated above, and the "requisitoire d'informer" to the "Juge d Instruction" that has jurisdiction over the area where the infraction was committed.

brief, which requires the Juge d'instruction to continue the investigations)

2. Will deliver "1", "2", and "3", stated above, and the "requisitoire d'informer" to the "Juge d'Instruction" that has jurisdiction over the area where the infraction was committed.

NOTE: In matter of DELITS, the "Commissaire du Gouvernement" has the option of presenting the case directly before the correctional court to be tried.

D. "JUGE D'INSTRUCTION"

1. Continues investigation (issues summons, search warrants, arrest warrants)
2. Decides whether or not case merits trial

NOTE: In matter of DELITS when there is no flagrante delicto, if a defendant fails to appear, no arrest is necessary, a defendant may be tried in absentia.

CONCLUSION

Expected members of the Police, this is already the end of our brief presentation about your future powers and responsibilities. The guidelines we have set out to you are all taken from the legislation of HAITI. You should read them from time to time, make sure you understand them, and, as you are going along with your new duties, use them fully.

You are about to have a very rare opportunity to play a priceless role in the judicial system of your country. We encourage you to play it proudly for the greatness of the Republic of Haiti.

Thank you for your attention. Good Luck!

INSTRUCTOR NOTES



**U.S. DEPARTMENT OF JUSTICE
INTERNATIONAL CRIMINAL INVESTIGATIVE
TRAINING ASSISTANCE PROGRAM (ICITAP)**

**REPUBLIC OF HAITI
POLICE DEVELOPMENT PROJECT
FY 94 - FY 98**

REVISED SEPTEMBER 15, 1994

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I. THE CRIMINAL JUSTICE SYSTEM AND POLICING IN HAITI

The Republic of Haiti occupies the western third of the island of Hispaniola with a land area of 10,714 square miles. It is one of the most densely populated nations in the Western Hemisphere with approximately 7 million citizens, an estimated 1.2 million of whom live in metropolitan Port-au-Prince, the capital. The country is characterized by substantial deforestation, significant migration of population from the rural areas to the urban and semi-urban areas and significant emigration overseas (directed toward the United States and Canada). As much as 85% of the population live in severely impoverished conditions. French and Créole are the official languages; French is spoken by approximately 10% of the population and Créole by all Haitians. Estimates on the literacy rate in Haiti range from a low of 23% percent to a high of 50%.

The Criminal Justice system in Haiti is based on the Napoleonic Code and is inquisitorial rather than accusatorial. As such, it is a legal code dependent on written documents. Confessions and written police reports are preferred over the collection, preservation, analysis and presentation of physical evidence and testimony. The various justice sector components: police, prosecutors and judges, are generally stymied by lack of coordination, little to no public confidence, no specific training, and little or no technical expertise in conducting criminal investigations and prosecutions. The police, as currently structured, are not responsive to the barely existent judicial system.

Almost two hundred years of authoritarian rule have left the judicial administration ineffective, characterized by a cumbersome mechanism of determining jurisdiction and a dearth of investigative capabilities at all levels.^{1/} As Créole is spoken by the majority of Haitians, a significant segment of the population is effectively excluded from the justice system whose *lingua franca* is French. Training of judges and prosecutors is very poor and their numbers are insufficient to guarantee public access to justice nationwide. As such, the local representatives of the Haitian Armed Forces (FADH) have come to be the only representatives of the State in most of the country.

Policing functions in Haiti continue to be carried out by the Armed Forces, or FADH, whose 7,300 to 7,800 members are deployed throughout the country. According to a FADH staffing chart, approximately 1,540 personnel are assigned to the Metropolitan Port-au-Prince Police Battalion, responsible for policing in the capital. Officers are presumably trained at a Military Academy; however, neither officers nor enlisted personnel receive any police training, *per se*, despite the fact that according to members of the High Command (Etat-Major) as much as 90% of current army activities are devoted to "policing functions".

Eighty percent of the population live in rural areas. The FADH appoints rural Section Chiefs (Chef de Section) for each of the 565 sections.^{2/} Under the Aristide Government, the title

¹ The most recent edition for the Criminal Code is dated 1984; 1958 for the Procedural Code. However, the codes themselves are basically unchanged in content from their original editions of the mid-1820's.

² The civilian administrative apparatus is very weak, as to be non-existent outside of the few urban centers. In significant portions of Haiti, the Section Chief is the only representative of State authority.

and concept of Section Chief was abolished and was to have been replaced by that of a Community Police (Police Communale) with limited oversight provided by a local Administrative Council (Conseil Administrative de Section - CASEC). This change occurred without any attendant infrastructural development and lawlessness in the rural sections of the country quickly resulted. Since the FADH deposed President Aristide, the use of Section Chiefs has resumed. According to recent data, each Section Chief is authorized from 3 to 300 assistants. Several thousand supplemental personnel, known as "attachés", have further swollen the ranks of the rural policing apparatus. These "attachés" are unpaid, untrained, non-uniformed and appear to extort the public through intimidation in similar fashion to the dreaded "TonTons Macoutes" of the Duvalier era.

There are no substantiated data currently available relative to the nature or the volume of the crime problem in Haiti; however, anecdotal reports indicate a significant increase in armed robbery, theft and abuses of human and civil rights, allegedly perpetrated by FADH personnel, Section Chiefs and attachés.

The 1987 Haitian Constitution guarantees, among other things, basic civil and human rights and defines the legal, administrative and political structures of the nation. The Constitution mandates the development of civilian police functions separate from the Armed Forces under the authority of the Ministry of Justice. Further, the Constitution mandates the creation of training academies for both the judiciary and the police. It should be noted that key provisions of the Constitution have been suspended as a result of the September 1991 coup; others have been selectively implemented.

Members of the elected government, including President Aristide, have identified the need for the creation of a police force that would be national in coverage and professionally competent to conduct investigations and traditional policing duties as critical to strengthening democracy in Haiti. The development of such a National Police Force would require comprehensive training for police and judges in the concepts of the rule-of-law and inviolability of human and civil rights, procedures for developing investigative cases such as gathering and protecting evidence, and adequate physical facilities for both the police and judiciary.

II. PROJECT GOAL

In support of United States policy objectives to build solid democratic institutions in Haiti, ICITAP is working with the Government of Haiti (GOH) to develop a professional civilian police force, based on the rule-of-law and internationally recognized standards of human rights, and in accordance with Article 263 of the Haitian Constitution.

III. PROJECT ADMINISTRATION AND FUNDING

Given the potentially large-scale and long-term nature of the Haiti Police Development Project, ICITAP proposes to open an in-country office staffed by up to eight direct hires and as many as six PSC/FSNs. In-country staff will serve as technical advisors on program development and implementation. Washington-based staff will continue to provide program oversight and

policy direction. Logistical support services will be provided by service contractors and/or FSNs. Technical advisors will be contracted to provide their expertise on an as-needed basis.^{3/}

ICITAP has begun to hire staff for this purpose and is requesting that NSDD-38 approval be obtained to increase staffing from three direct hire positions to eight. Also, a Memorandum of Understanding is being negotiated with AID to acquire office space within the U.S. Embassy and the AID Mission.

