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THE CONTROVERSIAL USE OF SPIT MASKS BY LAW ENFORCEMENT — PART I

John G. Peters, Jr., CLS, Ph.D. and A. David Berman, CLS, M.S. ©2021. A.R.R.

This first part of a two-part series discusses how to increase your safety using spit masks, reviews what spit masks can and cannot do to protect you from viruses, how they are designed, and medical and mental health concerns about their application. In Part II, spit mask application and removal and storage guidelines will be discussed, including the need for spit mask policy, training and competency-based testing.

What immediately comes to mind when you see a person spitting? It's disgusting. Yet, we have all done it, whether it was to get rid of a small insect which flew into our mouth or for other reasons. Sometimes, and often deliberately, saliva is aimed at people of authority such as first responders (e.g., Law Enforcement Officers (LEOs), EMS professionals, jail officers). Spitting is repulsive; is often a crime (assault or battery); is a use of force; and it can transmit some diseases. We have various governmental bodies which required all to wear a "face" mask as a prophylactic measure to avoid involuntarily transmitting the coronavirus through airborne transmission. A similar preventive measure to stop or reduce the deliberate transmission of saliva is putting "spit" masks or hoods on subjects who threaten to spit, or do so, at LEOs and other first responders.

High-profile Spitting Incidents

Several high-profile arrest-related or in-custody death incidents when spit masks were associated have occurred across the United States, including Tahlequah, Oklahoma, and Indio, California, in 2021; Rochester, New York, and Tucson, Arizona, in 2020; Sacramento, California, and Florida in 2019; Pleasanton, and Alameda County, California, in 2018; and Fairfax County, Virginia, in 2015. International, national and local media coverage, not to mention social media posting of videos, have caused the use of spit masks to appear under the public microscope. Often, medical examiners have fueled spit mask criticism by ruling that these items have contributed to a person's death.

Spit Masks Defined

Spit masks have many labels which include "spit hoods," "spit guards," "spit shields," "spit socks," and specific brand names (e.g., Safariland® *TranZport Hood*™ and RIPP™ *Protection Mask*). The Institute for the Prevention of In-Custody Deaths, Inc. (IPICD) defines spit masks as commercially manufactured, temporary (single use), protective, generally synthetic, small woven mesh devices which are physically placed over a person's head and facial areas intended to prevent or reduce the transmission of oral, nasal and/or



Avoid using the term "spit hood," as it might convey a negative impression (photo taken at Abu Ghraib prison, Iraq, 2003).

facial bodily fluids (e.g., blood). Their purpose is to minimize the spread of infectious disease which may be caused by human spitting, biting or physical contact.

Historical Perceptions

Given the number of recent high-profile law enforcement incidents involving "spit masks" which were associated with arrest-related deaths, the media and the public often think masks are the same as hoods. They are not the same. Hooding has a long history, as do masks, but hoods often evoke negative feelings because they are often associated with torture (think Abu Ghraib prison in Iraq), with



The application of a spit mask over the head of an individual is a use of force.

executions (think hooded and hanged Lincoln conspirators) and with organizational costumes (think Ku Klux Klan).

Supporting negative public perceptions are prohibitions against “hooding” individuals. For example, the United Nations considers the placing of a hood on individuals as cruel and harsh treatment. The American Bar Association (ABA) and the State of Texas Administrative Code are other examples of other entities having restrictive guidelines about prisoner treatment.

Hoods also have a positive image. Reading *Little Red Riding Hood* as a child or to children generates favorable memo-

ries about the hooded young girl. Getting hooded at a graduate school ceremony is another fond memory.

Although there are positive images and perceptions about wearing hoods, we highly recommend avoiding the label “hood” in written reports, in media releases or when speaking about using masks. Spit masks are not hoods, regardless of the brand name.

