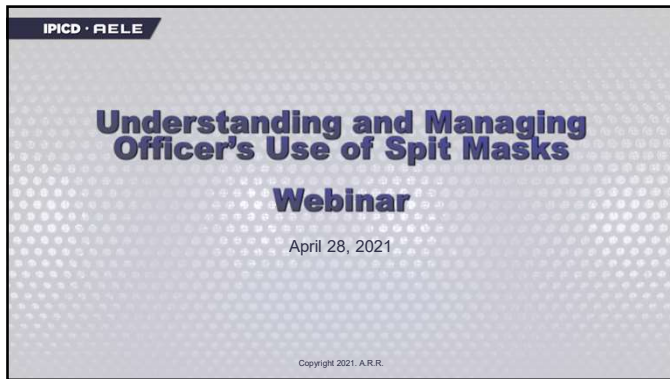


# **UNDERSTANDING AND MANAGING OFFICER'S USE OF SPIT MASKS**



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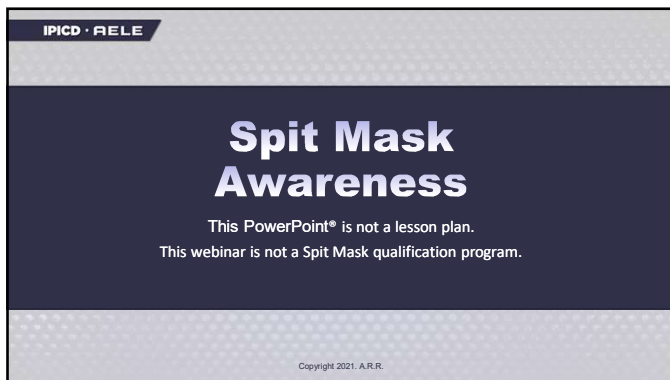
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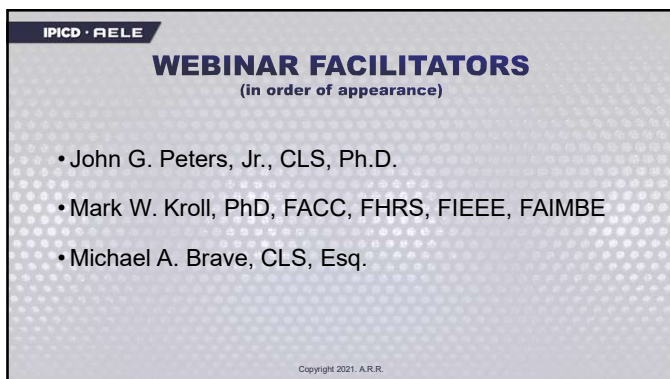
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### SPIT MASK PURPOSES

Stop/reduce:

- spread of infectious disease via oral/nasal/facial fluids
- aerosolized spittle from traveling in the air
- a person's spittle from contacting another person

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### SPIT MASK PURPOSES

Stop/reduce a person's oral/nasal/facial bodily fluids from contacting another

Prophylactic protection (e.g., threatening to spit/bite)

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### SPIT MASK DEFINITION

Manufactured, temporary (single use), protective device physically placed over a person's head and facial areas

Intended use is to protect others against the spread of infectious disease that may be caused by human spitting and/or biting

Designed to not unreasonably obstruct vision and/or unreasonably interfere with ventilation (does not include Prisoner Transport Hood)

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### SPIT MASK DEFINITION

Stops/reduces oral and nasal bodily fluids from becoming airborne (aerosolized)

Often uses a mesh design

Not a respirator

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### SOME SPIT MASK NAMES

Spit Mask

Spit Sock Hood (Stearns Wear, Inc.)

Transport Spit Hood (MTR)

Protection Mask (RIPP Restraints International, Inc.)

