



Mental Health Commission

ACTION CALENDAR  
July 9, 2019

To: Honorable Mayor and Members of the City Council  
 From: Berkeley/Albany Mental Health Commission  
 Submitted by: boona cheema, Mental Health Commission Chair  
 Subject: Law Enforcement Use of Restraint Devices in the City of Berkeley

RECOMMENDATION:

Adopt a resolution directing the Berkeley Police Department, and any other law enforcement providing mutual aid in Berkeley, to cease use of restraint devices (spit hoods, spit masks) and replace them with non-restraining safety equipment like N95 masks or an equivalent substitute. The use of spit hoods is traumatizing and escalating, risks asphyxiation and can be a violation of constitutional civil rights, particularly free speech. Stopping their use contributes to humanitarian and compassionate approach to those living with mental illness.

FISCAL IMPACTS OF RECOMMENDATION:

None.

CURRENT SITUATION AND ITS EFFECTS

Currently the Berkeley Police Department uses spit hoods when detaining or arresting someone who they are concerned may transfer or transmit fluids (saliva and mucous) to others. According to BPD guidelines, "Spit masks may be placed upon persons in custody when the officer reasonably believes the person will spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport."<sup>1</sup>

Often these are applied in situations in which someone is having a mental health crisis and/or an interaction with a police officer escalates into a mental health episode. The experience of police covering the head of those suffering a mental health crisis or episode and/or drug reaction with a restraint device which is both traumatizing and devastating. It almost always creates alarming fear, distress, panic and humiliation. There is also risk of serious injuries or death (such as asphyxiation), particularly as there is limited visual ability to observe individual's face and head while in crisis.

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<sup>1</sup> Berkeley Police Department Law Enforcement Services Manual, Policy 302.5, Page 3.

As such, Amnesty International has publicly commented on how use of spit hoods can be “a cruel and dangerous form of restraint.”<sup>2</sup> The use of spit hoods may result in a wrongful death action, as well as constitute cruel and unusual punishment under the Eighth Amendment to the U.S. Constitution. In addition, its use may violate the United Nations Convention on Torture and Other Inhuman, Cruel and Degrading Treatment or Punishment (UNCAT), as well as the UN Convention on the Rights of People with Disabilities.

In Berkeley, the number of police calls for people having a mental health crisis is 35 percent or more (Dinkelspiel, Berkeleyside; 2015).<sup>3</sup> Over the past 5 years, police have seen a 43 percent increase in calls for 5150s or people who are a danger to themselves or others (Dinkelspiel, Berkeleyside, 2015).<sup>4</sup> Given that the Berkeley Police Department is often and increasingly called as a first responders to individuals who are experiencing severe mental illness and/or substance use disorder crises, it’s important that we not allow this cruel and dangerous practice to continue.

## BACKGROUND

Historically, spit hoods device have been used in perpetuating extreme human brutality, systemic oppression and monstrous human atrocities. Its use today can immediately traumatize individuals, as well as perpetuate and reinforce intergenerational trauma and horrifying symbolism, especially considering its use against minorities to degrade, torture and execute.

As documented in the UK, using restraint devices such as spit hoods can have a disproportionate and discriminatory impact on minorities.<sup>5</sup> Their use may violate the exercise of civil rights, particularly free speech, and/or result in discriminatory treatment towards them under civil rights law. Furthermore, human and civil rights have been violated when police use restraint devices in these types of crises to control or coerce people into police custody.

Police claim there is a need to protect their health from individuals who spit and the use of restraint devices like spit hoods will keep them safe. However, such a drastic overriding of human or civil rights violations and application of psychological and physical harms requires justification based on evidence and lack of alternatives. The evidence suggests that no real risk exists. A systematic review of studies concluded that

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<sup>2</sup> The Independent. (2018). Police could get 'a good kicking' if spit guards extended, Met chief says. [online] Available at: <https://www.independent.co.uk/news/uk/home-news/police-good-kickingspitguards-scotland-yard-cressida-dick-a8524176.html> [Accessed 2 Mar. 2019].

<sup>3</sup> Dinkelspiel, F. (2015). Mental health calls #1 drain on Berkeley police resources. [online] Berkeleyside. Available at: <https://www.berkeleyside.com/2015/04/16/mental-health-calls-are-1-drain-onberkeleypolice-resources> [Accessed 2 Mar. 2019].

