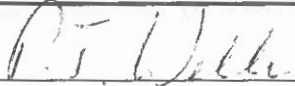
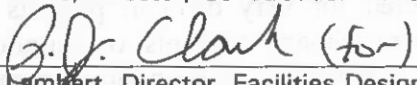


TO: MODIFIED BY EI 95-032 EFFECTIVE 7/27/95, EI 06-011 EFFECTIVE 5/1/06 & EB 06-037 EFFECTIVE 8/22/06 SUPERSEDED BY EB 21-057 EFFECTIVE 11/24/21	<h2 style="margin: 0;">ENGINEERING INSTRUCTION</h2> <p style="margin: 0;">NEW YORK STATE DEPARTMENT OF TRANSPORTATION</p>
Distribution: <div style="display: flex; justify-content: space-around; width: 100%;"> 30 Main Office 32 Regions Specials </div> APPROVED: <div style="margin-left: 20px;">  P. T. Wells, Director, Construction Division </div> <div style="margin-left: 20px; margin-top: 10px;">  J. R. Lambert, Director, Facilities Design Division </div>	SUBJECT: DEDICATED POLICE SERVICES ON DEPARTMENT CONSTRUCTION PROJECTS Subject Code: 7.26-2-16 Code: EI 93-30 Date: 10/7/93 Supersedes:

DEDICATED POLICE SERVICES ON DEPARTMENT CONSTRUCTION PROJECTS

I. INTRODUCTION

This Engineering Instruction establishes the procedure for the use of dedicated police services provided by the Division of State Police (DSP) on Department construction projects. For most projects, police enforcement of traffic regulations during construction operations will continue to be through cooperative arrangements with the Division of State Police and other Police agencies.

Difficult traffic control situations occasionally result in the need for a greater level of police services than can be expected through such cooperative arrangements alone.

The Department, in cooperation with the State Police, developed a Memorandum of Understanding and Supplemental Memorandum of Understanding as a mechanism to provide dedicated State Police services on select construction projects. These two documents are attached for information and use.

The Memorandum of Understanding establishes the general provisions for obtaining dedicated police services, and has been enacted by the Department and the DSP. A project specific Supplemental Memorandum of Understanding provides details of specific police services and costs. A Supplemental Memorandum of Understanding is to be negotiated by the Region with the local DSP Troop on an individual project basis.

Selective use of dedicated police services on Department construction projects will have a positive impact on work zone safety. Overuse will lessen the positive impact of police presence at work zones; and use significant amounts of Regional Capital Program funds.

By agreement between this Department and the Division of State Police, the Department's first request for dedicated police services will be to State Police, regardless of the location of the project. (Except in Region 11 where New York City Traffic Enforcement Agents are provided.) If State Police are unable to meet the request, it is acceptable to approach local police agencies. The Department has utilized local police agencies on projects, although standard procedures for that purpose have yet to be developed. However, the first option is to arrange coverage by State Police before considering use of local police agencies.

II. PROJECT SELECTION CRITERIA

Even on most complex and difficult projects, full-time police presence is neither necessary nor feasible. Regions are to continue to rely on cooperative police services for enforcement and traffic control activities that have historically been provided by the State Police as part of their normal duties.

Dedicated police services should only be considered for very difficult projects with unique situations and special operations that require extraordinary amounts or duration of police assistance. These are situations in which temporary interruption of the police presence will result in disruptions in traffic flow or unacceptable safety risks. Once a project has been designated for dedicated police services, the actual level of assistance utilized should be closely monitored by the E.I.C. so these services are only used when needed.

The decision to include dedicated police services should normally be made during the design process. Concurrence with the use of dedicated police services should be obtained from the Regional Traffic Engineer and Regional Construction Engineer.

Suggested criteria to determine the need for dedicated police services as part of the project Traffic Control Plan include:

- High-speed, high volume traffic flow in combination with any of the following:
 - Construction activities (paving, etc.), closely adjacent to traffic without positive protection
 - Restrictions to traffic flow based on geometry; no shoulder, reduced shoulder width, reduced lane width, and reduced number of travel lanes.
 - Locations where incidents will produce substantial congestion and delays on the facility. (Police orders are required to legally tow vehicles when the operator is not present).
 - Special operations that require temporary or frequent shifts in traffic patterns.
 - Locations where traffic conditions and accident history indicate substantial problems may be encountered during construction.
 - Night time construction which may create special concerns involving the Traffic Control Plan.
 - Projects with heightened public concern regarding the impacts of the Traffic Control Plan.