IV. PROJECT CONSIDERATIONS

The ICITAP project described hereafter is focused on the need to implement long-term assistance initiatives as a means of developing a well-trained, competently managed and sustainable civilian police force in Haiti. The program's success is predicated upon close cooperation between GOH and USG entities and resolution of outstanding questions and issues.

Beyond the most basic question of the existence of political will, certain assumptions have been made in drafting this document. Principal among these is the understanding that the 1987 Constitution will be restored *in toto* and promulgated. While amendments may be required at a later date, the implementation of the Constitution should be a basic premise toward resolving the current crisis and providing the legal basis for the fundamental changes that will be introduced as result of the development initiatives.

ICITAP's assistance efforts in the development of a professional, civilian National Police service for Haiti are closely linked to two other U.S. Government initiatives: [1] professionalization of the military and [2] improvement of the Justice system. All three areas are so interdependent that U.S. assistance efforts must be carefully organized to ensure that development proceeds on parallel tracks.

Recognizing that the FADH's policing role will not simply cease from one day to the next^{4/}, and in order to avoid the sudden large scale unemployment of heavily armed FADH personnel, the FADH will likely continue to perform police functions until the new police force has been trained and deployed. Whether ICITAP provides training for the FADH currently performing police duties (and the extent of such training), depends upon policy issues yet to be resolved. ICITAP has designed a basic police orientation course for FADH personnel from five to 21 days

³ In May 1993, the U.S. Chargé d'Affaires in Port-au-Prince recommended that ICITAP plan to establish an in-country office. In July the Presidential Special Envoy directed and the AID Mission Director concurred with the need for a permanent ICITAP presence in Port-au-Prince.

^{4/} Under Article 266(d) of the Constitution, the Executive may involve the Armed Forces to assist the police based upon a well-founded need. Due to the exigencies of the current situation, it may be necessary for the elected government to invoke this provision on a temporary basis.

duration. This flexibility enables ICITAP to adapt to contingencies which cannot yet be predicted: nature of entry, tension levels, etc...^{5/}

The mechanisms by which FADH personnel continue to be paid after MNF deployment in-country are beyond the purview of ICITAP's program. However, ICITAP prepared a conceptual salary scale for the new National Police. It is not ICITAP's intention, nor does the Program enjoy a sufficient infrastructure, to assume the role of paymaster for the National Police.

To monitor and facilitate program development and insure that stated objectives are accomplished, periodic inter-governmental meetings with the U.S. Ambassador, appropriate GOH ministerial-level, ICITAP representatives, and other U.S./MNF entities involved in assistance efforts to Haiti will be held with sufficient frequency as to insure proper coordination and planning.

V. PROJECT STRUCTURE

As requested by the Department of State, ICITAP has divided the Haiti Police Development Project into two discrete phases:

Section VI, *Phase One - Transition Period Activities:* During this phase, ICITAP will: provide an orientation course to FADH personnel performing police functions in the transition period; define the role of police in context of Haitian society and local needs; provide technical assistance to police management; establish a National Police Academy; create a Haitian Advisory Commission on Policing; and engage in cooperative efforts with the MNF/UN and other multinational efforts. It should be noted that academy development associated with Phase One of this plan involves the inauguration of a training facility within 60 days after ICITAP arrives in Haiti and the initiation of the first basic police training for up to 480 students. Although some aspects of Phase One will cover a full year, most aspects of Phase One will be initiated in the first 60 days.

Section VII, *Phase Two - Institution Building:* This phase focuses on long-term ICITAP assistance activities to develop the full gamut of policing structures, including police management, preventive and investigative policing, and forensic skills and capabilities, while introducing modern and proven law enforcement concepts, policies and techniques. Although ICITAP has made every effort to present activities in a sequential format, it is realistic to expect that over the life of the project various segments of the institution-building components will be developed concurrently.

While the Constitution mandates that the National Police administer the prison system, there exists a direct conflict with a single entity responsible for arrest and incarceration. For this reason, it is ICITAP's recommendation that the prison system be accorded a separate and distinct

^{5/} If the FADH is to resume immediate policing duties, under MNF guidance and supervision, the five day course is required. Conversely, if the MNF is to assure basic public order then a more comprehensive 21-day course can be offered to FADH personnel.

status under the Ministry of Justice. The National Assembly, working with the Executive, may wish to consider this issue. Also, ICITAP's role in this respect or the attendant authority has not been clearly defined. It is our understanding that AID will be initiating a survey of prisons and prison conditions that should be completed prior to any decision on U.S. support for prison reform. A Prison Reform and Management component is included as Appendix B setting forth short-term activities and long-term development efforts which ICITAP would recommend for the penal system.

VI. PHASE ONE ACTIVITIES

During the Phase One Transition Period, ICITAP is prepared to provide a basic orientation course to members of the FADH selected to perform policing duties and who have been successfully screened to remove known abusers of human rights and other criminals^{6/}. Predicated upon the immediate availability of a suitable central facility in the Port-au-Prince area (with necessary logistical and refurbishment support from the MNF), it is anticipated that ICITAP can launch training seven days after ICITAP's arrival in-country, with a weekly throughput of 240.^{7/}

Concurrently, ICITAP proposes to initiate both multi- and bi-lateral assistance programs in the institutional development of a professional civilian police force, based on the rule-of-law and internationally recognized standards of human rights, and in accordance with the Haitian Constitution. This will involve the initiation of a publicity campaign to recruit members of the first basic police class, which should begin training two months after ICITAP's arrival in Haiti.

Cooperation within the context of MNF/UN assistance efforts will also take the form of ICITAP participation on international working groups engaged in providing technical advise and guidance to the GOH in drafting laws and other legal instruments required under the terms of the Governor's Island Accord and the New York Pact.

ICITAP will provide significant technical assistance to the Haitian Ministry of Justice in establishing the framework for the Ministry to assume its responsibilities to supervise and manage the new National Police pursuant to the Constitution of 1987.

In order to minimize the potential for excessive use of force and threat to life and property, urban disorder management training will be provided for a cadre of security personnel.

^{6/} As stated in footnote 5, if the FADH is to resume immediate policing duties, under MNF guidance and supervision, the five day course is required. Conversely, if the MNF is to assure basic public order then a more comprehensive 21-day course can be offered to FADH personnel.

^{7/} The thrust of this orientation course is to introduce basic concepts of policing stressing respect for human rights.

OBJECTIVES

- Coordinate with MNF/UN assistance efforts.
- Introduce the concepts of civilian policing in a democratic society to FADH performing police functions.
- Develop the legal, organizational and administrative infrastructures to support the creation of a National Police Force and a National Police Academy.
- Create a National Police Academy and basic police training program.
- Establish Haitian Advisory Committee on policing.
- Develop Urban Disorder Management capability.

STRATEGIES

A. *COOPERATIVE EFFORTS WITH MNF/UN*

Participate in MNF/UN effort to provide assistance to the Haitian Government in reviewing draft legislation, proposed regulations and other legal instruments, mentioned in the Governor's Island Accords and New York Pact of July 1993:

- Specific assistance will be provided on proposed legislation concerning the creation and operation of the National Police.