<sup>4</sup> Ibid

<sup>5</sup> Gayle, D. (2017). Concern over Met police use of spit hoods on black detainees. [online] the Guardian. Available at: <https://www.theguardian.com/uk-news/2017/sep/02/concern-over-met-police-use-of-spithoods-on-black-detainees> [Accessed 2 Mar. 2019].

the risk of transmitting HIV through spitting as no risk, and further concluded that even the risk of transmission through biting to be negligible.<sup>6</sup> In addition, a systematic literature review of Hepatitis C and B transmission concluded the risk of acquiring Hepatitis C (HCV) through spitting as negligible and as very low for Hepatitis B (HBV), and also showed the risk as low for acquiring HBV and HCV through biting.<sup>7</sup>

Not only is the violation of civil and human rights and brutality of spit masks not justified by the evidence, well-documented and easily accessible alternatives exist including N95 masks, eye guards, and, when absolutely necessary, mouth guards.

At the February 28, 2019 Commission meeting, the Mental Health Commission passed the following motion:

M/S/C (Fine, Posey) Motion to pass the spithood resolution and to submit the resolution to the City Council for approval

Ayes: Castro, cheema, Fine, Heda, Ludke, Posey; Noes: None; Abstentions: None; Absent: Davila (attended City Council Work Session).

At the April 25, 2019 Commission meeting the Mental Health Commission passed the following motion:

M/S/C (Davila, Castro) Withdraw the resolution that was previously passed regarding spithoods and replace it with the Council Item including a new resolution that is before us today.

Ayes: Castro, cheema, Davila, Fine, Heda, Kealoha-Blake, Ludke, Posey; Noes: None; Abstentions: None; Absent: None.

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable

#### RATIONALE FOR RECOMMENDATION

The harm, cruelty and potential violation of civil and human rights, as well as the likelihood of intensifying a mental health or substance use intervention rather than de-escalating one, suggests an immediate end to the use of spit hoods and the substitution of them for least harmful and equally effective substitutes.

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<sup>6</sup> Cresswell, F., Ellis, J., Hartley, J., Sabin, C., Orkin, C. and Churchill, D. (2018). A systematic review of risk of HIV transmission through biting or spitting: implications for policy. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/hiv.12625> [Accessed 2 Mar. 2019].

<sup>7</sup> Pintilie, H. and Brook, G. (2018). Commentary: A review of risk of hepatitis B and C transmission through biting or spitting. Available at: <https://onlinelibrary.wiley.com/doi/pdf/10.1111/jvh.12976> [Accessed 2 Mar. 2019].

ALTERNATIVE ACTIONS CONSIDERED

The alternatives actions considered are the recommended less harmful, more humane use of N95 masks, eye guards and when absolutely necessary, mouth guards.

CITY MANAGER

See Companion Report

CONTACT PERSON

Karen Klatt, Mental Health Commission Secretary, HHCS, (510) 981-7644

ATTACHMENT

1. Resolution

Exhibit A: Background Information on Restraint Devices

RESOLUTION NO. ##,### N.S.

LAW ENFORCEMENT USE OF RESTRAINT DEVICES IN THE CITY OF BERKELEY

WHEREAS, the use of restraint devices such as spit hoods may violate the United Nations Treaty on Torture, and Other Inhuman, Cruel and Degrading Treatment or Punishment (UNCAT); and

WHEREAS, Amnesty International has publicly commented on how use of spit hoods can be a cruel and dangerous form of restraint; and

WHEREAS, human and civil rights can be violated by law enforcement who use restraint devices such as spit hoods to arrest, detain, question, take into custody and/or incarcerate individuals; and

WHEREAS, law enforcement using restraint devices can have a disproportionate and discriminatory impact on minorities; and

WHEREAS, individuals can be traumatized by a devastating experience of law enforcement using restraint devices such as spit hoods and risk serious injury or death; and

WHEREAS, law enforcement is specially trained to use crisis intervention responses to assist individuals who are experiencing severe mental illness in public spaces; and

WHEREAS, law enforcement and Berkeley Mental Health are intended to work collaboratively to respond to mental health crises in the City of Berkeley.

NOW THEREFORE, BE IT RESOLVED, be it resolved that law enforcement shall not use restraint devices such as spit hoods in the line of duty.