Occasionally, it may become necessary to add dedicated police services after the project is underway. Conditions that may indicate the need to add dedicated police services during the construction phase include recurrence of traffic accidents, objectionable delays and congestion,

and/or widespread driver disregard for speed limits and other regulations. The addition of project work or modification of construction phases may result in the need to reevaluate dedicated police services. Before proceeding with negotiating a Supplemental Memorandum of Understanding for the addition of dedicated police services, a detailed review of the Traffic Control Plan, including possible revisions and charges, should be performed by the E.I.C., designer and other appropriate Regional staff.

III. INTEGRATION OF DEDICATED POLICE SERVICES INTO THE TRAFFIC CONTROL PLAN

Use of police services is only one element of the Traffic Control Plan. The decision to use this tool is normally made during project design as part of the development of the Traffic Control Plan. The Region must work closely with the State Police to ensure that the logistics for the police services are reasonable (appropriate speed limit, pullover access, etc.). Traffic Control Plan features needed to facilitate dedicated police services (i.e. signs, markings, or special requirements such as pullover areas) are to be incorporated in the PS&E.

The steps necessary to include dedicated state police services in a Capital Project are:

1. The need for dedicated State Police services will normally be determined by the Project Designer, with input from appropriate groups (Construction, Design, RPPM, Traffic Engineering & Safety, FHWA, etc.). A request to include dedicated police services including an estimated scope of services and initial cost estimate, is prepared by the Project Designer.
2. The Project Designer determines the validity of the request and scope of police services after reviewing request with appropriate groups, and forwards a recommendation thru the Regional Design Engineer to the Regional Director.
3. The Regional Director approves, modifies, or disapproves the request.
4. If approved, the Project Designer prepares a scope of services and cost estimate with the local DSP Troop.
5. The Supplemental Memorandum of Understanding is signed by the Regional Director under the authority granted by Official Order 1565 (11/20/92, Item 11).

NOTE: For projects following the federal-aid-non-Certification Acceptance process (NCA), FHWA review and approval of the Supplemental Memorandum of Understanding is required before it is executed by the Regional Director. The Supplemental Memorandum of Understanding should be forwarded for FHWA approval through the Design Quality Assurance Bureau (projects in design) or the Construction Division (projects in construction).

6. The Region submits two sets of the completed package to the Office of Legal Affairs, Building 5, Room 509. The completed package includes the Supplemental Memorandum of Understanding and Appendices A, B, and C as specified in the Supplemental Memorandum of Understanding. Examples of appropriate information for each Appendix are attached.

7. Office of Legal Affairs forwards both original sets of the package to the Division of State Police for execution. One original is retained by DSP, one is returned to Legal Affairs.
8. Legal Affairs sends the executed original package to the Region. The Region sends a copy to the Central Office Construction Division and Accounting Bureau. For projects following the Federal-Aid Certification Acceptance process, the Region sends an additional copy to the Design Quality Assurance Bureau with the request that the copy of the Supplemental Memorandum of Understanding be forwarded to FHWA for informational purposes.
9. Region adds note to PS&E package concerning the inclusion of dedicated police services. An appropriate note is also to be included in the Traffic Control Plan to let bidders know that dedicated police services is planned for the project.

If it becomes necessary to initiate dedicated police services after project letting, the following steps are to be followed:

1. The Regional Construction Group, in consultation with the Project Designer, the Regional TE&S Group, and the Central Office Construction Division Regional Liaison Group, initiates a request for dedicated police services. It is essential that this need is based on a detailed review of the Traffic Control Plan, including consideration of revisions and changes that may alleviate the problem. If the review indicates the need, a request for dedicated police services is prepared for submission to the Regional Construction Engineer. The request will describe the need, and provide an initial cost estimate and scope of services.
2. The request is forwarded to the RPPM for determination of funding availability. This review will include consultation with appropriate Regional Groups.

Steps 3 - 8 are essentially the same as above. However, requests initiated during Construction usually involve a higher urgency for implementation. It is thus essential that all these steps are expedited to permit the earliest possible implementation of dedicated police services.

IV. FUNDING

Costs for dedicated police enforcement are chargeable to the Region's Capital program. These costs are eligible for Federal reimbursement on Federal Aid Projects at the same percentage as Federal participation on the project. It is necessary for the Region to ensure that funds are available in the Capital Program before initiating requests for dedicated enforcement.

