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Commissioner Drew Harris  
Office of the Garda Commissioner  
An Garda Síochána Headquarters  
Phoenix Park  
Dublin 8  
D08 HN3X

30 March 2020

### **Re: Spit Hoods**

Dear Commissioner Harris,

I am writing to you in the context of the policing response to the public health emergency caused by Covid-19. First, let me say that we welcome the strong emphasis in all of your recent statements to, and the statements of, Government on the importance of policing by consent in Ireland, and the prioritizing of offering advice and guidance to individuals over enforcement.

The Irish Council for Civil Liberties, (ICCL) has some concerns about the wide use of checkpoints with officers requesting individuals to present identification over the weekend. We are monitoring the law carefully and once Regulations are published under the Health (Preservation and Protection and other Emergency Measures in the Public Interest ) Act 2020, we will be writing to you again with our views on how best the new policing powers expected to be created under these regulations can be exercised in a manner compliant with the rights obligations of An Garda Síochána.

In this particular correspondence, however, I write to express our concern at reports that An Garda Síochána have ordered 16,000 spit hoods to be used during the duration of the current public health crisis.

As you know, spit hoods consist of full hoods that cover the head and face of individuals. They are generally forcibly imposed by police officers on an individual where they believe there is a risk of the spread of disease through spitting, biting or coughing.

We know there have been anecdotal reports of some members of the public spitting and coughing on others to intentionally cause distress during this period of crisis when Covid-19 is posing a grave risk to life and health and can be spread through human interaction, including through coughing. We consider that such behaviour is completely unacceptable and we consider that appropriate responses to such behaviour include criminal sanctions.

ICCL is cognisant of the right of all members of An Garda Síochána to the same level of protection as everyone else on the front line dealing with those who may potentially be infected by Covid-19. In this regard, we were pleased to hear that

there has been widespread distribution of protective equipment such as face masks, goggles, gloves and protective suit to members of the force.

However, we urge you to reconsider the rollout of spit hoods in Ireland. Spit hoods were introduced into the UK and the USA in the past number of years and since then have been widely criticised by a range of actors. Our colleagues at Liberty have described them as “dangerous, degrading and unjustified”.<sup>1</sup> Others have said they are “cruel and dangerous”.<sup>2</sup> There is evidence that their use has led to serious injuries, and, in some tragic cases, deaths.<sup>3</sup> They can induce panic, cause distress and trauma, risk suffocation and can exacerbate dangerous situations.<sup>4</sup>

The practice of hooding has long been recognised as a form of torture and we believe the use of spit hoods could similarly constitute inhuman and degrading treatment. They could also be defined as a deprivation of liberty given their restriction on the body of the individual concerned.

We would remind you of your duty, including under s.42 of the Human Rights and Equality Act 2014 to ensure all policing activities comply with human rights law and standards. The use of spit hoods therefore must be justified as both necessary and proportionate. So far, other than some anecdotal evidence that there have been people deliberately coughing and spitting on others, we don't believe a proper evidence base exists to prove the necessity of introducing them into Ireland.

In terms of the serious risk to human rights that they pose we also doubt that their use can ever be proportionate except in the most rare and extreme cases where, for example, someone who has Covid-19 is deliberately setting out to infect others and other proportionate uses of force available to An Garda Síochána such as restraints and holds, pepper spray, forcible arrest and detention have proven ineffective to stop their behaviour.

Even in these most extreme circumstances, these hoods should not be used without clear protocols and proper training on their safety implications. This will take time to get right and we urge both clarity and caution in drafting protocols and ensuring proper training.

We would also question whether spit hoods have been properly certified for safe use in this country.

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<sup>1</sup> <https://www.libertyhumanrights.org.uk/issue/the-rise-of-spit-hoods/>

<sup>2</sup> <https://www.amnesty.org.uk/press-releases/spit-hoods-little-more-glorified-sack-which-can-be-cruel-and-dangerous>

<sup>3</sup> <https://www.btp.police.uk/pdf/FOI%20Response%20980-16%20Spit%20Hoods%20Doc%206%20Trainers%20Pack.pdf> ; <https://budgeandheipt.com/blog/improper-use-of-spit-hoods-a-recipe-for-disaster/> ; <https://www.theguardian.com/us-news/2016/jan/11/michigan-death-jail-jack-marden-spit-hood>

<sup>4</sup> [https://www.researchgate.net/publication/334413033\\_The\\_use\\_of\\_spit\\_guards\\_also\\_known\\_as\\_spit\\_hoods\\_by\\_police\\_services\\_in\\_England\\_Wales\\_and\\_Northern\\_Ireland\\_to\\_prevent\\_transmission\\_of\\_infection\\_or\\_another\\_form\\_of\\_restraint](https://www.researchgate.net/publication/334413033_The_use_of_spit_guards_also_known_as_spit_hoods_by_police_services_in_England_Wales_and_Northern_Ireland_to_prevent_transmission_of_infection_or_another_form_of_restraint)



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Finally, while reports indicate that these hoods are being ordered for use only during the current public health crisis, we are concerned that the amount of hoods reportedly ordered – 16,000- suggest an intention to use them far into the future. This number is particularly stark when compared to their use in London over the period of March 2017-March 2018, which amounted to a total of 303.<sup>5</sup>

We reiterate our opposition to the use of spit hoods at all and urge you to ensure that, if they are used, they are used in only the most extreme circumstances and their use is completely banned once this emergency is over.

Yours sincerely,

Liam Herrick  
Executive Director  
Irish Council for Civil Liberties

**Cc** Helen Hall, Policing Authority;  
Oonagh McPhilips, Department of Justice;  
Garda Inspectorate;  
Garda Síochána Ombudsman Commission.

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<sup>5</sup> [https://www.met.police.uk/SysSiteAssets/foi-media/metropolitan-police/disclosure\\_2018/april\\_2018/information-rights-unit---policy-and-guidance-of-using-spit-hoodsguards-in-borough-from-march-2017-to-february-2018](https://www.met.police.uk/SysSiteAssets/foi-media/metropolitan-police/disclosure_2018/april_2018/information-rights-unit---policy-and-guidance-of-using-spit-hoodsguards-in-borough-from-march-2017-to-february-2018)