BE IT FURTHER RESOLVED, be it resolved that law enforcement shall only use their own N95 masks or an equivalent substitute in the line of duty.

Proposed 2-Page Memo re: Police Use of Restraint Device, Spit Hoods, to Submit to the Berkeley City Council if Approved by Mental Health Commission<sup>1</sup>

Police Use of Restraint Devices—Spit Hoods—to Respond to People Experiencing Severe Mental Illness and/or Substance Use Disorder Crises

The Berkeley Police Department is often called as a first responder to individuals who are experiencing severe mental illness and/or substance use disorder crises in the community. In Berkeley, the number of police calls for people having a mental health crisis is 35 percent or more (Dinkelspiel, Berkeleyside; 2015).<sup>2</sup> Over the past 5 years, police have seen a 43 percent increase in calls for 5150s or people who are a danger to themselves or others (Dinkelspiel, Berkeleyside, 2015). As a result, the Berkeley Police Department has committed resources to address those individuals as first responders with crisis interventions and not force, coercion and punishment in the line of duty.

Specifically, the Berkeley Police Department (BPD) specially trains police officers to use crisis intervention responses; the Department has a Crisis Intervention Team. Further, the BPD has a formal partnership with the Division of Mental Health for the Cities of Berkeley and Albany to serve these individuals who need first responders to assist them during crises. Both the Police Department and this Division provide multiple details for coordinated crisis intervention response on their websites, as well as listing other resources.

It is evident the BPD and the Division of Mental Health are designed to work in tandem to respond in these types of crises. Overall BPD serves adults with severe mental illness and substance use disorder who are served by the Adult Clinic of the Division of Mental Health for the Cities of Berkeley and Albany—the public mental health system (“Berkeley Mental Health”).

Currently, however, the BPD is reconsidering the use of restraint devices—spit hoods—as an option to address people who engage in spitting and biting during a police encounter. For people needing crisis intervention services in the community, the use of this restraint device can create psychological and physical harms. Consequently, it may result in human and civil rights violations, especially if a crisis escalates. Additionally, some individuals living with severe mental illness and substance use disorder may also live primarily in public spaces so they are more exposed to policing than people who can afford to partly or entirely live in private.

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<sup>1</sup>The sole purpose of this memo is submission to the Mental Health Commission and the public in order for the Commission to consider passing a motion to submit it to the Berkeley City Council with the Resolution.

<sup>2</sup>Dinkelspiel, F. (2015). Mental health calls #1 drain on Berkeley police resources. [online] Berkeleyside. Available at: <https://www.berkeleyside.com/2015/04/16/mental-health-calls-are-1-drain-onberkeleypolice-resources> [Accessed 2 Mar. 2019].

Police Use of Restraint Devices—Spit Hoods—to Respond to People Experiencing Severe Mental Illness and/or Substance Use Disorder Crises

Most important, human and civil rights can be violated when police use restraint devices in these types of crises to control or coerce people into police custody. It may violate the United Nations Convention on Torture, and Other Inhuman, Cruel and Degrading Treatment or Punishment (UNCAT). Amnesty International has publicly commented on how use of spit hoods can be “a cruel and dangerous form of restraint.”<sup>3</sup> The use of spit hoods may further violate the United Nations Convention on the Rights of People with Disabilities.

Using restraint devices such as spit hoods can have a disproportionate and discriminatory impact on minorities.<sup>4</sup> Their use can possibly violate the exercise of civil rights and/or result in discriminatory treatment towards them under civil rights law. It is also notable that mental illness and substance use disorder can both manifest as psychosis to where the diagnoses are indistinguishable and thus, may invoke disability rights protections.

Third, there is the likelihood individuals will be traumatized by a devastating experience of police covering their head with a restraint device; it can create alarming fear, distress, panic and humiliation. There is also risk of serious injuries or death (such as asphyxiation), particularly as there is limited visual ability to observe individual’s face and head while in crisis. Using both restraint devices—spit hoods and hand cuffs—can further injure an individual.

Historically, this restraint device has been used in perpetuating extreme human brutality, systemic oppression and monstrous human atrocities. Its use today can immediately traumatize individuals, as well as perpetuate and reinforce generational trauma and horrifying symbolism, especially considering its use against minorities to degrade, torture and execute.