B. *ORIENTATION TRAINING FOR THE FADH*

In conjunction with the transition to civilian policing, it appears likely that the FADH will continue to police urban and rural areas under the supervision of a multi-national force until full deployment of the new civilian police. Should this materialize, ICITAP will:

Present an orientation course for members of the FADH that will focus on the new mission and functions of the police, as well as stress the need to respect human rights and the rule of law.

Provide the training course to members of the FADH selected to perform policing functions (approximately 2,500) who have successfully passed the vetting process.

C. *TECHNICAL ASSISTANCE TO THE MINISTRY OF JUSTICE AND POLICE MANAGERS*

Article 269 of the Haitian Constitution mandates the creation of a National Police Force to operate under the authority of the Ministry of Justice. Section 269-1 stipulates that the

structure of the police organization and mode of operation are regulated by law. The drafting and approval of this regulatory vehicle is of critical importance in establishing the National Police force, enunciating its mission and defining its administrative and organizational structure.

In concert with other USG and GOH agencies and Non-Governmental Organizations (NGOs), ICITAP subject matter experts will work with representatives from the Haitian National Assembly and Ministry of Justice to create the legislative basis and administrative structure necessary to establish and sustain the National Police. ICITAP will:

- Assist in the process of reviewing and modifying, as necessary, any existing draft legislation governing the functions of the police;
- Provide technical assistance in establishing organizational and management infrastructures for a civilian National Police that are capable of supporting law enforcement functions in a democratic society;
- Assist in the drafting of mission and function statements for the National Police that clearly define the fundamental role of the police as that of safeguarding the public trust, responding to incidents of crime and preventive policing;
- Work with the GOH to define and institute a nationwide policy regarding the use-of-force consistent with principles of policing in a democratic society;
- Assist the GOH in developing recruitment and selection criteria:
 - For Police Executives and Managers; and
 - For candidates to the National Police Training Center (ranking and enlisted).
- Recommend models for organizational and management infrastructures necessary to support a civilian police command structure and initiate an implementation plan for establishing these structures; and
- Provide one-week executive-level training to the newly appointed senior police managers.

D. *ESTABLISHMENT OF A NATIONAL POLICE TRAINING CENTER*

At present there are no facilities in Haiti specifically dedicated to training personnel performing police functions; all law enforcement training is conducted at military facilities. Article 271 of the Haitian Constitution mandates that an Academy and Police School be established. Two issues arise from this requirement: the advisability and the ability of the GOH to sustain two schools.

An essential factor for a successful and professional civilian police force is the establishment of a police training center. The ideal site, at least early on in the project, would be an extant facility requiring minimal improvement and capable of housing and feeding approximately 500 boarders at a time. It should be located in the Port-au-Prince area and have sufficient open expanse to accommodate the gamut of required facilities (firearms range, physical fitness training, classrooms, parade ground). Construction of a new facility versus identification and limited refurbishment of an existing facility, would add up to \$10 million to the cost of establishing a Police Training Center and considerably delay the start-up of National Police recruitment and training. Further, owing to the embargo, there is currently no local contractor capability to accomplish this task. Given anticipated congestion at sea and air ports following an MNF deployment and long lead times in securing non-MNF related supplies, ICITAP anticipates the need to rely upon MNF logistical/construction support. Toward this end, ICITAP will continue to closely coordinate its activities with the U.S. component of the MNF. ICITAP, as a civilian component of the U.S. Department of Justice, cannot be placed directly under MNF command. However, a formal liaison mechanism must be established with MNF forces in-country so that ICITAP/MNF efforts are in concert with USG objectives.^{8/}

Initially, owing to the *in extremis* circumstances, ICITAP recommends that one National Police Training Center with two distinct divisions or branches be established. For the purpose of this document, therefore, a single Police Training Center is described.

- Identify and convert a suitable existing facility into the National Police Center
 - Assist in the design of an implementation plan/schedule for occupation;
 - Assess the requirements for new construction and/or refurbishment of existing structures; and refurbish physical plant;
 - Determine the need for specialized facilities, such as a firearms range and physical training equipment, and develop appropriate plans of action; and

^{8/} As a matter of record, all ICITAP in-country offices report to the United States Ambassador. This relationship has been established in Haiti since April, 1993.

- Furnish and equip classroom and practical instruction facilities as appropriate;
- Develop basic training curricula and identify a core of professional instructors to teach the basic course;
- With USIS assistance, launch comprehensive public awareness and recruitment campaigns for new National Police; and,
- Commence recruitment/selection of new police cadets.
- Begin basic training at the Center.

E. *HAITIAN ADVISORY COMMISSION ON POLICING (HACP)*

ICITAP proposes the creation of a Haitian Commission on Policing (HACP) to promote Haitian ownership of and provide direction and oversight for the project. Membership should include Government representatives, including senior Ministry of Justice officials; selected members of the National Assembly; business, civic, religious and community leaders.^{9/} To promote the HACP, ICITAP will:

- Conduct visits to the United States to view civilian policing operations; and to El Salvador and Panama to view two examples of the creation of a new civilian police separate from the military;
- Establish a regular schedule of meetings with the HACP in order to secure full Haitian participation in the creation of missions and functions statements and the organizational and managerial structures for the police;
- Recommend qualified candidates to serve in the capacity of professional civilian police managers; work with the GOH to secure the appointment of the senior police management cadre; and
- Finalize development and implementation of recruitment standards and vetting criteria for the selection of members of the National Police Force.

F. *URBAN DISORDER MANAGEMENT TRAINING*

The impending return of the democratically elected President may trigger the assembly of crowds, parties to the political dispute, and observers with an attendant potential for violence.

^{9/} This Committee will be used over the life of the project to provide input, advice, consultation and assure active Haitian participation and commitment. Upon completion of the project, the role of the Commission should evolve into that of a Civilian Review Board for National Police matters.

ICITAP proposes to provide training in humane crowd control and disorder management to a cadre of FADH personnel who will have successfully completed the basic orientation course. This sixty-person unit will initially be composite in nature, called up as needed and available for use in Port-au-Prince.^{10/}

- **Begin delivery of non-lethal urban disorder management training to 60 qualified Haitian personnel within five weeks after ICITAP arrival in country; and**
- **Provide non-lethal equipment and training in its use humane field force operations.**^{11/}

^{10/} Sixty was the number identified as adequate by subject-matter experts from Metropolitan Dade County, Florida, Police owing to the congested nature of Haitian urban street patterns.

^{11/} ICITAP has identified qualified Creole-speaking Metro-Dade County Police personnel to provide one and one-half-week training for this purpose in Haiti.

VII. PHASE TWO - INSTITUTION BUILDING

A. DEVELOPMENT OF PLANNING AND OPERATIONS PROCEDURES

With the creation of a new civilian National Police Force, all aspects of police administrative and investigative responsibilities and procedures will have to be developed. The respective roles and interrelationships of the components of the Haitian criminal justice system (police, prosecutors and judges) will also need to be clarified and re-defined to reflect the provisions of the Constitution and enabling legislation. These changes will require development of new policies and operational procedures that clearly demonstrate the evolution from the role of police as serving the state to police who serve and protect the citizen. In particular, sensitivity to human rights should be institutionalized into the new policing system of Haiti.

