



ICCL Submission to An Garda Síochána Re Spit Hoods¹
26 August 2020

Introduction

The Irish Council for Civil Liberties (ICCL) welcomes the opportunity to make a submission on the use of spit hoods by An Garda Síochána (AGS). ICCL understands AGS refers to this piece of equipment as an anti-spit guard. ICCL prefers the term spit hood as it better describes the full mesh hood that is placed by force over the entire head and face of a person who is in police custody. This is also the phrasing used by the European Union in relevant Regulations.²

ICCL is completely opposed to the use of spit hoods at any time and urges AGS to discontinue their use. Hooding has long been considered by human rights bodies as a form of cruel, inhuman and degrading treatment or punishment, and, when other factors are present, a form of torture. We are concerned that the use of spit hoods is growing without any sound evidence base that they are necessary, effective or proportionate to the stated aims outlined by police forces here and in other jurisdictions. Evidence suggests they do not prevent the transmission of Covid-19, or other diseases such as Hepatitis-C or HIV and therefore should not be considered primarily as protection for police officers. If their use is primarily as a method of restraint, we have seen no evidence to prove that they are necessary and, given the risks to the health and dignity of those they are used on, we seriously question whether they can ever be considered a proportionate use of force.

In other jurisdictions where spit hoods have been introduced over the past few years, their use has been described as “medieval”; “barbaric”; and those subjected to them have described feeling like they have been “treated like a dog”.

AGS has a statutory obligation to ensure all of its policing practices and policies conform with human rights law and policies.³ In this context, new kit should be subject to a human rights assessment before it is rolled out. If it does not meet human rights standards it should not be introduced.

The Garda Commissioner said in May that *“anti-spit guards are only to be used as last resort and in line with the Garda Decision Making Model, which includes at its centre human rights and our Code of Ethics.”*⁴

¹ Written by Doireann Ansbro, Senior Research and Policy Officer, Irish Council for Civil Liberties

² See Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32019R0125>

³ S. 7, Garda Síochána Act 2005; S.42 of the Irish Human Rights and Equality Commission Act 2014; S. 3, European Convention on Human Rights Act 2003.

⁴ <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/may/an-garda-siochana-health-regulations-continue-to-account-for-tiny-proportion-of-engagements-with-the-public-12-5-20.html>

Given that from 8 April until 27 June 2020 inclusive, members of An Garda Síochána used spit hoods 82 times⁵, we would question whether they were used “as last resort”. This number is particularly stark when compared to their use in London over the period of March 2017- February 2018, which amounted to a total of 303 for a city three times the size of Ireland.⁶ ICCL could not find a figure that was publicly available on their use in Ireland from 27 June to present.⁷

We would also question whether the use of spit hoods can be in line with a decision making model that places human rights at its centre if there are significant and unresolved human rights concerns around them. ICCL believes the use of spit hoods is unlikely to comply with national or international human rights law or standards as it may constitute a form of ill treatment, prohibited under article 3 of the European Convention on Human Rights, the UN Convention against Torture and article 7 of the International Covenant on Civil and Political Rights.

Hoods as a form of ill treatment

Human rights experts have long defined hooding as ill treatment, which can amount to torture in certain circumstances. This includes the UN Committee against Torture,⁸ the Special Rapporteur on Torture⁹, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment¹⁰ and the European Court of Human Rights.¹¹

The International Forensic Experts on Torture¹² have made an authoritative statement on hooding, concluding: “Hooding and other equivalent practices are intentional forms of sensory deprivation which constitute cruel, inhuman and degrading treatment or punishment and should be prohibited in interrogations and detention.”¹³

The U.N. Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol) also recognizes the deprivation of sensory stimulation as method of torture:

⁵ <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/july/no-use-by-an-garda-siochana-of-public-health-regulations-between-21-june-and-27-june.html>

⁶ https://www.met.police.uk/SysSiteAssets/foi-media/metropolitan-police/disclosure_2018/april_2018/information-rights-unit--policy-and-guidance-of-using-spit-hoods-guards-in-borough-from-march-2017-to-february-2018

⁷ The Department of Justice has a figure of 84 for the same period but no statistics appear available beyond that date. http://www.justice.ie/en/JELR/Pages/Information_regarding_the_Justice_Sector_COVID-19_plans, accessed 26 August 2020.