The TranZport Hood (Safariland, LLC)

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### SPIT MASK EXAMPLES



Photo credit: Curtis McCain

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## LITERATURE REVIEW

More than 225 papers, articles, legal cases, scientific studies

Very few spit mask instructional guides/warnings

Limited law enforcement spit mask policies (e.g., Lexipol-based)

International literature review

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## LITERATURE REVIEW

Hoods sometimes worn as a fashion statement

Eastern Penitentiary (Philadelphia, PA) placed solid cloth hoods on prisoners before moving them within the facility

Hood placed on convicts before execution . . .

Terrorists often place hood on their captives

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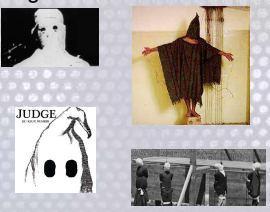
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## HOOD PERCEPTIONS

• Positive



• Negative



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# IPICD SPIT MASK SURVEY

Collaboration with the Americans for Effective Law Enforcement (AELE)

Survey research and analysis funded by the IPICD

Seminal Spit Mask survey research

523 respondents

Survey findings will be reported/published

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# *Pneumatic impedance of spit masks*

Mark W. Kroll, PhD, FACC, FHRS, FAIMBE  
[mark@kroll.name](mailto:mark@kroll.name)

Adjunct Professor Biomedical Engineering, Cal Poly University

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# TESTING SYSTEM



Testing system. L-R: flow sensor, anemometer, output pressure sensor, mask under test, input pressure sensor, manometer, and source fan with speed control. Air flow is from R to L.

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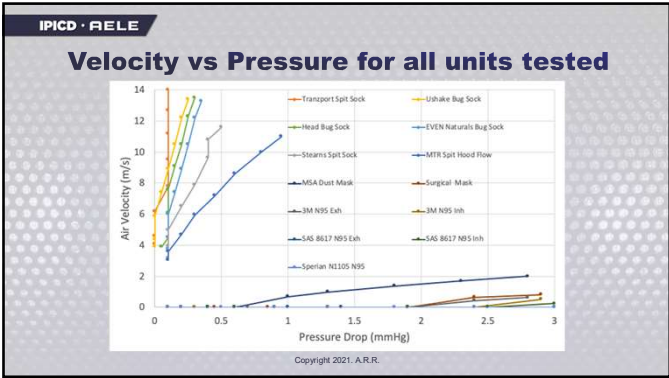
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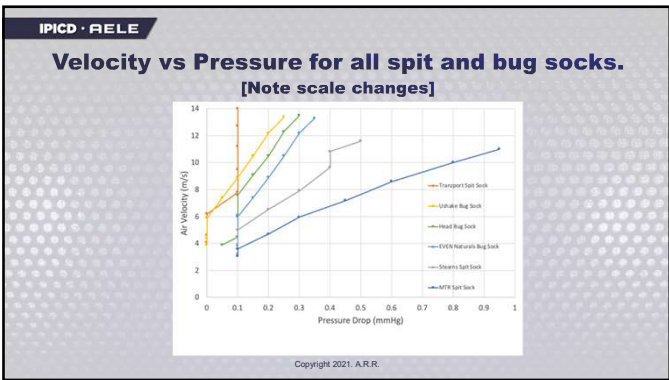
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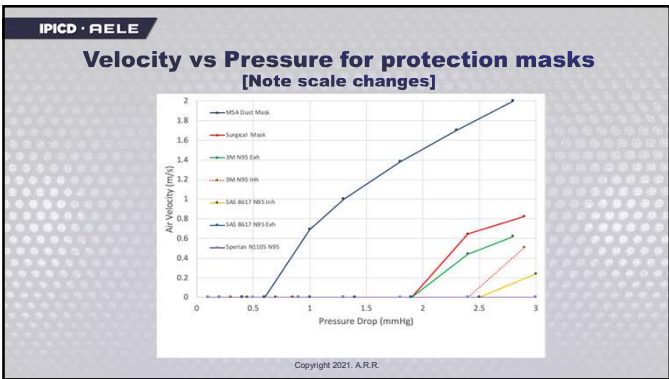
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### Pneumatic Pseudo-impedance