Once new policies and procedures have been developed, new reference and training manuals must be prepared. These manuals must cover not only basic legal matters, but also technical and operational procedures relevant to each step in the policing and criminal investigative process.

OBJECTIVE

Develop and institutionalize policies and operational procedures for the National Police reflecting their role as a civilian police force.

STRATEGIES

Promote enactment of the Police Law which will codify policies and procedures. *Ad interim*, pending passage of the legislation, the Executive Branch may issue appropriate Executive Orders to cover police operations and training.

Assist Ministry of Justice and National Police senior management in developing, documenting and promulgating policies and procedures consistent with the police legislation.

Work with appropriate counterparts in the Haitian judicial system to develop the structures and modus operandi for police-court cooperation:

- Document policies and procedures as appropriate into training and user manuals.

Work with senior National Police management to develop an infrastructure to support law enforcement functions throughout the country. It should provide necessary structures to manage, administer, regulate, and evaluate a police force.

Document **administrative** and operational policies and procedures, and develop manuals of administrative controls, rules and regulations that reflect the legal requirements of the legislation. ^{12/}

- Assist in the development of the functional components of a large, national police force in areas of planning and evaluation; budget and procurement; communications and transportation; personnel and benefits; recruitment and training; deployment, rotation and promotion.
- Provide technical assistance in the development of sound managerial and administrative policies and procedures relating to specialized areas of criminal investigations: developing standardized formats for responding to incidents or calls for assistance; investigative case processing; interviewing; report writing; and processing physical evidence; and
- Provide on-going technical assistance to institutionalize the use and updating of manuals, handbooks, and other related materials; publish and disseminate the manuals.

Conduct position analyses to define the duties and responsibilities at all levels of the police. Assist in documenting functional responsibilities [job descriptions] for police at all levels and ensure that corresponding policies and procedures are developed and included into written manuals:

- Establish a certification process, which identifies standard skills and performance requirements, for all personnel;
- Implement a merit-based promotion system for the National Police; and
- Develop and implement an Assessment Center to test and assess candidates for various command positions.

Assist in the establishment of systems for procurement, deployment and maintenance of resources, both human and material.

- Assess material and equipment needs.
- Procure required equipment and materials.

Sponsor in-country conferences with participants from criminal justice entities, to establish a forum for addressing issues of interest, mediation and consensus building.

¹² The language(s) and form (French, Créole and/or audio/visual form) in which these materials must be prepared will be determined based upon the results of a detailed needs assessment.

Institute national crime reporting and statistical collection systems:

- **Develop institutional abilities to collect and analyze pertinent data to identify trends.**
- **Effect the necessary organizational modifications to address problems and trends.**

Develop a public awareness campaign to acquaint the Haitians with the mission and functions of the new National Police:

- **Develop public willingness to work with the law enforcement community and report incidents of crime.**

Expand police leadership's exposure to modern policing concepts through attendance at professional law enforcement conferences and symposia [i.e., the Association of Caribbean Commissioners of Police and INTERPOL Regional Conferences].

B. INSTITUTIONAL ACCOUNTABILITY

Critical to the success of creating a civilian National Police Force in Haiti, will be public recognition and acceptance of the role of the police as preserving the peace and protecting the rights of all Haitians.

Among the obstacles confronting the establishment of a such a force are allegations of corruption, bribery, abuse of power, violation of human rights and other criminal misconduct by some members of the existing security apparatus. The capacity to investigate such allegations in a thorough and impartial manner will be an essential element in the transition process and critical to the long term credibility of the National Police. Systems to ensure professional accountability and responsibility in the delivery of police services to the public must be developed and institutionalized.

OBJECTIVE

Creation of a central Office of Professional Responsibility (OPR) and satellite field offices to promote accountability, integrity, and professionalism.

STRATEGIES

Develop systems for accountability by the organization and individual officer in the performance of his/her duty.

Create the ability within the National Police Force to investigate allegations of criminal activity or abuses of authority by police personnel:

- Establish clear organizational reporting lines, building in systems of checks and balances to ensure objective evaluation of each allegation;
- Implement mechanisms [policies and procedures, manuals and standard forms, etc.] for recording allegations of inappropriate behavior, filing reports, case management and disposition; and
- As the project progresses, conduct evaluations of services, monitor performance and adjust operational procedures as needed.

Determine the appropriate physical location for one centralized facility in Port-au-Prince, then establish field level facilities in police precincts throughout the country as required:

13/

¹³ In selecting the physical location for an OPR, care must be taken in choosing a site which the public can access easily while maintaining confidentiality.

- Identify or build a suitable facility; and
- Equip and furnish the Office[s].

Identify a core group of police to serve as OPR investigators:

- Develop specialized training in the skills required to manage and operate an Office of Professional Responsibility;
- Provide specialized investigator-level training. Training will include Professional Responsibility and Police Integrity, Human Dignity in Policing, and General Criminal Investigations for investigative and support staff; and
- Supply on-going technical assistance and trouble-shooting assistance as required.

C. DEVELOPMENT OF LAW ENFORCEMENT TRAINING RESOURCES

This component is divided into two sub-components: development of law enforcement training facilities and development of law enforcement training programs.

1. *Development of Law Enforcement Training Facilities*

Assuming that Phase One will only involve initial refurbishment of the Academy to accommodate the first basic police training classes, it will be necessary to continue improvements to the physical plant to support between 1,200 to 2,400 students yearly.

OBJECTIVE

Establish a self-sustaining Police Academy capable of satisfying the full range of training needs of the Haitian National Police.

STRATEGIES

Continue with assistance activities identified in Phase One:

- Review and revise the implementation plan and schedule for completion of the permanent facility, identifying the specific requirements for new construction and furnishing;
- Determine the need for specialized facilities, such as a firearms range and physical training equipment, and develop appropriate plans of action; and
- Identify local contractors and initiate construction/reconstruction work.

Furnish and equip classroom and practical instruction facilities as appropriate.

Assist the National Police in developing administrative capabilities to manage and operate the training center (See Appendix C for a sample organizational structure for a Police Training Center).

Determine the need for development of educational facilities outside of Port-au-Prince:

- Assist Police managers in developing a plan-of-action to deliver training to remote sites.

2. *Development of a Law Enforcement Training Program*

Effective crime prevention and investigation involves the application of a combination of policing and investigative techniques; forensic and other specialized skills; and coordinated administration, all based upon recognized legal procedure and a respect for fundamental concepts of human dignity.

Law enforcement and judicial personnel in Haiti in many instances have had little or no training to develop investigative techniques or skills. Investigative judges do not have working relationships with the police. Judges and prosecutors have received little if any training in investigative techniques or the use of physical evidence in investigations, and most have no formal education in the rule-of-law or the Haitian Constitution. Moreover, since senior management currently responsible for policing have been trained as military officers, they have no experience as police managers.

To address this situation, a major requirement in the development of a civilian police force is designing and adopting comprehensive police training curricula. Police, prosecutors and judges need to be trained in investigative techniques and procedures for gathering, protecting and presenting evidence that are consistent not only with Haitian laws, but also with teaching methodology of modern policing in a democratic society.