V. CONTROL AND ADMINISTRATION

- The EIC controls actual hours the State Police are on the project. The EIC also makes adjustments as appropriate in accordance with the Supplemental Memorandum of Understanding. It is essential to limit the use of dedicated enforcement to only the level necessary to maintain traffic safety and acceptable traffic flow.

- The Division of State Police submits bi-weekly time records to the EIC using the form in Appendix B. The State Police also submit a bill and supporting documentation on a periodic basis to the E.I.C.
- The EIC certifies the time record and billing statement and submits it to the Regional Construction group.
- The Regional Construction group sends the information to Purchasing, Bldg. 5, Room 207A, (copy of sample correspondence attached).
- The Central Office Accounting Bureau prepares a journal voucher and authorizes transfer of funds from the Department to the Division of State Police.

VI. QUALITY CONTROL - QUALITY ASSURANCE

The use of dedicated police services on capital projects is a new procedure. It has the potential to significantly improve safety and traffic flow on selected projects. However, its implementation entails financial costs, thus diverting funds from other purposes. It is essential to assess the effectiveness of dedicated enforcement to ensure it has the maximum potential benefit. To accomplish this, the following steps are necessary:

- Regional Design Groups are responsible for including the dedicated police services procedure in the design quality control process.
- On projects with dedicated police services, its impact is to be reviewed during the designer site-visitation.
- The post construction review report should contain an assessment of the enforcement effort. It will include an evaluation of effectiveness, and recommendations for improvements on future projects.
- The Regional Design Group will use the project visitation reports and post construction assessment to refine Regional procedures for use of dedicated enforcement. In addition, a summary assessment will be provided to DQAB at the completion of a project or on an annual basis.
- The Construction Division Regional Liaison Group will note the effectiveness of dedicated police services during routine project visitations.
- An assessment of dedicated police services will be included in the annual statewide M&PT survey administered by the TE&S and Construction Divisions.
- DQAB will be responsible for revising this procedure as necessary, in consultation with the Traffic Engineering and Safety and Construction Divisions, in consideration of input and assessments from the Regions and from the Annual Statewide M&PT survey.

DEDICATED POLICE SERVICES
ON DEPARTMENT CONSTRUCTION PROCESS

LIST OF ATTACHMENTS FOR E.I.

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|--------------|--|
| Attachment 1 | Memorandum of Understanding |
| Attachment 2 | Supplemental Memorandum of Understanding |
| Attachment 3 | Example of Appendix A of Supplemental Memorandum of Understanding |
| Attachment 4 | Example of Appendix B of Supplemental Memorandum of Understanding |
| Attachment 5 | Example of Appendix C of Supplemental Memorandum of Understanding |
| Attachment 6 | Example of Information To Be Sent To Central Office Accounting Bureau For Preparation of Journal Voucher |

ATTACHMENT 1

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING
NEW YORK STATE DEPARTMENT OF TRANSPORTATION
AND
DIVISION OF THE NEW YORK STATE POLICE
FOR STATE POLICE SERVICES
IN CONNECTION WITH HIGHWAY PROJECTS

THIS MEMORANDUM OF UNDERSTANDING, entered into this 25th
day of June, 1992 by and between the New York State
Department of Transportation (the "Department") with principal
offices in the Administration and Engineering Building, Building
5 at the A. E. Harriman State Office Building Campus, Albany,
N.Y. 12232 and the Division of the New York State Police ("State
Police") with principal offices in Building 22 at the A. E.
Harriman State Office Building Campus, Albany N.Y. 12226, is to
provide for the use of services of State Police personnel in work
zone traffic control.

WITNESSETH:

WHEREAS, the Department is responsible for the award of
contracts for the Construction, Reconstruction and Maintenance of
State Highways including Federal Aid projects, and certain
projects off the State highway system, (hereinafter collectively
called "Highway Projects"); and

WHEREAS, the Department is proposing to use dedicated State
Police services within certain construction and/or maintenance
work zones on Highway Projects in order to enhance safety and
assist in the control of traffic movement in and through said

work zones; and

WHEREAS, dedicated State Police services could be made available for work zone traffic control if funding for specific costs were provided by the Department.

NOW THEREFORE, in consideration of mutual benefits moving to each of the parties hereto, the Department and the State Police do agree as follows:

I. General-

It is intended that State Police services be provided in work zones when the Department deems that such service would enhance work area safety, and such service is consistent with other State Police responsibility pending the availability of sufficient personnel.

The decision to use State Police in work zones will normally be made at the time the Traffic Control Plan (TCP) is prepared. State Police services however, may be called for at any time by the Department's Engineer in Charge (EIC) or his designee, and will be provided subject to the scheduling and availability requirements noted elsewhere in this memorandum.