Increase in Spitters and Biters

Fear of contracting the coronavirus is a reported reason LEOs have been arresting more people who threaten to spit at officers, do spit at them, or threaten to bite them. Although the frequency of people spitting at LEOs is unknown, several scientific studies provide insight on this repulsive and often criminal behavior. One study by the London Metropolitan Police Federation (n = 5572) in 2021 found that, in the previous two year period, 2331 (57.75%) of their LEOs were reportedly spat upon and 562 (40%) were bitten. Survey respondents claimed that, during the previous six months, approximately 30% of the people threatened to spit on them.

In a United States National Institute of Justice (NIJ) funded study, approximately 1% (74) of the people arrested spat at or on an LEO (n = 7512). A 2021 study of LEOs in the United States found that in 10,000 use-of-force incidents, 3.6% involved spitting at officers and that spitting was common. Data show the frequency of spitting at officers was done by females in 18.1% of the time. People presumed to have mental illness spat at LEOs 5.2% of the time, while white subjects spat 3.9% compared to blacks at 3.1%, respectively.

The increased frequency of spitting at LEOs, coupled with the fear of contracting a disease, are reportedly two bases for increased “assault” arrests made by LEOs and for requesting employers to provide spit masks. A 2021 IPICD and Americans for Effective Law Enforcement, Inc. (AELE) national spit mask survey found the primary reason LEOs applied a spit mask to a subject was “to cover the person’s mouth,” followed by “the person had threatened to spit on them.” Survey data show 449 of the respondents (n = 523) were authorized by their law enforcement agency to use spit masks.

Use of Force and Spit Masks

Placing a spit mask over the head of an individual **IS** a use of force!

Surprisingly, 337 of the IPICD-AELE survey respondents (n = 523) thought it was not a use of force, with another 20 respondents who indicated, “Do not know.” Like grabbing, proning, handcuffing, and/or grounding individuals, applications of spit masks are uses of force. LEOs must comply with Constitutional standards of care and with any applicable, more restrictive state statutory regulatory standards. LEOs are required to report the use of force per agency policy, procedure or rule (see *Iko v. Shreve*, 535 F.3d 225 (2008); *Jennings v. Fuller*, 659 Fed. Appx. 867 (2016)).

Deputy sheriffs who work in a jail and correctional officers may be required by agency policy to put a spit mask over an inmate’s head prior to moving him (or her) through the facility. Technically, this is a use of force, but noting it in a “transport” or “movement” report will usually suffice for force documentation purposes, unless more force had to be applied or the inmate suffered a medical emergency.

COVID-19 Concerns

There is no scientific evidence supporting the claims made by LEOs that spit masks prevent the spread of the coronavirus. Rather, scientific findings show that contagious viruses are often transmitted through small droplet aerosols which can pass through the mesh of some spit masks. The coronavirus, like influenza, is often transmitted by small, aerosolized droplets, often referred to as airborne transmission. Spit masks may be more effective in preventing the spread of other diseases such as tuberculosis and hepatitis.

On July 31, 2016, a Ukraine female police officer ultimately died after a suspect who had tuberculosis spat on her during a confrontation. While it is unknown if the subject was wearing a spit mask, it is important to know the diameter of the woven mesh of spit masks which use this design. If a person can breathe through the woven mesh, then his (or her) breath can pass through it, too. Know the design specifications of the spit mask your agency provides and know its limitations and efficacy in preventing aerosolized droplets

or spittle from penetrating it. Regardless of the spit mask design, droplets of oral, nasal or blood often become attached to the spit mask, thereby requiring the use of Personal Protection Equipment (PPE), such as gloves, to remove, store and/or properly discard the single-use spit mask per biohazard protocols.

Spit Mask Characteristics

Spit masks come in a variety of styles, colors and designs. Those commonly used in public safety share a few common traits while other models are uniquely distinct. These shared characteristics include temporary, single use and synthetic woven mesh as the primary barrier to prevent fluids such as blood, saliva or mucous from passing through the mesh. Depending on the style and/or specs of the spit restraint device, the size of the woven mesh holes can vary. Keep in mind, if one can breathe through the mesh, then oxygen, microorganisms and liquids can pass through. As previously mentioned, the woven mesh openings do not stop the spread of the coronavirus.