Training materials will have to take into account the specialized needs associated with policing in Haiti:

- Factors such as language abilities of members of the existing police force (French or Créole), as well as their literacy rate; and,
- Large segments of the Haitian population live in remote areas of the country where access is difficult.

Of equal importance to the design of new police training curricula is the development of a cadre of fully qualified Haitian instructors. To address future training needs of the Haitian National Police Force, the new police training center must have a full complement of instructors, capable of addressing both new recruit and in-service training needs.

OBJECTIVES

Establish a full-service training program for the National Police.

Institutionalize a full spectrum of police and investigative training curricula, based on concepts of policing in a democracy and in accordance with Haitian legislation.

Integrate concepts of human dignity in policing in all aspects of training, as well as policy and procedures.

Develop a permanent core group of Haitian instructors for the Academy and satellite training sites.

Establish a training calendar for all basic, in-service, specialized and supervisory training.

Train up to 2,400 new and existing police yearly.

STRATEGIES

Continue Phase One assistance efforts in the development of Haitian police training instructors:

- During the first two years of the project, use international instructors to facilitate the delivery of training while preparing a cadre of trained Haitian instructors;
- Identify a group of Haitian police officers who could serve as instructors;
- Develop and deliver specialized train-the-trainer programs for all disciplines, commencing with basic policing and new recruit training:
 - Design a career development program to facilitate and institutionalize the preparation of police managers; and
 - Provide ICITAP-sponsored training in special disciplines, to include courses on police supervision and management, preventive policing, community oriented policing, investigative skills, special police operations, and judicial protection.
- Present instructor development courses and sponsor participation in international symposia, colloquia and conferences to expose educators to new methods and philosophies of policing.

Develop specialized curricula for supervisory, command-level, in-service and specialized [i.e., narcotics, money-laundering, executive protection, etc.] training programs for investigative personnel.

Support the development of a Haitian institutional capability to create, evaluate and modify training programs and instructional materials.

On an on-going basis, host internships for Haitian administrative officials at overseas police academies or law enforcement institutions to acquaint them with policing in a democratic society and methods of instruction used to train investigative personnel.

Promote coordination of activities by including judges and prosecutors in all specialized training programs to familiarize them with investigative techniques, case preparation from

an investigative perspective, and the value of physical evidence in successful prosecutions.
^{14/}

Progressively implement law enforcement training programs in local-level precincts.

Institute a Field Training Officer program to monitor performance of police in the conduct of their duties, evaluate effectiveness of training programs, and provide feedback to the managers of the Academy.^{15/}

Assist in the development of a quality control system to ensure that trained personnel are assigned, for reasonable terms of duty, to the functions for which they have been trained. (See Section VIII for details).

Incorporate concepts of human dignity in law enforcement at all levels of training.

Support the development of informational training on the new policies and procedures destined for all interested entities. Institutionalize this training into the basic curricula of the Ministry of Justice training centers:

- **For the National Police Force to instruct personnel on the policies and procedures of the Police.**
- **For the components of the criminal justice system (police, prosecutors, judges) to familiarize them with the particular aspects of each entity's roles, as they relate to their newly defined duties and responsibilities.**

... training with training of judges and prosecutors will be coordinated with the AID under an Administration of Justice Program for Haiti.

¹⁵ The Field Training Officer is an experienced police professional assigned to monitor a new or newly trained member of a police force to ensure that his or her activities are in compliance with accepted principles and practices of civilian policing.

D. DEVELOPMENT OF SPECIALIZED INVESTIGATIVE CAPABILITIES

Effective crime prevention and investigation includes the application of a combination of protective policing and specialized investigative techniques. Development of these capabilities in Haiti will require the design and implementation of several specialized investigative elements to address high risk situations. Based upon ICITAP's research, coupled with feedback from Haitian authorities, development of specialized professional capabilities is recommended in the following areas:

- Executive protection for high-level Government officials and foreign dignitaries;^{16/} and
- Special criminal investigations that focus on specific areas of crime, such as narcotics, fraud, money laundering, juvenile crime, etc.^{17/}

OBJECTIVES

Create criminal investigative units specially trained and equipped to handle specific areas of criminal activity in an institutional environment that respects human rights and the rule of law.

Institutionalize specialized investigative training curricula.

STRATEGIES

Conduct a detailed assessment of needs for special investigative functions and units upon initiation of activities in Haiti.

Develop specialized training curricula focusing on problematic areas: urban disorder management, executive protection, response to high risk situations, and special investigative requirements:

- As necessary, bring foreign teams of experts to Haiti to provide initial "train-the-trainer" instruction.

^{16/} An Executive Protection Service must be included as an integral part of the hierarchy of National Police. It should be separated into a distinct unit reporting directly to an elected or appointed official. The goal is to develop unit loyalty to the Office of the protected party rather than to the individual.

^{17/} The need for special investigative units has been identified to ICITAP during meetings with the elected President, and by a committee of members of the FADH who are studying the issue of separating policing functions from the military. A definitive list of specialty areas cannot be developed nor donor/participant entities identified until comprehensive needs assessments have been conducted upon resolution of the political situation.

- **Begin development of Haitian instructors capable of delivering specialized skills training in the above-mentioned disciplines.**

Procure necessary equipment and, as needed, develop specialized training facilities for use in criminal investigative training programs.

Identify candidates in the basic police skills and other training programs, who are receptive to democratic principles of policing, and who have an interest in and a capability for receiving expert-level training.

Host internships for Haitian specialized unit personnel at a police academy or law enforcement institution in the United States, to acquaint them with methods of instruction and investigations used.

Assist in developing and staffing specialized police units, beginning at headquarters level in Port-au-Prince, then extending these, as appropriate, into other urban centers of Haiti.

E. DEVELOPMENT OF FORENSIC SCIENCE CAPABILITIES

A full assessment of the forensic capabilities and needs within Haiti will be conducted in conjunction with the development of detailed plans for forensic assistance. However, based upon preliminary evaluations, the forensic resources of Haiti range from nonexistent to minimal. Haiti currently possesses neither the physical facilities, nor the staff trained to support collection and analysis of physical evidence in the investigation and adjudication of crimes.

OBJECTIVES

Introduce to the Haitian criminal justice system the practice of using physical evidence in the investigation and adjudication of crimes.

Provide for the development, training and equipping of full-service forensic capabilities for the Haitian National Police Force.

STRATEGIES

Conduct a comprehensive assessment of forensic science capabilities in Haiti, to include analysis of four principal areas:

- Crime scene processing;
- Fingerprint record repositories;
- Crime laboratory facilities; and
- Legal Medicine facilities

Develop basic capabilities in the four aforementioned areas through program training, technical assistance, and donations of equipment, supplies and materials.

Provide forensic science training through internships in French-speaking Police Departments, and technical assistance to develop full use of resources.

Create crime-scene-processing teams through the donation of essential equipment; provide training on care and maintenance of the equipment.

VIII. PROGRAM EVALUATION

The degree of success of the project will be based upon the achievement of the aforementioned end-of-status goals and assumes a continuous review of activities with Haitian, MNF/UN and USG counterparts making adjustments as necessary to meet new challenges and address other unforeseen circumstances.