Police claim there is a need to protect their health from individuals who spit and bite and the use of restraint devices like spit hoods will keep them safe. In this regard, there must be an evidence-based approach by city government to justify overriding any human or civil rights violations and likely psychological and physical harms. People living with severe mental illness and substance use disorder are likely more vulnerable than others without disabilities.

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<sup>3</sup>The Independent. (2018). Police could get 'a good kicking' if spit guards extended, Met chief says. [online] Available at: <https://www.independent.co.uk/news/uk/home-news/police-good-kickingspitguards-scotland-yard-cressida-dick-a8524176.html> [Accessed 2 Mar. 2019].

<sup>4</sup>Gayle, D. (2017). Concern over Met police use of spit hoods on black detainees. [online] the Guardian. Available at: <https://www.theguardian.com/uk-news/2017/sep/02/concern-over-met-police-use-ofspithoods-on-black-detainees> [Accessed 2 Mar. 2019].

Police Use of Restraint Devices—Spit Hoods—to Respond to People Experiencing Severe Mental Illness and/or Substance Use Disorder Crises

The systematic literature review of scientific studies addressing transmission of HIV and Hepatitis B and C from spitting and biting can serve as an evidenced-based approach to determining the level of risk, if any, from these types of behaviors. First, a systematic review of studies concluded the risk of transmitting HIV through spitting as no risk, and further concluded the risk through biting as negligible (Cresswell, et al; 2018; 1).<sup>5</sup>

In addition, a systematic literature review of Hepatitis C and B transmission concluded the risk of acquiring Hepatitis C (HCV) through spitting as negligible and as very low for Hepatitis B (HBV)(Pintillie & Brooks, 2018; 1).<sup>6</sup> This review also showed the risk as low for acquiring HBV and HCV through biting (Pintillie & Brooks, 2018; 1). It is notable that the former study on HIV focused on police, while the later study addressed emergency workers.

Overall it is considerably more important to preserve human and civil rights when an evidence-based approach shows this result and there is likely an alternative to using these restraint devices against people experiencing severe mental illness and substance use disorder crises. There are face guards that police can choose to use. Emergency medical and mental health workers may use them in assisting people experiencing these crises and in other roles.

In some localities, mental health clinicians are first responders who accompany police to assist individuals experiencing a severe mental health and substance use disorder crises in the community. The aim again is not to use force, coercion and/or punishment. If anything, the use of restraint devices like spit hoods may result in more severe harms.

For these reasons, the Berkeley Police Department should not use restraint devices like spit hoods in the line of duty. Thank you for your time.

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<sup>5</sup> Cresswell, F., Ellis, J., Hartley, J., Sabin, C., Orkin, C. and Churchill, D. (2018). A systematic review of risk of HIV transmission through biting or spitting: implications for policy. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/hiv.12625> [Accessed 2 Mar. 2019].

<sup>6</sup> Pintillie, H. and Brook, G. (2018). Commentary: A review of risk of hepatitis B and C transmission through biting or spitting. Available at: <https://onlinelibrary.wiley.com/doi/pdf/10.1111/jvh.12976> [Accessed 2 Mar. 2019].



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DECEMBER 27, 2018

SEARCH:

# Should Berkeley Police Be Using 'Spit Hoods?'

Police have been placing sack-like hoods over detainees to prevent them from spitting on officers, but critics say the practice can be traumatizing and should be banned.

By Max Brimelow

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Photo by Tracie DeAngelis

Berkeley police controlling a detainee with a spit hood on March 13, 2013.

Four observers from a police reform group gathered around a screen at Grassroots House in downtown Berkeley in November. They watched footage of three officers detaining a suspect at Telegraph Avenue and Dwight Way. The footage shows police have the man on the ground, his arms bent up behind his back with an officer's knees pinning the suspect's calves to the floor. An officer has already placed a mesh "spit hood" on the suspect who is subdued and limp.

"This is hard to watch," said Jathan Gurr of Berkeley Copwatch, an activist watchdog group, referring to the footage from the 2009 incident.

Spit hoods are one of the Berkeley Police Department's least known, but most controversial tools. They're sack-like hoods that police place over the heads of non-compliant suspects to prevent them from spitting at officers. Spit hoods are intended to protect against the spread of communicable diseases and have long been used in Berkeley and are now widely used in other police departments around the country.