Photo 1 is one example of many spit



Photo 1 – Spit masks come in a variety of styles and configurations.

masks we've examined. As shown, most are simple sack-style devices using a synthetic woven mesh with an opening at the "bottom" for the subject's head to pass through. The "top" of the device is closed. Some models have elastic sewn into the hem at the bottom for a snug, but comfortable, fit around the person's neck. This elasticity helps the device to stay in place and to make it more difficult for the subject to remove it. Some brands are made in the United States while others are not. Spit mask product dealers and manufacturers include Stearns Wear, Inc., MTR, Humane Restraint, and others.



Photo 2 – The TranZport Hood™ from Safariland® utilizes a bacteria filtering, medical grade fabric.

One product which is unique in appearance, design and function is the Safariland TranZport Hood, shown in Photo 2. Like other masks, the TranZport Hood is for single use and uses a synthetic woven mesh material to form a sack, but it has two safety features. One is an adjustable tab at the top of the mesh (head area) which can slide up or down so the woven mesh section has a "custom" fit. This enables visibility to be maintained and air to

pass through the woven mesh.

Second, the lower portion of this product contains a soft, sewn in, dense, bacteria filtering, medical grade fabric designed to keep fluids from escaping (e.g., spittle) while making it virtually impossible for the subject to bite anyone or anything other than his own lip or tongue. The elasticized bottom fabric is approximately three inches wide and encircles the subject's neck area and can be positioned above the nostrils to lessen the likelihood of nose liquids exiting and coming in contact with others. This type of spit restraint device has woven mesh construction like the others we examined, but additionally it has the "medical grade fabric" drape sewn to the sack which surrounds and covers the mouth and/or nose areas.

Two other devices are the Protection Mask from RIPP Restraints International, Inc. and the Chicago Face Shield for Infectious Disease Control. The RIPP Protection Mask is a one-piece, molded face mask made of opaque polyurethane. It has a thicker shell covering the nose and mouth with softer, more flexible, thinner portions which wrap partially around the face, secured by two thin elastic straps placed around the back of the head. There are holes in the nose and mouth areas of the mask for breathing and for air circulation.

The Chicago Face Shield product is a clear, thin plastic face shield approximately 12 inches square with foam padding for the forehead area and an elastic band to encircle the head. These types of face shields are common in dental and medical offices. This product is designed to be a shield, not a mask.

Space did not permit a review of every spit mask product, including those used overseas and unavailable in the United States. Regardless of the spit mask you use, before using it, get trained and qualified in its use.

Psychological and Medical Concerns

Spit mask application guidelines will be covered in Part II of this article; however, it is important for you to understand and appreciate potential psychological and medical concerns surrounding the application of spit masks. A 2019 pilot study (n = 15) about the psychological effects of placing a "spit sock" over the heads of healthy volunteers found no psychological concerns. The study did not include people with claustrophobia, autism, mental illness, or similar issues. For example, some people with autism resist anything being put over their head or touching their skin. They will act out, often in an agitated way. Similarly, people who are subject to panic attacks or who are claustrophobic may also become agitated.

Medical concerns following application of spit masks include watching the person for abnormal breathing; suffocation from aspiration of blood, vomit, etc.; choking because the person manipulated the spit mask material into the mouth and tried to swallow it; overheating; and/or continuously struggling against metallic or plastic restraint which can lead to sudden death.

Because bodily fluids may be attached to the mesh or other parts of the spit mask, wear PPE to avoid encountering these or other fluids. Because this is not an exhaustive list, you may consider enrolling in the IPICD *tuition-free* User-Level Spit Restraint™ ON-DEMAND program. Visit www.ipicd.com for more information. **P&SN**

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