ICITAP's assistance efforts in the development of a professional, civilian National Police Force are closely linked to two other U.S. Government initiatives: [1] professionalization of the military and [2] improvement of the Justice system. All three areas are so interdependent that U.S. assistance efforts must be carefully organized to ensure that development proceeds on parallel tracks.

To monitor and facilitate program development and insure that stated objectives are accomplished, inter-governmental meetings with the U.S. Ambassador, appropriate GOH ministerial-level officials, ICITAP representatives, and other U.S. entities involved in assistance to the establishment of democracy in Haiti will be necessary.

In order to assess the effectiveness of ICITAP assistance efforts to the Haitian National Police, ICITAP will conduct analyses of the data collected in the national crime reporting and statistical collection systems to forecast trends and identify areas requiring additional assistance. The analysis of the data will also enable ICITAP to gauge National Police management's ability to adequately plan and formulate budgets.

Quarterly reports will be prepared by ICITAP and will be submitted to all interested parties. The quarterly report will discuss performance to date and identify outstanding issues in achieving objectives.

To facilitate planning of assistance activities beyond the first year, it is ICITAP's intention to develop and use standard performance assessment tools to provide on-going evaluation mechanisms for all major aspects of the Haiti project. As necessary, programmatic adjustments will be made. This evaluation mechanism will be translated into French/Créole and provided to National Police managers for their use. Initially, these assessments will concentrate on three principal areas:

1. *DISPOSITION OF PERSONNEL AND MATERIALS*

ICITAP plans to use an automated package to record the names of all persons who undergo training and the courses in which they participate. On a yearly basis, management of the National Police will be requested to account for deployment of personnel receiving specialized training by ICITAP and for equipment procured on their behalf.

evidence; preservation of the chain-of-custody of evidence; compliance with legal requirements; and thoroughness and accuracy of reports.

It is anticipated that there will be a decline in the number of cases dismissed for lack of evidence or improper investigation as police, prosecutors and judges develop professional working relationships, with clear understanding of their respective roles in the criminal investigative and prosecutive process.



ICITAP



INTERNATIONAL CRIMINAL
INVESTIGATIVE TRAINING ASSISTANCE
PROGRAM (ICITAP)

HAITI PROJECT



ICITAP



HAITI PROJECT MISSION STATEMENT

In close coordination with U.S. Government agencies and the Government of Haiti, ICITAP will assist in the development of a professional national civilian police force in the Republic of Haiti.



ICITAP



ICITAP Haiti Project

ICITAP's Haiti Project is a 5-year development plan to create a competent national civilian police force in Haiti.

The working assumption has been that the FAd'H would continue to perform police duties during an "interim" period.

On that premise, ICITAP proposes a 6-day "transition" training course to:

- define the role of the police in a democratic society
- provide technical assistance to police management
- provide basic instruction in core police skills

At no time has this training been represented as being adequate or appropriate to prepare new police recruits for operational duties.



ICITAP



TRANSITION PERIOD

Working Assumption:

That following MNF intervention the police component of the FAdH will continue policing for an indeterminate period under international police monitors (either military or civilian).



ICITAP



TRANSITION PERIOD

Working Assumption:

That following MNF intervention the police component of the FAdH will continue policing for an indeterminate period under international police monitors (either military or civilian).



ICITAP



Transitional Police Training Assumes that:

- Those trained have police experience
- They clear an initial vetting process
- They are deployed into a functional (existing) command and control structure
- Their activities will be monitored by international police monitors
- The international police monitors will also serve as field training officers



ICITAP



Transitional Police Training Output

360 Students Total per cycle. 10% (36) supervisors.
Broken down into 6 sections with 4 instructors per section.
Total of 24 instructors per cycle.

Output

Each Cycle: 324 Officers, 36 Supervisors

Duration of total transition

8 weeks

Rationale

All transition training completed before start of first NPF Academy class.



ICITAP



Haiti Transition Course

New Police Mission and Responsibilities	2 hours
Human Rights in a Democratic Society	4 hours
Police Ethics and Code of Conduct	2 hours
Powers and Responsibilities of Police	4 hours
Introduction to Patrol Procedures	4 hours
Traffic Control	4 hours
Non-lethal Defense/Suspect Control	8 hours
Mechanics of Arrest	4 hours
Handling/Transporting Prisoners	4 hours
Firearms Safety/Use of Force	<u>4 hours</u>
	40 hours
Supervisory Supplement Training	8 hours



ICITAP



Long-term Plan

- Establish National Police Academy within 60 days of arriving in-country
- Graduate first basic recruit class 4 months later
- Graduate approximately 4,000 basic recruits within 18 months of establishing Academy
- Concurrently provide technical assistance to GOH in developing all functional components of a police force



ICITAP



Haiti National Police Project

Objective: To recruit, train, and deploy a 4,000-man police force by March, 1996.

Required Pre-conditions:

- Selection and vetting criteria agreed upon
- Police organizational and salary structures agreed upon
- ICITAP given adequate training facility
- ICITAP given immediate, dedicated logistical support for construction of classrooms, barracks, ranges, etc.



ICITAP



National Police Training

- Basic academy course: 16 weeks in duration
- First course will start at approximately 60 days following ICITAP's arrival in-country. This will provide necessary time for recruitment and selection of personnel
- 10% of each class will be supervisors identified in the selection testing process

APPENDIX B

PRISON REFORM AND MANAGEMENT

According to a 1991 study conducted for the United Nations, urgent and massive prison reform efforts are needed both in the areas of physical conditions of existing prison facilities and in the ability of the current system to provide humane treatment and housing of inmates.

OBJECTIVE

Undertake a comprehensive prison reform effort, concentrating on the areas of: improvements to physical facilities; implementation of programs for improvement of inmate treatment; and development of systems for inmate security, control, accountability and classification.

STRATEGIES

Visit and assess physical conditions of current inmates and correctional facilities:

- Work with the Haitian Advisory Committee and other interested parties to provide input and oversight for the project;
- Identify and correct most obvious situations of abusive or inhumane treatment of prisoners; and
- Address immediate medical and sanitation needs.

Provide Transition Training Courses (approximately three weeks) to current correctional staff (eg., prison guards and supervisors) to orient personnel in the operation of safe, humane and secure correctional facilities:

- Identify core group of prison administrators and appropriate senior MOJ officials for immediate penal management training;
- Implement procedures for vetting current correctional staff to determine suitability for continued employment in the penal system; and
- Initiate new recruit selection program.

Initiate immediate review of inmate records to determine:

- Total number of inmates currently in detention; and

65

- Pursuant to Constitution Article 24-2, corroborate legal status of detainees and total numbers of inmates in pre-trial detention. ^{18/}

Initiate short-term physical improvement plan, concentrating on: overcrowding, unhealthy and unsanitary conditions, emergency medical needs:

- Develop full list of recommended repair and refurbishment requirements, and prioritized according to individual facilities;
- Identify locally available resources to initiate physical repair and improvements projects; and
- Begin immediate/high-impact repairs and improvements.

Develop a security management program for:

- Perimeter security; and
- Safety within the facilities, particularly within inmate housing areas.

Initiate process to identify, assess and modify as necessary existing laws, policies and procedures governing administration and management of correctional facilities.

Begin development of systems for inmate control, accountability, and classification; implement system for tracking inmate data and sentencing information.