Device	Type	PPI (Q)
"The Hood"	Spit	0.006
Ushaka® Bug Hat	Bug	0.008
HEAD® Bug Sock	Bug	0.018
EVEN Naturals® Bug Sock	Bug	0.023
Stearns® Spit Sock	Spit	0.033
MTR® Spit Hood	Spit	0.057
MSA® Dust Mask	Dust	1.4
Foldap® 3-ply Surgical	Surge	3.6
3M® 9502 Exh	N95	5.0
3M 9502 Inh	N95	5.7
SAS® 8617 Inh	N95	12.5
SAS 8617 Exh	N95	> 12.5
Sperian® N1105	N95	> 12.5

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### Spit Mask vs. Insect Hood



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### Conclusions

Spit masks present essentially 0 (zero) pneumatic resistance.

None of the spit masks tested allowed any water adsorption.

The lowest pneumatic-impedance N95 mask had about 100 times the resistance of the worst spit sock.

Our results do not support the occasional hypothesis that spit socks might cause or contribute to an arrest-related death.

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# Spit Mask Medical Concerns

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## SPIT MASK MEDICAL CONCERNS

- Cleanliness of spit mask (where and how was it stored?)
- Chemical irritant or oleoresin capsicum (OC) exposure
- Aspiration leading to death (vomit, blood)
- Breathing concerns
- Psychological issues (claustrophobia, vision impairment, panic, agitation)

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## SPIT MASK MEDICAL CONCERNS

- Overheating while wearing mask/hood
- Failure of LEO to wear Personal Protective Equipment (PPE)
- Failure to closely and continuously monitor the *restrained and now masked* individual (e.g., choking on mesh)
- Individual may quickly transition from “prisoner” to “patient”

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## Spit Mask Application and Medical Concerns

**Application of the Spit Mask:**

- LEOs must be able to justify the initial application of the mask, and the continued application throughout the incident.

**Monitoring the Subject:**

- LEOs monitor subject for observable medical and mental health issues. If such issues are identified, as appropriate and available:
  - additional risk assessment, and/or
  - summon or attempt to make available additional medical services.

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## Spit Mask Application and Medical Concerns

**If Aware Subject's Health Appears to be Adversely Affected by Mask, or Subject Loses Consciousness:**

- Immediately remove mask, and
- Initiate health-care protocols.

**Mask Removal:**

- When removing mask observe standard precautions, including using disposable gloves, and
- Properly dispose of mask using bio-precaution protocols.

29 C.F.R. § 1910.1030.

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## Spit Mask Manufacturer Warnings Summary & Deviation

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## MANUFACTURER WARNINGS

Most spit mask products have NO product/use warnings

One brand included a "Disclaimer". . . Use at your own risk.

The TranZport Hood came with a limited "warning" and "conditions for use" points.

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## Spit Mask Manufacturer Warnings Summary & Deviation

If Department policy, training, guideline, or procedure deviate from any spit mask manufacturer warning, then:

- Fully document, explain in dated-approved memorandum the deviation and the reasons for the deviation.

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## Spit Mask Legal Decisions Summary

Michael A. Brave, Esq.

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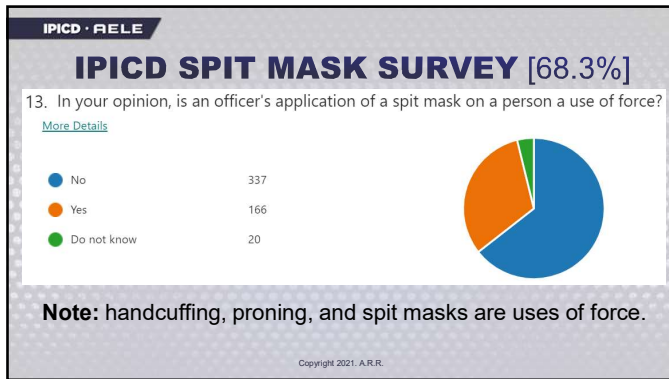
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## Spit Mask Legal Decisions and Summary

**Use of Spit Mask is a Use of Force:**

- As a use of force, the use of the spit mask must comply:
  - with correctly applied Constitutional standards of care, and
  - with any applicable more restrictive state statutory or regulatory standards.
- Use of a spit mask on a subject is a use of force and shall be reported per department use of force reporting protocols.