Berkeley PD is in the process of updating its policies on spit hoods, and the city's Police Review Commission is reviewing their use and whether BPD should discontinue them. The department's Policy 302, which governs handcuffs and restraints — and includes spit hoods — is under scrutiny, but BPD does not keep data on how frequently its officers deploy spit hoods.

"I think most people walking around in Berkeley have no idea there are spit hoods in use," Gurr said.

Spit hoods are one of several tactics being reviewed as the Berkeley Police Department transitions to using Lexipol, a centralized framework that offers departments a list of best practices guidelines that BPD can then "review and tweak" to meet its needs, said BPD spokesperson Byron White.

Other policies under review include the use of canines, but some say spit hoods may be the most controversial.

Police say spit hoods are an essential de-escalation tool, particularly for officers. "It's a real threat ... the reaction of any person who has someone spit in their face is to retaliate or react in some way," said Sgt. Spencer Fomby, a use-of-force instructor for the department and proponent of tactical de-escalation. "Officers clearly cannot use force, so to manage that we use the hood."

Police do not consider the hood to be a use of force. "Putting a mesh hood over somebody has a very low risk of injury," Fomby said. "It's not a forceful act."

However, BPD doesn't track its use of spit hoods, so it's difficult to know if officers have been misusing the tactic, especially on detainees who have mental or psychological issues.

BPD has narrow criteria for when to use the hoods — when a suspect is noncompliant, combative, resistant, and starting to spit, then the hood can justifiably be used, Fomby said. However, some witness evidence suggests officers sometimes overstep the mark.

Tracie DeAngelis is a former copwatcher, who on a coffee break on March 13, 2013, witnessed a detainee being controlled with a spit hood outside Berkeley Public Library. "I remember hearing some loud screaming," she said. "So, I walked across the street ... [the suspect] was apologetic, pleading, begging — you could tell he was scared."

Her footage shows six officers applying "the wrap" — a full-body restrictive tie. "I'm sorry! I'm sorry," the suspect cries through the hood as he is held face-down on the road surface.

"They don't see that as a use of force?" said DeAngelis, who now works in human resources for the East Bay Regional Park District. "To me it is — it's an act against someone's dignity, which to me is an act of violence."

DeAngelis would like to see an outright ban on the use of spit hoods. And she said that police should be responsible for protecting themselves.



## Should Berkeley Police Be Using 'Spit Hoods?'

from jschool student

02:34 |

Gurr conceded that police sometimes may need to use a spit hood — but only in rare circumstances. "There's probably an occasion to use something like that," he said. "I just don't trust Berkeley Police to know when that occasion is."

Fomby said detainees who are spit hooded often receive medical attention, and so, he argued, the masks are an important protection for paramedics, nurses, and other people with whom the suspects come into contact. "I want to emphasize it's not just officer safety," he added.

Spit hoods are not new. Fomby said he has seen them in use throughout his 18-year career. They are not just used by police — other agencies use them, and they are commonly issued to medical services. On Oct. 24, the Berkeley Fire Department used a spit hood on a detainee at Civic Center Park before he was taken for psychological evaluation, Fomby said.

"The main argument is about optics — the way it looks," Fomby added. "But the balance of public safety outweighs the optics in this situation."

Fomby also asserted that BPD's use of spit hoods is "very rare." He said he remembers them being used "a couple times" in the past few months, though did not want to speculate on how often they are used by the force at large.

"'Very rarely' might mean twice a week," Gurr countered. Without statistics available, the issue is a matter of one person's word versus another.

For its part, the Berkeley Police Commission plans to compare the new Lexipol policies to the general orders that BPD has used. Sahana Matthews, chair of the commission, said the group has not yet taken a specific stance on spit hoods. "The PRC will be reviewing this policy and deciding whether or not to recommend to the BPD to ban or change the use of spit hoods," she said.

Some on the nine-member commission have already made up their minds, including Andrea Prichett, who is also the co-founder of Copwatch. "I'm alarmed they use them at all," she said. She believes the

hoods can make it harder to monitor vital signs. For suspects who are affected by mental health issues, she said, the process can be especially traumatizing.

But George Perezvelez, chair of the Lexipol subcommittee within the Police Review Commission, believes police should have the power to use spit hoods. "No police officer in Berkeley should be subject to being bitten or spat on," he said.