⁸ Concluding observations of the Committee against Torture: Israel, Sept. 5, 1997, Committee Against Torture, 258, U.N. Doc. A/52/44. Available from: www.unhcr.ch/tbs/doc.nsf/0/69b6685c93d9f25180256498005063da?Opendocument (28 September, 2011). Report on Mexico produced by the Committee under article 20 of the convention, and reply from the government of Mexico: Mexico. 05/26/2003. U.N. Doc. CAT/C/75 (2003). Available from: [http://193.194.138.190/tbs/doc.nsf/\(Symbol\)/f2950e0f6a5560f1c1256d5500535b97?Opendocument](http://193.194.138.190/tbs/doc.nsf/(Symbol)/f2950e0f6a5560f1c1256d5500535b97?Opendocument) (28 September, 2011).

⁹ Civil and political rights, including the question of: torture and detention, report of the special rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights Resolution 2001/62, U.N. ESCOR, 58th Sess., Annex 1, Agenda Item 11(a), (f), U.N. Doc. E/CN.4/2002/76 (2001).

¹⁰ Report to the Turkish government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 2 to 14 September 2001, 30-1. Available from: www.cpt.coe.int/documents/tur/2002-08-inf-eng.htm (28 September, 2011).

¹¹ Ireland v. United Kingdom, 25 Eur. H.R. Rep. (ser. A) (1978); Ocalan v. Turkey, 37 Eur. Ct. H.R. 238, 222 (2003). Aksoy v. Turkey, 1996-VI Eur. Ct. H.R. 2260 (1996); Aydin v. Turkey, 1997-VI Eur. H.R. Rep. 1866 (1997)

¹² This group was established in 2009 by the International Rehabilitation Council for Torture Victims (IRCT) in partnership with Copenhagen University Department of Forensic Medicine. It consists of prominent international forensic experts with extensive experience in the evaluation and documentation of torture and ill treatment.

¹³ <https://irct.org/uploads/media/8e83a10c72bcbf59643bd727ca243339.pdf>

*Hoarding is a form of sensory deprivation that is associated with a number of physical and psychological effects, and also may have significant adverse legal consequences. Hoarding deprives individuals of normal vision and also may impair hearing, respiration, and the sense of smell. Deprivation of normal vision also may impair balance and coordination. Impaired respiration (oxygen & carbon dioxide exchange) may be exacerbated by pre-existing medical conditions (cardiovascular, respiratory, hematologic, neurologic, and others) and psychological disorders such as anxiety and claustrophobia.*¹⁴

The Council of Europe defines inhuman and degrading treatment as follows:

Inhuman treatment" must reach a minimum level of severity, and "cause either actual bodily harm or intense mental suffering". It need not be deliberate nor inflicted for a purpose. In the typical case of injuries in custody, where a person is in good health before arrest or detention and is proved to be injured after it, the burden of proof is on the authorities to show force was not used, or was not excessive, or was justified by the victim's own conduct. Undue restraint during arrest or of a psychiatric patient can also amount to inhuman treatment.

*Degrading treatment" involves humiliation and debasement as opposed to physical and mental suffering. As with inhuman treatment, it does not have to be deliberate.*¹⁵

The right not to be subjected to ill treatment or torture is an absolute right which means it cannot be limited or derogated from.

Specific human rights concerns regarding spit hoods

A broad range of human rights advocates have raised specific concerns about the use of spit hoods. Liberty, a human rights organisation in the UK, called them “distressing, degrading and potentially lethal”.¹⁶ Liberty describe a mother’s reaction to seeing police hooding her child as “the most disgusting thing” she had ever seen.¹⁷ Amnesty International has described them as “cruel and dangerous”.¹⁸ They can induce panic, cause distress and trauma, risk suffocation and can exacerbate dangerous situations.¹⁹

The Children’s Rights Alliance for England have described hoods as inhuman and degrading treatment and where used on people under the age of 18 a potential breach of UN Convention on the Rights of the Child.²⁰ The Ombudsman for Children in South Australia documented the effect of spit hoods on children in a youth detention centre and recommended their prohibition in part because of the use of force required to apply them.²¹ Spit hoods should never be used on children.

¹⁴ UN Office of the High Commissioner for Human Rights. Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”). 2004; Available from: <http://www.ohchr.org/documents/publications/training8rev1en.pdf> (28 September, 2011).

¹⁵ <https://www.coe.int/en/web/echr-toolkit/definitions>

¹⁶ <https://www.libertyhumanrights.org.uk/issue/the-rise-of-spit-hoods/>

¹⁷ <https://www.libertyhumanrights.org.uk/issue/the-rise-of-spit-hoods/>

¹⁸ <https://www.amnesty.org.uk/press-releases/spit-hoods-little-more-glorified-sack-which-can-be-cruel-and-dangerous>

¹⁹ K.M. Kennedy, et al. *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*, *Journal of Forensic and Legal Medicine* 66 (2019) 147–154

<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*, accessed 26 August 2020.