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## Spit Mask Legal Decisions Summary

There are concerns regarding spit masks being used as a form of mechanical restraint rather than as a temporary means to prevent transmission of infection via oral/nasal fluids.

Kennedy KM, Payne-James JJ, Payne-James GU and Green P. 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*. 2019;66:147-154.  
Joyce P and Laverick W. Spit guards, ethical policing and the need for an evidence-based approach. *Safer Communities*. 2019.

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## Spit Mask Legal Decisions Summary

In addition to legal guidance, numerous organizations have standards or guidelines for the use of spit masks, including the:

- American Bar Association (ABA), Standards for Criminal Justice, and
- State of Texas in its Administrative Code.

Standard 23-5.9 Use of restraint mechanisms and techniques, ABA Standards for Criminal Justice 23-5.9.  
25 TAC § 415.256 MECHANICAL RESTRAINT DEVICES, St. Healthcare L. Libr. 802511.

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## Spit Mask Legal Decisions Summary

Numerous legal jurisdictions have criminal statutes specifically penalizing a person who intentionally exposes LEOs to bodily fluids or bloodborne pathogens.

- In *Stoddard*, a court found that a federal inmate who physically contacted a corrections officer, while the officer was engaged in his official duties, by intentionally spitting on the officer was committing a felony assault, rather than a simple assault, under 18 U.S.C. § 111(a)(1) punishable by a maximum of eight years' imprisonment.

United States v. Stoddard, 407 F. App'x 231 (9th Cir. 2011).

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## Spit Mask Legal Decisions Summary

In *Fuller*, the court found it was not unreasonable to apply a spit mask to prevent the transfer of bodily fluids when the plaintiff had just assaulted an officer and was still being loud and disruptive after the altercation.

Fuller v. Phoenix Fire Dept., No. CV1301266PHXDRLJFM, 2015 WL 13216795 (D. Ariz., Sept. 24, 2015), aff'd sub nom. Fuller v. Meghean, 675 F. App'x 786 (9th Cir. 2017).

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### Spit Mask Legal Decisions Summary

In *Fazica*, a female detainee claimed that four male jail officers used excessive force in various ways while her vision was intentionally obscured by the officers method of application of a spit hood.

*Fazica v. Jordan*, 926 F.3d 283 (8th Cir. 2019).

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### Spit Mask Legal Decisions Summary

In *Iko*, the court defined a “serious medical need” as “one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor’s attention.”

*Iko v. Shreve*, 535 F.3d 225, at 241 (4th Cir. 2008).

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### Spit Mask Legal Decisions Summary

The *Iko* Court concluded that where an inmate collapsed and did not respond after officers covered the inmate’s face and mouth with a “spit mask” and sprayed him with significant amounts of pepper spray, “even a lay person” would have known that the inmate required medical attention.

*Iko*, 535 F.3d at 230–33, 241.

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### Spit Mask Legal Decisions Summary

In *Jennings*,

- the court noted that it is quite true that pepper spray, TASER® Conducted Energy Weapons, arm bars, restraint devices, spit hoods, etc. all have their legitimate place

Jennings v. Fuller, 659 F. App'x 867 (8th Cir. 2016).

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### Spit Mask Legal Decisions Summary

In *Jennings*,

- The Court did not believe that any reasonable officer would tie someone face-down for three hours on a restraint bed, especially having never removed the blood-soaked spit hood, never washed away the pepper spray, and never seen to it that he received adequate medical attention even though he had screamed that he had trouble breathing and had emphysema.

Jennings v. Fuller, 659 F. App'x 867 (8th Cir. 2016).