The State Police agree to make available Police Traffic

Unit(s) (PTUs) for certain Highway Projects. A PTU is defined as one Trooper and a marked patrol vehicle, as well as a State Police Supervisor if deemed necessary by the Department of Transportation or if deemed necessary by the State Police when expressly approved by the Department. A PTU will provide traffic control and incident management to assist in the proper maintenance of traffic for the particular Project for the period of time agreed upon by the Department and the State Police. The PTUs, subject to Section III, subsection 6 of this Agreement, shall be under the direction of the Engineer-In-Charge ("EIC") of the Highway Project or his or her designee.

The parties shall enter into supplemental MOU's for each specific Highway Project to more fully describe the request for State Police assistance, salary requirements and duration of police presence, etc.

II. Procedures/Requirements

1. Traffic Control Plan Preparation

a. During the preparation of the Traffic Control Plan (TCP) for each major construction, reconstruction and/or maintenance project, the Department of Transportation shall determine if the services of the State Police are required.

b. The project special provisions shall note that the services of the State Police will be required for specific phases of the project.

c. A State Police representative(s) shall be in attendance at a Traffic Control meeting to be held after the project is awarded to review the TCP for projects or project phases in which their services are required.

2. Department notification to the State Police

a. The Department shall notify in writing, the Deputy Superintendent, Field Command for the New York State Police at Division Headquarters, Albany, New York 12226, of the need of their services at the time of the award of contract.

b. An estimate of the duration of the assignment shall be provided to the State Police representative at a traffic control meeting to be held after the project is awarded.

c. In the event that the need for State Police services is discovered during the construction phase, when time permits, written request for the need for State Police services should be sent to the Deputy Superintendent, Field Command of the State Police. When time is of the essence, the parties agree to dispense with the written request requirement. The State Police

will make every attempt to provide assistance as quickly as possible, consistent with other State Police responsibilities.

d. Throughout the project, the EIC or his or her designee in consultation with the State Police may make adjustments to the PTU staffing levels and/or work hours as conditions warrant.

e. The State Police agree to remain on the site for the duration of the time scheduled, absent the occurrence of an emergency which requires their immediate presence elsewhere. In the event of an emergency situation, the State Police agree to return to the project site as soon as possible, or substitute a Trooper(s) when possible. Any change in scheduling State Police personnel shall be provided in writing, when time permits, to the State Police representative, at least seven (7) days in advance. In the event that the responding Trooper appears at the work site without being notified of any changes, then a minimum of four hours of the applicable pay rate may be charged to the project in question. Any requests for additional State Police personnel should be made with as much advance notice as possible. The State Police agree to make every effort to accommodate requests for additional personnel.

f. The responsibilities, tasks and duties to be performed by the PTU will be reviewed by the Department with the

State Police and the Contractor in advance of commencing work.

g. When deemed necessary by the Department, the Department, through its construction contract may provide the use of a Department or Contractor's facility within the project area for the PTUs and/or the Police Supervisor's use at no cost to the State Police. Maintenance of and access to the facility shall be the sole responsibility of the Department and/or the Contractor.

h. In the event the State Police are unavailable, the Department may request the services of the County or Municipal Police.

III. State Police Responsibility

The responsibilities to be performed by the State Police, as determined in consultation with the Department, may include but shall not be limited to the following:

1. Coordinate the activities of the PTUs which may be assigned to the project. This shall include the coordination of State and local police which may be involved at any given time.

2. Coordinate and provide appropriate police services when an incident occurs.

3. Plan for and direct the deployment of PTUs assigned to the Project.

4. It is anticipated that the PTU's will be on full duty status while assigned to the State Highway Project. Each State Police member assigned to the project shall be in full uniform. All vehicles assigned shall be marked cars with all of the usual police equipment. Equipment within the vehicle shall be provided by the State Police.

5. Enforcement of speed restrictions and other traffic regulations not directly related to maintaining the safety and capacity of the street and highway system affected by the Project will be provided by the usual police agencies, including the State Police, as part of their normal duties and in the usual manner. When such traffic control assistance is provided by regular on duty patrols in accordance with their normal duties, these activities are not eligible for payment under this Memorandum.

6. The State Police will cooperate as much as possible with Department staff, including as to specific locations in which to set up, and will make a good faith effort to respond to reasonable requests. If there is a conflict between State Police policies and procedures and the expectations of the Department, this will be brought to the attention of the

EIC who will resolve the matter with the appropriate State Police Supervisor or Trooper as specified in the Supplemental Memorandum of Understanding.