However, Perezvelez said he wants to see "a clear dictate" given to local police on the exact parameters around using spit hoods. "Let's be clear on how they can be used, why they can be used, and when they can be used," he said.

"But at the same time, I understand the concern about how often they are used, what triggers their use, and if there's a possibility to track how often they're used," Perezvelez added. He would like to see more concrete data. "It would be a good idea for the department to supply statistics," he said. "It's accountability — right? And it's transparency."

Although the commission will turn over its recommendations to the police department, it has only an advisory role in the city. Matthews said BPD is working with the PRC on Lexipol, but she conceded that police have no obligation to listen.

Prichett is exasperated with the dynamic. "What would be really awesome would be if PRC could change the policy itself," she said. "They can change the policy, but the police don't have to listen to that."

Ultimately, with no available quantitative data and reliance on anecdotal accounts from a handful of sources, taking informed action is difficult.

Fomby said he would like to see a metric created to monitor the use of restraining equipment, including spit hoods. "We should know how many times we put people ... in the hoods," he said. "I would like to see more data."

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# Berkeley Police Department use of “Spit Hoods”



Spit hoods are used routinely by BPD officers. There has been no policy in place that regulates their use. Recently, the Police Review Commission has begun discussing a Lexipol policy that addresses the introduction of Spit “masks”. However, BPD is regularly using spit “hoods” which go over the head completely.



**January 14, 2010:** BPD Officers responded to a man who was screaming. In fact, the man had been attacked by someone but the police thought the man was just incoherent. The man was placed in a “spit mask” but his identity was not able to be known. A copwatcher was arrested for trying to document this situation



On March 10, 2013 BPD was recorded taking a homeless man into custody for a 5150 evaluation. People in the library called police because the man sprayed air freshener in side. When this man was taken, his community of support had no idea what had happened to him or any way to offer him care. Copwatch eventually learned that the man's name was Jeremy Carter but there was no way to contact him to find out if he had been further traumatized by his contact with police. The use of the "spit hood" clearly added to his distress and the blood coming from his mouth increases risk of asphyxiation, but officers seemed unconcerned about this.





# Video: Where is Jeremy Carter?



# Routine use of spit hoods



5150 hold with no mental health professionals and only cops and ambulance drivers.



The patient is clearly distressed as evidenced by his hands. Officers could have put surgical masks on their own faces for protection if they were concerned. This would represent the “patient centered” model of care.



# The Guardian

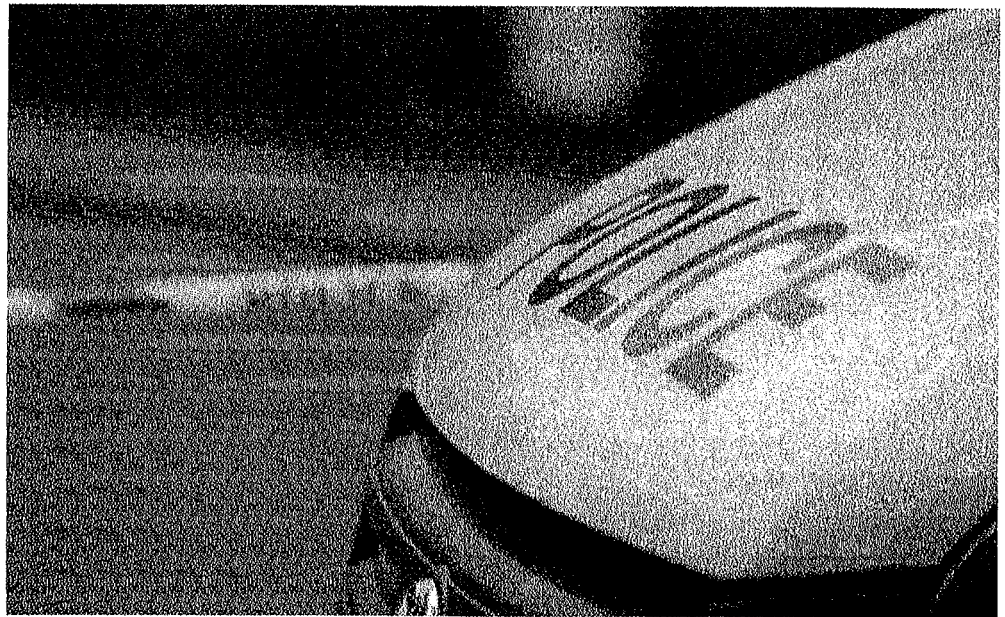
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## Inquest jury condemns Surrey police over death of man placed in spit hood