²⁰ https://yjlc.uk/wp-content/uploads/2020/04/CRAE_POLICING-SPITHOODS_PRINT.pdf

²¹ Ombudsman South Australia ; Investigation concerning the use of spit hoods in the Adelaide youth Training Centre, September 2019 <https://www.ombudsman.sa.gov.au/wp-content/uploads/Department-for-Human-Services-Use-of-spit-hoods-in-the-Adelaide-Youth-Training-Centre.pdf>

Solicitors who have defended people subject to the hoods have described them as “shocking” and arguably a “breach of human rights as police and other public bodies are prohibited from subjecting people to inhuman and degrading treatment”.²²

The European Union has expressed concern that spit hoods can cause suffocation and include reference to spit hoods in a 2019 Regulation concerning trade in “certain goods, which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment”.²³

Why are spit hoods being used?

There is a significant question around what justification is being or has been used for the introduction of spit hoods in Ireland. Spit hoods were first introduced into the garda kit at the height of the Covid-19 pandemic. Indications from the Garda Commissioner in public statements and from the Policing Authority were that they were introduced primarily to protect garda members from the risk of being infected with Covid-19. In July, however, a leading manufacturer of spit hoods stated publicly that they were not effective protection against Covid-19. Since then ICCL’s understanding is that two other justifications for the retention of spit hoods beyond the pandemic are being suggested. The first is to protect garda members from the transmission of other infectious diseases and the second is that they are necessary as a use of force or restraint. Each justification is examined in detail below.

Justification 1: Spit hoods as a protection for police against the spread of Covid-19

Generally, the stated aim of their use by various police forces has been to protect police officers from being infected by communicable diseases from those who are spitting or who are threatening to spit at them. An Garda Síochána introduced the use of spit hoods into the Garda kit at the height of the Covid-19 pandemic. The Garda Commissioner stated:

*"Unfortunately, we continue to see these disgusting and despicable spitting and coughing attacks on our personnel. These are a significant health and safety risk to our members **in the current environment**. We must protect them from such attacks."²⁴(added emphasis)*

ICCL recognises the distress that spitting during this pandemic must cause to garda personnel. We condemn such behaviour and we fully support the need for every garda to be equipped with adequate and effective Personal Protective Equipment, including masks, visors, goggles and gloves. We also note that spitting is a form of assault which can be prosecuted as such.

However, it is important to emphasise that spit hoods do not provide adequate protection against contracting Covid-19. Information emerged in July 2020 that the manufacturers of a particular form of spit hood (Spit Guard Pro) specifically stated that spit hoods could not protect from airborne

²² <https://www.jacksonlees.co.uk/broudiejacksoncanter/use-spit-hoods-police> ; <https://www.donoghue-solicitors.co.uk/how-police-justify-spit-hood/>

²³ Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. Spit-hoods are supposed to be breathable, however, if the mesh becomes permeated, usually with spit, mucus, blood, and/or vomit, there is a risk of suffocation. As ‘such a hood covers the mouth and often also the nose, it presents an inherent risk of asphyxiation. If it is combined with restraints, such as handcuffs, there is also a risk of neck injury’... to mitigate against these risks ... ‘exports of spit-hoods should therefore be controlled’.

<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32019R0125>

²⁴ <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/may/an-garda-siochana-health-regulations-continue-to-account-for-tiny-proportion-of-engagements-with-the-public-12-5-20.html>

pathogens containing Covid-19.²⁵ In a letter to Amnesty International Northern Ireland, dated 9 June 2020, the PSNI confirmed that the manufacturer of the Spit Guard Pro model explicitly declare that this device provides no protection against airborne or respiratory droplet spread of COVID-19. The PSNI states: “The product will not prevent aerosols from coughing or sneezing and is therefore not an effective means to prevent Covid-19.”