Determine need for temporary facilities to ease overcrowding:

- Recommend implementation of alternate service programs; and
- Develop plans for inmate education, assistance and work programs, eg., teaching of basic literacy skills, reforestation projects, etc.

Identify correctional laws, policies and procedures and work with the National Assembly to draft legislation in compliance with the 1987 Constitution.

Provide technical assistance and training to develop comprehensive reforms in:

- Organization, planning and management;
- Staff accountability and inmate rights; and

¹⁸ Recommend release of offenders whose time in pre-trial detention already equals or surpasses approximate time to be served.

o **Corrections curriculum and instructor development.**

Establish organization and management structures within MOJ and the correctional services.

Begin implementation of comprehensive prison accountability procedures.

Implement basic and in-service training for corrections personnel:

- Initiate training to new recruits; and
- Establish in-service training capabilities for existing personnel.

Assess the need for additional/supplementary facilities:

- Examine need to provide separate facilities for men, women and juveniles;
- Identify and/or begin construction of additional facilities; and
- Begin formulating long-term physical facility improvement and expansion plan.

LIFE-OF-PROJECT FUNDING

It will cost approximately \$4.0 million to fund this component over the five year life of the project.



"THIS IS A PRIMARY OBLIGATING DOCUMENT THAT IS NOT
PURSUANT TO A HANDBOOK 3 PROJECT AGREEMENT"

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

September 8, 1997

Ms. Ann-Lis Svensson
Representative
United Nations Children's Fund
Parque Meliton Porras 350
LIMA 18

Subject: Grant No. 527-0384-G-00-6424-01

Dear Ms. Svensson:

Pursuant to the authority contained in the Foreign Assistance Act of 1961, as amended, the United States Agency for International Development (USAID) hereby grants to the United Nations Children's Fund (hereinafter referred to as "UNICEF"), the sum of \$350,000 to continue to support UNICEF in its efforts to test the Transit to Primary Model in selected areas of Peru, as described in the Letter of Agreement dated September 25, 1996, Attachment 1 and 2 thereto (Attachment A for purposes of this Amendment), the "Revised Schedule" (Attachment B for purposes of this Amendment) and the "Revised Program Description" (Attachment C for purposes of this Amendment).

This grant increment is effective and obligation is made as of the date of this letter and shall apply to expenditures made by the Grantee in furtherance of program objectives during the period beginning with the effective date and ending March 31, 1999.

This Grant is made to the Grantee on condition that the funds will be administered in accordance with the terms and conditions set forth in the Letter of Agreement dated September 25, 1996, in Attachments 1, 2 and 3 thereto and the Revised Schedule and Revised Program Description, all of which have been agreed to by your organization.

Please sign the original and all enclosed copies of this letter to acknowledge your receipt of the Grant, and return the original and all but one copy to me.

Sincerely yours,


Donald W. Boyd
Grant Officer

Attachments:

- A. Letter of Agreement dated September 25, 1996, and its attachments
- B. Revised Schedule
- C. Revised Program Description

ACKNOWLEDGED:

UNITED NATIONS CHILDREN'S FUND

By: 

Title: Representative

Date: Sept 11, 1997

FISCAL DATA

Appropriation:	72X1095
Budget Plan Code:	LCDX-97-25527-KG13
MAARD No.:	527-0384-T-70059
Project No.:	527-0384
Total Estimated Amount:	\$664,000
Obligations to Date	\$314,000
This Obligation:	\$350,000
Paying Office:	USAID/Peru

REVISED SCHEDULE

A. Purpose of Grant

The purpose of this Grant is to improve the learning conditions in 4,350 selected first-and second-grade classes in periurban and rural poverty areas of Peru, as more specifically described in Attachment C (the Revised Program Description) of this Grant.

B. Period of Grant

1. The effective date of this Grant is September 25, 1996. The expiration date of this Grant is March 31, 1999.
2. Funds obligated hereunder are available for program expenditures for the estimated period September 25, 1996, through March 31, 1999, as shown in the Grant Budget below.

C. Amount of Grant and Payment

1. The total estimated amount of this Grant for the period shown in B.1 above is \$664,000.
2. USAID, by Letter of Agreement dated September 25, 1996, obligated the amount of \$314,000, and hereby obligates the additional amount of \$350,000 for program expenditures during the period set forth in B.2 above and as shown in the Grant Budget below.
3. Payment shall be made to the Grantee in accordance with procedures set forth in Section F, Special Provisions.

D. Grant Budget

The following is the Grant Budget. Revisions to this Budget shall be made in accordance with the Standard Provision of this Grant entitled "Revision of Grant Budget."

ILLUSTRATIVE ACTIVITY BUDGET (US\$)*

Item	USAID Grant Budget			Government of Canada	Japan Committee	UNICEF Core Funds	GOP	Totals
	Obligated Amount							
	From 9/25/96-3/31/98	This Amendment 9/97 - 3/31/99	Total Estimated					
1. Technical Assistance	-	40,000	40,000	208,000	46,000	0	7,200,000	7,494,000
2. Training	36,000	150,000	186,000	93,500	20,000	0		299,500
a. Elementary education specialists	12,000	36,000	48,000	-	-			
b. Workshops on basic education conditions	24,000	60,000	84,000	-	-			
c. Inter-learning groups	-	54,000	54,000	-	-			
3. Materials	229,000	75,000	304,000	393,000	110,000	0	180,000	987,000
a. Teachers' manuals	5,000	12,000	17,000					
b. Basic classroom supplies	123,000	45,000	168,000					
c. Classroom libraries	101,000	18,000	119,000					
4. Equipment	-	-	-	-	-		3,200,000	3,200,000
5. Supervision and Monitoring	14,000	46,000	60,000	120,000	26,000	0		206,000
a. Distribution, promoting use of materials	7,000	12,000	19,000					
b. Internal reporting and data interpretation	4,000	16,000	20,000					
c. Baselines Mutual monitoring and follow-up	3,000	18,000	21,000					
5. UNICEF's Technical, Logistical Support**	35,000	39,000	74,000	50,500	15,000	272,000		411,500
TOTAL	314,000	350,000	664,000	865,000	217,000	272,000	10,580,000	12,598,000

*This budget is purely illustrative in that the USAID contribution is not tied to any specific line items. Amounts for non-USAID contributions are estimated US\$ equivalents of amounts in other currencies. The GOP is also providing salaries for 4,350 teachers, at a cost estimated at \$7,200,000, basic classroom equipment for 4,350 classrooms, valued at approximately \$3,200,000, in addition to school buildings.

** Includes 3% indirect costs retained by UNICEF home office

BEST AVAILABLE COPY

E. Reporting Requirements

1. Quarterly Progress Report

UNICEF shall submit two (2) copies in English and a version on diskette (Word Perfect 5.2) of quarterly performance reports. The form and content are the same as approved by the designated USAID Activity Officer.

2. Final Report

Prior to the completion date of the Grant, UNICEF will submit two (2) copies and a version on diskette (Word Perfect 5.2) of a final report that will include accomplishments and recommendations for future activities. This report must have the approval of the USAID Activity Officer.