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### Spit Mask Legal Decisions Summary

In *Jennings*,

- The Court stated, not only was this experience very uncomfortable for Jennings, but, more troublingly, it also greatly impeded his ability to breathe, causing him to lose consciousness several times.

Jennings v. Fuller, 659 F. App'x 867 (8th Cir. 2016).

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## Spit Mask Legal Decisions Summary

In *Bornstein*, plaintiff's theory was that the detainee died from asphyxia caused by excessive force and the use of the spit mask.

In *Peppers*, a plaintiffs' forensic pathologist expert witness opined that the subject's cause of death was asphyxiation from the combination of restraint chair and spit hood.

Bornstein v. Monmouth Cty. Sheriff's Off., 658 F. App'x 663 (3d Cir. 2016).  
Peppers v. Washington Cty., Tennessee, 686 F. App'x 328 (8th Cir. 2017).

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## Spit Mask Proactive Steps

John G. Peters, Jr., Ph.D. & Michael A. Brave, Esq.

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## SPIT MASK PROACTIVE STEPS

- Written policy authorizing and/or prohibiting spit masks
- Written procedures and rules (re: cleanliness, application, removal, medical emergencies)
- Written spit mask lesson plan (includes policy, warnings, etc.)
- Competency-based quantitative testing of spit mask learners

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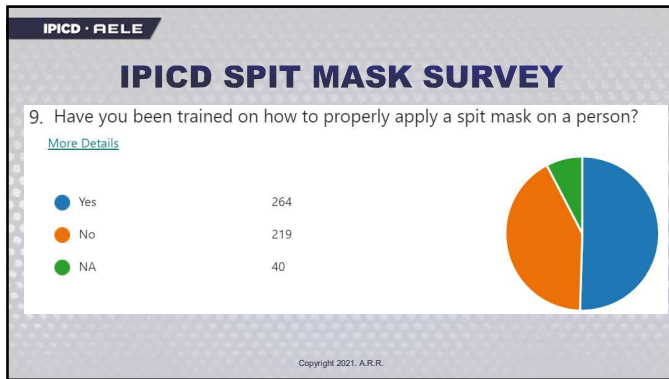
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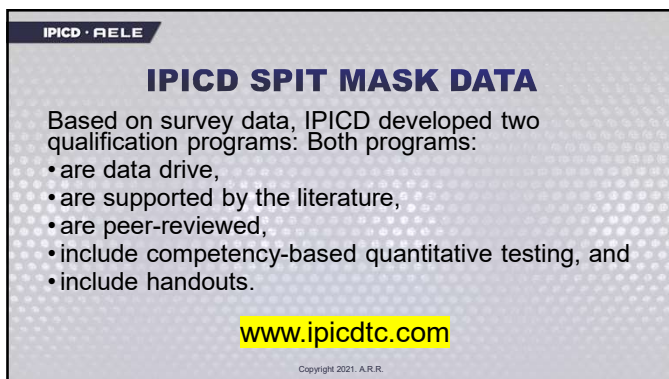
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## SPIT MASK TRAINING & QUALIFICATION

IPICD SPIT RESTRAINT™ User-level qualification  
 ON-DEMAND, **tuition-free** [5/27/2021]  
 (Learner Companion™)

IPICD SPIT RESTRAINT™ Train-the-Trainer qualification  
 Virtual Instructor-led or ON-DEMAND: \$95/person  
 (lesson guide, certificate, Learner Companion™, PPT, more)

Email: [ipicdspitrestraint@gmail.com](mailto:ipicdspitrestraint@gmail.com)  
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## CERTIFICATE of ATTENDANCE

This certifies that \_\_\_\_\_

has attended a 60-minute webinar  
 “Understanding and Managing Officer’s Use of Spit Mask”  
 2021

<i>Chief Chet Epperson (ret.), M.B.A.</i>	<i>John G. Peters, Jr., Ph.D.</i>
<small>President Americans for Effective Law Enforcement, Inc.</small>	<small>President Institute for the Prevention of Incarcerated Deaths, Inc.</small>

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## THANK YOU and STAY SAFE

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