This significantly undermines the first justification for their introduction in Ireland. ICCL believes spit hoods should have been removed from the Garda kit as soon as this information emerged. We wrote a joint letter with Amnesty International to the Garda Commissioner expressing this view. In that letter we expressed concerns that a spit hood could actually exacerbate the risk of the spread of Covid-19, as follows:

[W]e are additionally concerned that the act of placing a spit hood on an arrested person, and the likely ensuing struggle, has the potential to cause significant aerosol generation. If the arrested person is infected with COVID-19, this would present a clear and immediate infection risk to the AGS members and others in the vicinity. When in place over the arrested person’s head, the spit hood would do nothing to prevent the further spread of the virus via coughing, sneezing or exhalation. The use of spit hoods could therefore not only fail to offer protection against infection, but could in fact place AGS members at greater risk. This in turn exacerbates the risk of wider community transmission of COVID-19. Furthermore, we believe this information raises concern that the use of these devices may result in increased risk to arrested persons who may have compromised respiratory systems as a result of COVID-19 infection.

We would also note that the use of the term PPE to refer to spit hoods has been described in an opinion piece by Colleen Gildernew, a partner at KOD Lyons Solicitors as:

[E]xpedient, manipulative and even potentially misleading. The press statement announcing the procurement [of spit hoods] described how the management had considered ‘various forms of additional PPE’. The use of PPE, or Personal Protective Equipment, has been one of the major talking points of the COVID-crisis. However, PPE, by its very definition, is personal to the wearer; who in this context would be a Garda. A spit hood cannot logically be described as an individual Garda’s PPE, as it is placed on another person (i.e. the person being restrained) rather than being worn by the Garda. [...] AGS’s reaction to the pandemic must be measured, proportionate and reasonable; and conform to international human rights standards. The use of spit hoods is none of the above.²⁶

We would highlight that the Policing Authority and the Former Minister of Justice have both expressed the view that the use of spit hoods should be restricted to the time period of the public health emergency caused by Covid-19. In his report to the Minister on 20 April²⁷, the Chair of the Policing Authority expressed the “considerable reluctance” the members of the Policing Authority felt on the introduction of spit hoods at all. He shared with the Minister the Garda Commissioner’s “clear indications” that their use would be “strictly limited to the current crisis”. He also makes very clear that the use of spit hoods should be ended as soon as the emergency caused by the pandemic is over:

²⁵ <https://www.irishlegal.com/article/psni-faces-renewed-calls-to-suspend-use-of-unsafe-spit-hoods>

²⁶ <https://kodlyons.ie/spit-hoods-who-is-guarding-the-guardians/>

²⁷ https://www.policingauthority.ie/assets/uploads/documents/Report_on_the_policing_performance_by_the_Garda_S%3ADoch%C3%A1na_in_relation_to_the_Health_Act_1947_%28Section_31_%E2%80%93_Temporary_Restrictions%29_%28Covid-19%29_Regulations_2020_%28%E2%80%98Covid-19_Regulations%E2%80%9D%29.pdf

*While recognising the harm that may be caused to members of the Garda Síochána and members of the public by spitting, given the highly contagious nature of COVID-19, it is with some considerable reluctance that the Authority views the introduction of this new device. I have spoken to the Commissioner on a number of occasions over the past few weeks about the Authority's concerns and was somewhat reassured by his clear indications **that the availability and possible use of anti-spit hoods was being strictly limited to the current crisis**. As you will see from my letter to him of 9 April 2020, which I have attached for your information, I have requested that this limitation be explicitly set out in the Policy and Procedure documents and that that the termination date used in the 2020 Act, 9 November 2020, might appropriately be adopted for their use. (Emphasis added).²⁸*

In an interview with The Irish Times in May, former Minister for Justice Charlie Flanagan said: “Spit-hoods, wire and mesh face coverings which are forcibly placed over the heads of suspects to stop them spitting or coughing at gardaí, should only be used for the duration of the public health crisis.”²⁹

Given that we now know spit hoods do not provide an effective barrier to prevent the spread of Covid-19 and both the Policing Authority and the former Minister for Justice made clear they should only be used for the duration of the Covid-19 public health crisis, the first justification for their introduction simply does not stand.

Justification 2: preventing the spread of other infectious diseases

ICCL understands that one of the reasons spit hoods might be retained beyond September is that they may be considered to protect AGS members against contracting other diseases beyond Covid-19. However, there is no evidence that the transmission of infectious diseases through spitting is an issue for Gardaí necessitating additional protection nor is there evidence that spitting causes the transmission of diseases such as Hepatitis C or HIV.

Other forces have referred to the need to protect police officers from these diseases but medical research shows that neither of these diseases can normally be spread through saliva.³⁰ Others have pointed out that the risk of hepatitis B can be mitigated by getting a vaccination, as health workers who may be immediately exposed to such risks do.

In fact, police forces in other jurisdiction have been highly criticised and have been forced to apologise³¹ for suggesting that spit hoods are being used to protect police officers from these diseases.