7. State Police shall have no responsibility nor shall accept any liability with regard to the planning and layout of detour routes nor for the design, layout or placement of temporary signs, lights, lane markings, flashers or other traffic control devices associated with the project.

IV. State Police Tasks

While actively on duty and on the project site, each PTU shall be responsible for the following:

1. Assist in keeping travel lanes clear of illegally parked or stalled vehicles in detour routes and major traffic arteries and arrange for their removal from the travel lanes.
2. Assist in controlling illegal turning movements which restrict capacity at intersections.
3. Assist in the direction of traffic in congested situations.
4. Assist in traffic control for special construction

events such as bridge steel erection, changes in traffic patterns and blasting.

5. Observe and report traffic problems on the State Highways and/or designated detour routes to the EIC or his or her designee.

6. Enforce speed and other restrictions in or about the work zone area.

V. Reimbursement of Costs

The following reimbursement procedures shall be followed by the State Police for services rendered.

1. The State Police shall be authorized to incur expenses up to the amount specifically stated in the Supplemental MOU, in connection with the work performed under this Memorandum. The Department will encumber the necessary funds which will then be available for use for the sole purpose of payment to the State Police for its eligible costs incurred under this Memorandum.

2. The State Police shall submit a detailed billing of eligible costs with a signed journal voucher to the Department for scheduled PTU services which were specifically requested by the Department based on the actual number of hours which were

specifically requested by the Department and/or each PTU worked at his or her post as reported and approved by the EIC.

3. In the event, subject to express agreement by the Department, PTUs are on an overtime shift working on the project, reimbursed shall be the employees' actual overtime rate for the actual time worked on the Project or the minimum number of overtime hours which the State Police must pay as mandated by the employee's union contract in force at the time, whichever is greater. The actual amount shall be stated in the Supplemental MOU. The Department reserves the right to utilize the PTUs on the Project site for the full minimum overtime period.

4. Eligible costs to be reimbursed under this Memorandum shall include employee personal salaries, employee's leave and fringe benefits, additives, materials and supplies, equipment use charges, or other costs directly identifiable with the accomplishment of the work. Reimbursement for each State Police Vehicle shall be at a price mutually agreed upon by the parties in a Supplemental MOU. In the event the Department determines that a Police Supervisor is required for the Project, the Department, through its construction contract, may if deemed necessary provide a vehicle for the Police Supervisor's use while working on the Project at no cost to the State Police.

5. All costs are subject to audit and no further

payment shall be drawn except as specifically stated above. All State Police personnel will sign a time sheet form on a daily basis, showing the hours worked in connection with the Project. At the end of each work day, these forms are to be submitted to the EIC or his or her designee. The parties agree that under this Memorandum, profit shall not apply and only actual costs shall be eligible for payment. A list of job titles and salaries shall be attached to each Supplemental MOU.

VI. Access to Work

The Department shall have access to all phases of work during its prosecution and to records pertaining thereto, including time records, payrolls, invoices, work orders and other similar records.

VII. Unsatisfactory Work/Mutual Right of Termination

Should PTU or supervisor services at anytime not meet Department expectations, that fact shall without unnecessary delay be brought to the attention of the State Police designee who shall attempt to resolve the problem promptly. If the Department determines that for whatever reason, remedial action has not resulted in satisfactory work, the Department may terminate this Memorandum and its obligation hereunder shall immediately cease. The Department's sole obligation thereafter,

to the extent that monies are available therefor, shall be to reimburse the State Police for satisfactory work already rendered which is eligible for reimbursement under this Memorandum.

If at any time, the State Police are unable or unwilling to continue services specified by this or the Supplemental MOU, the State Police shall have the right to terminate the Memorandum upon 60 days written notice to the Director, Construction Division, New York State Department of Transportation, Building 4, Room 101, State Campus, Albany, New York, 12232.

VIII. Audit and Inspection

The State Police shall permit authorized representatives of the Department, the State Comptroller and/or the Federal Highway Administration to inspect all work, payrolls, records of personnel, invoices, and other relevant data and records; and to audit the books, records, and accounts of the State Police pertaining to the work under this Memorandum upon reasonable notice. If after audit, it is determined by either the State Comptroller, the Department or the Federal Highway Administration that costs were paid under this Memorandum that were not eligible for payment, the State Police will reimburse the Department for those excess payments. The State Police will maintain the records pertaining to this Memorandum for three (3) years after final payment is made hereunder.