**Officers used handcuffs and leg restraints on Terry Smith, 33, after failing to recognise he suffered from excited delirium**

**Diane Taylor**

Thu 5 Jul 2018 14:17 EDT



Terry Smith stopped breathing after being placed in a police van. Photograph: NurPhoto/SIPA USA/PA Images

A jury has found that Surrey police seriously failed in its duty of care to a 33-year-old labourer who was handcuffed, placed in leg restraints and had a spit hood placed over his head in the hours before he died.

Terry Smith, a father of two from Stanwell in Surrey, told police he could not breathe on at least 13 occasions. He was restrained by police for more than two hours.

The jury condemned Surrey police and in a narrative verdict found “a serious failure of duty of care” and a failure to recognise that Smith suffered from the condition excited delirium. They

also found that he was subjected to “prolonged and excessive restraint” and that neglect was a contributory factor in his death. It said that police needed more training in identifying excited delirium and that Smith should have been treated as a medical emergency and taken to hospital more swiftly.

The inquest, which began on 12 February, is thought to be the longest individual inquest to have been held in the UK.

Smith was restrained by police on the evening of 12 November 2013 after his family called an ambulance because he was unwell. Family members said he was hallucinating and feared that someone wanted to kill him. They said he was not behaving aggressively.

PC Louise Merry, one of the first officers on the scene, said Smith was aggressive and a danger to himself and other people.

After being restrained on the ground outside his parents’ home by several police officers using handcuffs, leg restraints and a spit hood, he was taken to Staines police station, where restraint by five or six officers continued. He was then placed in a police van, where he stopped breathing and went into cardiac arrest. He was taken to hospital and pronounced dead the following evening.

More than 50 witnesses, including many police officers, gave evidence.

The jury heard expert evidence that excited delirium could be treated effectively by administering a sedative and that Smith’s life could have been saved if he had been taken to A&E before 11.30pm that night.

The forensic medical examiner at the police station did not ask for the spit hood to be removed from Smith even though the inquest heard evidence that these hoods can impede breathing. He said Smith should have been taken to hospital as he had a deep cut on his foot and was suffering from a suspected drug overdose.

A post-mortem report in February 2015 found that, although amphetamine was found in Smith’s blood, it was not at a level that constituted an overdose. Causes of death were amphetamine-induced excited delirium with the association of restraint, cardiac collapse and multiple hypoxic organ failure.

The family’s solicitor, Nia Williams of Saunders Law, condemned “a catalogue of failures” that led to Smith’s death.

Deborah Coles, director of the charity Inquest, said Smith should have been dealt with by the ambulance service rather than the police. She said: “The cruel and frightening ordeal inflicted on Terry while he was already in distress reaffirms what has been made clear in recent reviews as well as in police guidance: medical emergencies should not be treated as a criminal justice

issue.”

Jeremy Burton, assistant chief constable of Surrey police, said: “We deeply regret it when anyone comes to any harm during the course of police contact.

“There were lessons to be learned for the force following Mr Smith’s death and, I recognise that certain things could have been done differently.

“Mr Smith’s death was almost five years ago and I want to reassure people that we have seen vast changes since then, both in Surrey and nationally, in the way that people detained under the Mental Health Act are dealt with. We have also seen improvements ... regarding our understanding of excited delirium, or acute behavioural disturbance, and the training provided to officers and staff in recognising and dealing with this issue as a medical emergency.”

Burton added: “We will continue to ensure our policies and procedures are continually revised and refreshed to reflect national directive and best practice to safeguard the welfare of those within our care.”

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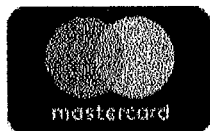
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## IMPROPER USE OF SPIT HOODS: A RECIPE FOR DISASTER

Posted on November 9, 2015 by Edwin Budge

Spit hoods (also known as "spit masks") have been increasingly used by police and other law enforcement officers in recent years. A spit hood, or spit mask, is a fabric covering or "hood" that can be placed over a person's head and secured at the neck with an elastic band. The idea is to prevent a combative suspect from biting or spitting at police officers.