3. UNICEF shall submit two copies of each of the above reports, Quarterly and Final, required by this Grant to the Bureau for Policy and Program Coordination, Center for Development Information and Evaluation, Development Information Division (PPC/CDIE/DI). All documents should be mailed to:

PPC/CDIE/DI
ACQUISITION
Room 209 SA-18
Agency for International Development
Washington, D.C. 20523

F. Special Provisions

1. The following Standard Provisions apply to this Grant: 1, 3, 4, 6, 7, 8, 9, and 10, as are indicated in the Checklist in Attachment 3.
2. The following Standard Provisions have been revised to read as follows:

2. REFUNDS (DECEMBER 1996)

- a) If the Grantee earns interest on Federal advances prior to expending the funds for program purposes, the grantee shall remit the interest annually to USAID.

- b) Funds obligated by USAID but not disbursed to the Grantee at the time the Grant expires or is terminated shall revert to USAID, except for such funds encumbered by the Grantee by a legally binding transaction applicable to this Grant. Any funds advanced to but not expended by the Grantee at the time of expiration or termination of the Grant shall be refunded to USAID except for such funds encumbered by the Grantee by a legally binding transaction applicable to this Grant.
- c) If, at any time during the life of the Grant, or as a result of final audit, it is determined that USAID funds provided under this Grant have been expended for purposes not in accordance with the terms of this Grant, the Grantee shall refund such amount to USAID.

11. AUDITS AND RECORDS (U.N. GRANTS) (JULY 1988)

- a) It is agreed that the Grantee will furnish the U.S. Government with a final report on activities carried out under this Grant, including accounting for these funds in sufficient detail to enable USAID to liquidate the Grant. The report should be submitted to the U.S. Mission to the U.N. in New York for forwarding to the USAID program office.
- b) It is understood that financial records, including documentation to support entries on accounting records and to substantiate charges against the Grant, shall be maintained in accordance with the Grantee's usual accounting procedures, which shall follow generally accepted accounting practices. All such financial records shall be maintained for at least three years after the final disbursement of funds under this Grant.
- c) The Grantee confirms that the grant account will be audited in accordance with the established procedures under appropriate provisions of the financial regulations and rules of the United Nations.

12. PAYMENT (LETTER OF CREDIT) (FEBRUARY 1997)

- a) Payment under this Grant shall be by means of a Letter of Credit (LOC) in accordance with the terms and conditions of the LOC and any instructions issued by the USAID Bureau for Management, Office of Financial Management, Cash Management and Payment Division (M/FM/CMP).
- b) As long as the LOC is in effect, the terms and conditions of the LOC and any instructions issued by M/FM/CMP constitute the payment conditions of this Grant superseding and taking precedent over any other clause of this Grant concerning payment.

- c) The Grantee should have written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient. The Grantee shall exercise prudent management of Federal funds by drawing only those funds which are required for current use. The timing and the amount of the drawdown shall be as close as is administratively feasible to the actual disbursements by the Grantee for direct program or activity costs and the proportionate share of any allowable indirect costs.
- d) If the LOC is revoked, payment may be made on a cost-reimbursement basis, in accordance with paragraph (f) of this clause.
- e) Revocation of the LOC is at the discretion of M/FM/CMP after consultation with the grant officer. Notification to the recipient of revocation must be in writing and must specify the reasons for such action.
- f) If the LOC is revoked, the Grantee shall submit to the USAID Controller an original and 3 copies of SF 1034 "Public Voucher for Purchases and Services Other Than Personal" and SF 1034A, Continuation of SF 1034, normally once a month, but in any event no less than quarterly. Each voucher shall be identified by the Grant number and shall state the total costs for which reimbursement is being requested.

REVISED PROGRAM DESCRIPTION

Program Description is revised as follows:

Section B. "Activity Implementation and Institutional Responsibilities" is deleted and the following is substituted in lieu thereof:

B. Activity Implementation and Institutional Responsibilities

1. UNICEF

UNICEF will assume overall responsibility of the following components:

- a. Administration of Grant funds.
- b. Technical Support, coordination, monitoring and evaluation of the following activities in the 16 pilot areas:
 - 1) Technical Assistance

21 UNICEF Specialists (18 full-time and 3 part-time) providing technical assistance.
 - 2) Training
 - Training of 166 specialists responsible for the supervision, distribution and use of the materials and for identification of results indicators in selected poverty areas.
 - Training of 4,350 first- and second-grade teachers who will be responsible for learning and managing classrooms.
 - 3) Materials
 - Publishing and distribution of 8,500 teacher manuals.
 - Purchase and distribution of basic educational materials to 4,350 classes.
 - Purchase and distribution of basic reading materials in 4,350 class libraries.

4) Promotion and Monitoring

- Distribution and promotion of the use of educational materials by teachers in the selected areas.
- Internal reporting and interpretation of data.
- Refresher courses to relearn best practices and methods for 166 or more groups of teachers.
- Technical assistance, administrative support and field visits to share progress and obstacles to the application of the program innovations.

2. USAID

USAID will provide financing in an amount not to exceed \$664,000, in support of the aforementioned activities within the terms of this Grant. The Office of Health, Population and Nutrition will assume overall responsibility for activity management within USAID/Peru.

To assist in the implementation of this agreement, USAID from time to time will issue implementation letters furnishing additional information on requirements regarding matters stated in this Grant. Such letters shall not modify the terms of the Grant.

3. Other Contributions

The principal partners will be UNICEF, as the implementing agency, which will provide approximately \$272,000 from its general resources; the Government of Canada, which will provide approximately \$865,000; the Japan Committee, which will provide approximately \$217,000, and the GOP, which provides teachers, basic classroom equipment, the actual classrooms, and general policy supervision. The illustrative budget shows the approximate contribution of each donor.

Additional technical and other support is being provided by the Educational Forum (*Foro Educativo*), the Catholic University, and the National Pedagogical Institute of Monterrico. Also, the Peruvian Institute for the Teaching of Science is providing materials for the teaching of mathematics and Aymara language materials; the Antoon Spinoy Foundation is providing technical assistance in work with Chanka Quechua; the José María Arguedas Center in Cusco provides technical assistance for work with Qosqo Quechua; ERA, with financial support from the Swedish agency Rådda Barnen, produces materials in Qosqo Quechua; and the Bilingual Pedagogical Institute of Loreto is providing materials for Asháninka, Chayahuita, Shipibo, and Aguaruna children. Others are likely to participate over the next year.

STANDARD PROVISIONS

The following Standard Provisions for Public International Organizations in effect as of the effective date of this Grant are incorporated herein by reference with full force and effect, as though fully set forth herein:

- | | | |
|-----|---------------------------------|-----------------|
| 1. | Allowable Costs | (July 1988) |
| 2. | Refunds | (December 1996) |
| 3. | Revision of Grant Budget | (July 1988) |
| 4. | Termination Procedures | (July 1988) |
| 6. | Investment Promotion | (January 1994) |
| 7. | Nonliability | (July 1988) |
| 8. | Amendment | (July 1988) |
| 9. | Notices | (July 1988) |
| 10. | Publications and Media Releases | (February 1994) |
| 11. | Audit and Records (U.N. Grants) | (July 1988) |
| 12. | Payment (Letter of Credit) | (February 1997) |