Medical researchers have observed that:

²⁸https://www.policingauthority.ie/assets/uploads/documents/Report_on_the_policing_performance_by_the_Garda_S%C3%ADoch%C3%A1na_in_relation_to_the_Health_Act_1947_%28Section_31_%E2%80%933_Temporary_Restrictions%29_%28Covid-19%29_Regulations_2020_%28%E2%80%98Covid-19_Regulations%E2%80%9D%29.pdf

²⁹ <https://www.irishtimes.com/news/crime-and-law/garda-s-covid-19-powers-will-not-be-revoked-early-says-flanagan-1.4255602>;

³⁰ There is no risk of transmitting HIV through spitting, and the risk through biting is negligible. Post-exposure prophylaxis is not indicated after a bite in all but exceptional circumstances. Policies to protect emergency workers should be developed with this evidence in mind’ Cresswell FV, Ellis J, Hartley J, Sabin CA, Orkin C, Churchill DR. A systematic review of risk of HIV transmission through biting or spitting: implications for policy. *HIV Med.* 2018 Apr 23. <https://doi.org/10.1111/hiv.12625> A further recent review found very few case reports of possible transmissions of Hepatitis B Virus (HBV) or Hepatitis C Virus (HCV) through spitting or biting. Pintilie H, Brook G. Commentary: a review of risk of hepatitis B and C transmission through biting or spitting. *J Viral Hepat.* 2018;25(12):1423–1428.

³¹ Police forces forced to apologise for using disease transmission as excuse to introduce spit hoods. <https://www.bbc.com/news/uk-england-somerset-42068820>

The risk of transmission of relatively minor infections and the low risk of transmission of relatively serious infections is also acknowledged. However, the vulnerability of detainees, and in particular the universally declared vulnerability of children, requires that they be at all times protected against treatment that is potentially harmful. A balance needs to be struck between perceived health and safety needs of police officers and the human rights of detainees, and risks to particularly vulnerable groups.³²

If the aim of using spit guards is to prevent officers from contracting diseases such as Covid-19, Hepatitis and HIV but the evidence is that they don't protect against these diseases then their use cannot be considered proportionate from a human rights perspective as it falls at the first hurdle of a proportionality test which requires a legitimate aim. This is because their use cannot achieve the aim against which their proportionality must be measured.

Conversely, if evidence exists to prove that spit hoods are effective at preventing disease, we must still see a demonstrated evidence-based need for them. Do statistics exist proving that garda members are, currently, contracting diseases from members of the public who spit at them? Research done based on freedom of information requests in the UK to fifty police forces highlighted a significant empirical gap when it came to proving that police officers were, in fact, at risk of contracting diseases from spitting. Police services said they had no relevant information and those that did respond said they had no recorded incidence of infections being contracted.³³ This significantly undermines the justification for their introduction.

Justification 3: Spit hoods as a restraint device

A third justification that may be put forward for the retention of spit hoods is that they are a restraint device that is necessary to force a person to submit to garda custody and to allow police to maintain control over such a person.

If this is the justification that AGS intend to use to retain spit hoods then in order to comply with human rights standards requiring a proportionate use of force, it must be proven that there is a demonstrable need for additional kit to assist with restraint and arrest.

ICCL has not seen any evidence of this either in this jurisdiction or in any other jurisdiction. ICCL considers that de-escalation techniques should always be prioritised in situations where someone is resisting arrest. Beyond de-escalation, garda members have particular holds available to them, handcuffs, batons, pepper spray and the ability to call for back up from other police officers. The gap in resources necessary to effect an arrest or to control an arrestee is not obvious and must be identified if spit hoods are to remain in use to effect forcible arrests.

³² K.M. Kennedy, et al. *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*, *Journal of Forensic and Legal Medicine* 66 (2019) 147–154

<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*, accessed 26 August 2020.

³³ K.M. Kennedy, et al. *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*, *Journal of Forensic and Legal Medicine* 66 (2019) 147–154

<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*, accessed 26 August 2020.

We would also highlight the significant risk of excessive use of force when using spit hoods. There are examples in the UK and in the US of people dying because of the misuse of spit hoods.³⁴ Inspectors of custody suites in UK Inspectorate of Prisons and HM Inspectorate of Constabulary and Fire & Rescue Services expressed concern about the lack of proportionality in the use of spit hoods.³⁵

We would emphasise that the fact that they have been rolled out in other jurisdictions is not a sufficient reason to introduce spit hoods into Ireland. We must ask what research was relied on when assertions were made that they are an effective method of protecting AGS members from the transmission of disease? Was a human rights, risk, safety, ethical, medical or any other assessment conducted before they were rolled out in this jurisdiction? We would also question whether clear protocols and training were put in place before they were rolled out in the Irish context?

