

Chief Constables' Council

NPCC Update on the use of Spit Guard

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Author:	Commander Matt Twist
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1. Purpose

This purpose of this paper is to update chief constables on the national use of Spit Guards and the position adopted by the NPCC on this issue.

2. Background

The spit guard is a lightweight mesh garment that is placed over a person's head to help minimise the risks of communicable diseases (blood borne viruses (BBV)) and injuries associated with a suspect spitting and biting.

A Spit Guard will not prevent every injury through spitting or biting, it will not prevent the first instance of spitting. However there are circumstances where a suspect is deliberately spitting saliva and possibly blood, where officers need to be in close proximity to them in order to achieve a lawful objective e.g. searching, preventing self-harm etc where the use of Spit Guard can effectively minimise the risks to officers. Spit Guards cannot prevent the blunt trauma injury from biting, however they can reduce the transfer of bodily fluids in these cases.

There are a small number of commercially available products that are designed for this purpose and each is manufactured from a fine translucent mesh that doesn't impede the person's breathing or impinge significantly upon their senses.

The use of Spit Guards was approved by ACPO in 2007 by virtue of their inclusion within the National Personal Safety Manual (NPSM), although one constabulary was using Spit Guard prior



to this time. 24 constabularies currently deploy Spit Guard in operational and/or detention settings.

Devices worn by officers e.g. goggles / masks have been considered which would protect the officer's eyes and mouth. This approach has been attempted by a small number of forces and found to be ineffective. This approach provides no protection from biting, or from contamination into any open wounds. Furthermore, it will not mitigate the fundamental issue of the suspect spitting possibly contaminated blood or saliva onto the officer's person which can have no possible justification.

The alternative to the use of Spit Guard is usually some form of additional restraint, usually prone restraint where the persons head is physically controlled to prevent them spitting in the direction of officers. Any form of prone restraint brings additional risk. The NPCC position is that the use of Spit Guard (as a passive measure once applied) is a lower use of force and has less risks and impact, than physically controlling a person's head or additional restraint. Therefore it is more likely to be proportionate than head restraint.

Recent developments

There has been a significant increase in interest in the use of Spit Guard following the publicity linked to the pilot of the 'Spit Guard Pro' in the MPS, and the introduction of Spit Guard in TVP and Hampshire. There have also been several operational incidents involving Spit Guard which have been widely reported on social and national media. The Police Federation of England and Wales has voiced strong support for Spit Guards and it has launched a coordinated campaign for their introduction based upon officer safety grounds. Equally a number of high profile politicians have expressed concern about (as well as some support for) the use of Spit Guard.

The NPCC has received notification of an application for Judicial Review where the applicant states that the NPCC (as a defendant to the claim) should have prohibited the use of Spit Guard following a high profile case in Sussex.

Jeremy Johnson QC has been instructed through the MPS Directorate of Legal Services to represent the NPCC and the initial response letter to the formal notification has been submitted. The NPCC are seeking to reject this application. If this case does go ahead there will be significant public and political interest. The Police Federation of England and Wales has indicated its desire to become an interested party to these proceedings, and there are likely to be several others including the manufacturers and the College of Policing.

3. The Current National Position

Initial data returns indicate that the following constabularies and one agency currently deploy spit guards;

Bedfordshire, Cambridgeshire, Hertfordshire, Norfolk, Suffolk, North Yorkshire, West Yorkshire, Cheshire, Cumbria, Isle of Man, Sussex, Hampshire, Thames Valley, Surrey, Staffordshire, Warwickshire, West Mercia, Derbyshire, Northamptonshire, MPS, North Wales, BTP, Scottish Police Service, Kent and HMRC (Extradition). *Gloucs have indicated their consideration of future trials.*

20 constabularies deploy Spit Guard in both the operational (external) and detention settings; 4 are currently limited to the detention setting only; and HMRC is limited to extradition duties only.

The following models of spit guard are currently used; Pol-i-veil, Spit Guard Pro, Tranzporthood and Novedcorp. Each model follows the same basic design of providing protection from spitting and biting via a loosely fitting mesh garment.

The use of the Spit Guard is controlled, as with all personal safety tactical options, by the National Decision Model (NDM). The NDM is firmly embedded within police training and APP. The use of Spit Guard is additionally informed by the medical implications section of the NPSM.

4. The International Position

During consultation on the issue, a number of people have asked what the position is internationally. This has also featured in the application for judicial review.

The NPCC has sought to identify the position in several 'Council of Europe' countries (i.e. under the ECHR) and these responses are expected imminently.

Responses have been received from Royal Canadian Mounted Police, New Zealand, Australian Federal Police and some North American and German states confirming their operational use of Spit Guard.

5. The Medical Case

The case supporting the safety of the Spit Guard

The initial medical review of Spit Guard was undertaken by Professor James M. Ryan MCh, FRCS, DMCC, Hon FCEM, the (then) chairman of the Independent Medical Science Advisory Panel (circa 2006), and subsequently reviewed in 2016 by Professor Hugh Montgomery MB, BS, BSc, FRCP, MD, FRGS, FRSB, FRI, FFICM, the current chairman. Their advice has led to the current and long-established control measures including the constant supervision of those placed in Spit Guards, and that they should not be used if the person is bleeding from the face or vomiting.

Professor Montgomery has recently conducted a non-scientific ($n=1$) test measuring CO₂ output whilst wearing a Spit Guard Pro and undertaking various physical activities. The results, which are indicative only, suggest that the Spit Guard Pro does not affect CO₂ output to any significant degree, nor is it likely affect physical performance.

The likelihood of transmission of Blood Borne Viruses (BBV)

Whilst the national picture for blood borne viruses (BBV) affecting officers is unclear, there are annually a very significant number of officers who are receiving precautionary treatment to prevent BBV initial following spitting and biting incidents. Some of this treatment is intrusive, debilitating and can have a significant impact on officers' personal lives.

In 2014 the MPS settled a civil claim from an officer who was injured after being spat on, and stated that this injury could have been prevented had Spit Guard been available. This case was hard to defend as the tactic and equipment was approved through the NPSM and would have been cheap and quick to implement, and in the circumstances a Spit Guard could have reduced

the risk (source: MPS Officer Safety Unit). The MPS is also currently assessing another civil claim dating from December 2016 based on similar grounds.

Historically enquires have highlighted the death of PC Christopher Francis Wilson of Devon and Cornwall police. PC Wilson died on the 20th August 1977 having contracted a fatal illness from being spat on during a football match (source: National Police Officers' Roll of Honour). Internationally the widely reported death of Arina Koltsova, a Ukrainian police officer, allegedly died in similar circumstances in 2016 (source: national media outlets).

The NPCC position is that the risk of transfer of BBV through spitting or biting is very low, however the impact of infection would be extremely high.

Current Activity

The SDAR lead has asked the Independent Medical Science Advisory Panel (IMSAP) to confirm the risks associated with communicable diseases associated with spitting and bites; which are believed to be very low (albeit the impact of contracting a blood borne virus would be extremely high), and to assess the safety of the Spit Guards currently used by constabularies in addition to the safety measures mentioned above.

6. Governance

The National Personal Safety Manual (which covers the use of Spit Guard) was originally owned and edited by ACPO. The 2007 version of this manual, which forms the basis of today's publication, was overseen by the NPIA and subsequently the College of Policing (CoP).

NPIA had oversight of the practitioners' research activities, via the national policing lead for personal safety, and full editorial rights for publishing. The CoP acquired this supervisory role when they replaced NPIA in 2012. For these reasons, the NPSM is widely understood to be a jointly owned collaboration and this is reflected in its NPCC and CoP livery, and its CoP copyright notice of 2013.

The police use of spit guards has been discussed within the NPCC portfolio for Health and Safety. ACC Tim Jacques wrote to all chief constables on 11 August 2016 recommending that forces give 'serious consideration' to the issue of spit protection. The NPCC legal position is that this is a '*routine expression of a view that it was sensible to give consideration to the issue*' rather than a statement of a change to NPCC policy or a direction to independent Chief Constables.