We would note particular concerns around a lack of advice and guidance on the safe and proportionate use of spit hoods in the UK that has been highlighted by academic³⁶ and medical researchers³⁷ and inspectors³⁸.

Finally, if the use of force to effectively restrain someone in police custody is the justification being used by AGS to retain spit hoods then ICCL encourages AGS to be transparent about this.

Community policing, transparency and trust

The use of hoods is dehumanising and in our view clearly constitutes degrading treatment. Their use does not chime with the transformation of AGS from a police force to a police service for the community.

Before they were rolled out, the Metropolitan police themselves first said they believed spit hoods risked escalating violence in police encounters with the public.³⁹ Martyn Underhill, Dorset Police and Crime Commissioner, said that the hoods “may not be the best method” of preventing spitting and biting attacks. “Many people who spit and bite are in mental crisis, under the influence of alcohol and drugs, or sometimes all three,” [...] “putting a hood on someone can cause serious injury or worse.”⁴⁰ Many police forces have expressed concern about ‘optics’ and one force in the UK

³⁴ Inquest (July 2018). "Inquest into the death of Terry Smith concludes neglect contributed to death involving excessive restraint by Surrey Police." <https://www.saunders.co.uk/news/inquest-into-the-death-of-terry-smith-concludes-neglect-contributed-to-death-involving-excessive-restraint-by-surrey-police/>. See also: <https://www.theguardian.com/us-news/2016/jan/11/michigan-death-jail-jack-marden-spit-hood>; <https://www.seattletimes.com/seattle-news/fathers-lawsuit-blames-seattle-police-for-sons-injuries/> ; <https://budgeandheipt.com/blog/improper-use-of-spit-hoods-a-recipe-for-disaster/> ; <https://www.theguardian.com/politics/2016/aug/12/london-bridge-arrest-investigated-after-complaint-over-use-of-spit-hood>

³⁵ Inspectorate of Constabulary and Fire & Rescue Services (2018) Report on an unannounced inspection visit to police custody suites in Metropolitan Police Service.

³⁶ https://www.researchgate.net/publication/326815123_Spit_guard_ethical_policing_and_the_need_for_an_evidence-based_approach

³⁷ “There appears to be no current, overarching guidance from UK national police bodies such as the National Police Chiefs’ Council(NPCC) or the College of Policing (CoP) on the use of spit guards that is readily and easily accessible to the general public, despite substantial professional public interest and concern on their usage.” https://www.researchgate.net/publication/334413033_The_use_of_spit_guard_also_known_as_spit_hoods_by_police_services_in_England_Wales_and_Northern_Ireland_to_prevent_transmission_of_infection_or_another_form_of_restraint

³⁸ “Forces and the public would also benefit from further consideration of the efficacy, safety and legitimacy of use of spit-guards, with a view to providing national advice or guidance that encourages safe and proportionate use across all forces.” Her Majesty’s Inspectorate of Constabulary Fire & Rescue Services. PEEL: Police Legitimacy 2017: A National Overview. December, 2017; December, 2017.

³⁹ <https://www.libertyhumanrights.org.uk/issue/the-rise-of-spit-hoods/>

⁴⁰ <https://www.independent.co.uk/news/uk/crime/spit-hoods-police-met-london-scotland-yard-suspects-cressida-dick-crime-a8767826.html>

encouraged police officers to remove them as soon as possible so as not to be seen by more of the public than necessary.

If this is a piece of kit that needs to be hidden from public view, it is not an acceptable piece of kit in a democracy.

The transformation of AGS into a community police service, as recommended by the Commission on the Future of Policing, requires honesty, transparency and trust. ICCL has long supported the approach to policing in this country of policing by consent and not coercion. AGS must be upfront about what kit it is using, why and how it has established that the use of its equipment, including the use of spit hoods, conform with its human rights obligations.

ICCL urges AGS to discontinue the use of spit hoods which are of questionable value as protective equipment and raise significant human rights concerns that, as things stand, cannot be remedied by reference to 'proportionality'. AGS has a statutory duty to uphold human rights standards. The use of spit hoods places a large question mark over its commitment to this duty.

We strongly recommend that the use of spit hoods by AGS in Ireland should end as soon as possible.