7. National Consultation

Commander Twist has written to the following groups as part of an on-going consultation process on this issue; Liberty, Inquest, Amnesty International, The Children's Commissioner and the Children's Rights Alliance for England (CRAE)

Commander Twist has met the Director of Liberty Ms Martha Spurrier and also Ms Holly Lynch MP, and is scheduled to meet Dianne Abbott MP (Shadow Home Secretary) on the 27th March, and Ms Anna Edmonson from CRAE on 29th March to discuss these issues.

8. The Proposed NPCC Position

The proposed NPCC position is that there is a place for Spit Guard in the menu of options available to Chief Constables. The following are key points underpinning this;

- The decision as to whether or not to make Spit Guard available for officers use is one for individual Chief Constables, taking into account their prevailing circumstances. The NPCC Health and Safety sub-committee has asked chiefs to give this serious consideration, but this fell far short of a direction, instruction or policy mandate.
- Chief Constables have a duty under s2(1) Health and Safety at Work Act (1974) to provide safe systems of work. Contagious suspects spitting blood and saliva is a foreseeable risk that officers are likely to have to deal with at some point during their duties. Also it is foreseeable that drug users have a much higher concentration of BBV than the general population.
- Officers should not improvise any form of ad hoc spit protection. If an approved spit guard is not available, nothing should be used to cover the persons face to prevent spitting. The use of clothing, blankets or any other item (other than a spit guard) to protect the officers is not supported by the NPCC.
- The NPCC does not support the implementation of a minimum age limit for the use of Spit Guard. Whilst it would be exceptionally rare for a child to have this tactic used, the imposition of a minimum age limit could have the unintended consequence of officers needing to use a greater amount of physical force on children which clearly could not be proportionate if there was a less intrusive tactic available.
- If looked at in isolation the risk of contracting a disease from a single instance of assault by spitting is very low. It is, however, wrong in principle to look at the risk from a single instance in isolation. Chief Officers are responsible for protecting all of their officers from all risks that they might encounter in the course of their service. The prevalence of spitting and biting is so high that the chance that assaults will occur which result in the transmission of disease is more significant.
- The new National Use of Force recording programme will allow for accurate data to be obtained, including relevant diversity data, related to the use of Spit Guards.

9. Next Steps

The following next steps will be taken in relation to Spit Guard;

- The NPCC will seek to defend the application for a judicial review of its position in relation to Spit Guard. This could include the requirement to secure specialist and expert evidence to support the NPCC position. This will incur costs for specialist opinion and advice.
- The SDAR portfolio will seek to obtain more definitive expert medical evidence reporting on the efficacy and safety of the Spit Guard to include in the NPSM. This will include an assessment of the likely transfer of BBV which whilst very low is an extant risk.

- The SDAR portfolio will continue to seek to gather information from forces regarding the number of officers injured following spitting and biting incidents. (From July the National Use of Force recording programme will help with this)
- The SDAR portfolio will continue to seek good practise from around the world and provide a clear evidence base re what other forces use internationally to mitigate the same risks. We will seek to identify if there are any other viable and equally effective options.
- The SDAR portfolio in conjunction with the College of Policing will seek to produce a standard training package (similar to the ABD package) to ensure that all locally delivered training covers the key risk elements involved in the use of Spit guard. This will mitigate the risks nationally and ensure consistency of training.
- The SDAR portfolio will seek to get each of the four Spit Guard devices currently in use in the UK assessed, and if appropriate seek to implement a central procurement structure (in the same way that some CS and some other OST equipment is procured) which will increase consistency of equipment used, and seek to identify the most effective and safest devices.

10. Decision required

- Chief Constables note the current NPCC position in relation to Spit Guard (outlined in 8 above), and advise if there is any derogation from the overarching principles.
- Chief Constables are asked to agree the next steps (outlined in 9 above) to give the SDAR portfolio the mandate to progress.

CC Alec Wood
Cambridgeshire Constabulary
Operations Coordination Committee