Unfortunately, spit hoods or spit masks can be improperly used as well. And, when improperly used, spit hoods or spit masks can be a recipe for disaster.

What follows are two real-life examples of spit-hood use gone wrong. The cases were both handled by the lawyers at Budge & Heipt.

In the first case, sheriff's deputies encountered a man who was acting strangely. They took him into custody after pepper spraying him in the face. Naturally, pepper spray causes a person to spit involuntarily in an effort to eliminate the spray from the mouth, nose and throat. Pepper spray also clogs a person's nasal passages and can cause copious amounts of mucus. The man was also bleeding from the face following the police encounter. Despite all of this, the sheriff's deputies put a spit hood over the man's head.

This was a very poor decision. Because when the mesh or cloth of a spit hood becomes wet with saliva, mucus and/or blood, it can make it impossible for air

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to go through the fabric. In addition, by placing a spit hood over someone's head after they have been pepper-sprayed, the person continues to breathe the residue of the spray without adequate ventilation. Add it all up, and suffocation is a very real possibility. And, in this example, this is just what occurred. The man died of asphyxiation due to the improper use of the spit hood.

In the second case, police officers used a spit hood on a man who had been elbowed in the face and was bleeding copiously from the nose. In addition, the man was vomiting. Together, the blood and vomit coated the inside of the fabric hood. The man stopped breathing while the blood and vomit-soaked hood was on. Nevertheless, the police claimed that their use of the hood played no role in his lack of air. The lawyers at Budge & Heipt hired fabric experts test the permeability of the fabric when it was wet with simulated blood and vomit. The experts found that when the spit hood was saturated with these body fluids, no air could pass through. The spit hood, in other words, became a death trap. The man in this case survived, but not before suffering irreversible brain damage.

In both cases, the lawyers at Budge & Heipt were able to secure settlements of more than \$1.5 million each. Sometimes, it is only through litigation that police agencies and their officers "get the message."

*Edwin Budge has been representing clients in civil rights cases for more than 20 years. He focuses his energy and passion into seeking justice in cases involving restraint asphyxia or suffocation by police or in jail or prison. Contact Budge & Heipt for a free consultation.*

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LOCAL

# Medical examiner in SLO County inmate death also linked to wrongful death claim

Fresno Bee and Tribune reports



APRIL 20, 2017/08:00PM, UPDATED: APRIL 20, 2017/09:37PM



Diane Hill, center, holds a plaque given to her by co-workers of her son Donald "Donnie" Hill after his death. Attorneys Neil Gehlwat, left, and Thomas Seabaugh announced a pending lawsuit against the city of Lemoore. LWIS@CRISWOLD LDRISWORLD@FRESNOBEE.COM

The medical examiner who recently ruled a San Luis Obispo County inmate's death

as “natural” despite the man dying after jail staff restrained him in a plastic chair for nearly two days straight also conducted an inmate autopsy in Lemoore that is the subject of a wrongful death claim.

In March, the mother of a man who died after police put a spit hood on him and he reportedly vomited filed a claim with the city of Lemoore for wrongful death, in advance of filing a lawsuit. The initial autopsy showed that the inmate, Donald “Donnie” Hill, had minor scrapes and bruising but no visible injuries that would have led to his death, the Kings County Sheriff’s Office said. There were no obvious signs of health issues, and toxicology tests revealed no drugs or other interactions.

The final autopsy report by a forensic pathologist, Dr. Gary Walter, was issued March 16 by the Kings County Coroner’s Office. Hill died of cardiac dysrhythmia with an unknown cause, and the manner of death was listed as undetermined, according to a news release from the Sheriff’s Office.



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Andrew Chayton Holland, pictured here in a 2015 family photograph, died Jan. 22, 2017, after a blood clot formed after he was restrained in a chair for nearly two days in San Luis Obispo County Jail. Courtesy photo

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Walter, who has been the San Luis Obispo County Sheriff's Office-contracted medical examiner since 2005, recently ruled the SLO County inmate's death as "natural" after he was restrained for more than 46 straight hours. The family of Andrew Chayton Holland disputes Walter's report and says it plans to sue the county after the State Medical Board initiated proceedings April 10 to revoke or suspend Walter's medical license following a DUI arrest last year. Walter was on his way to perform an autopsy when he was arrested, according to court records.

### THE LEMOORE CASE

At a news conference next to City Hall on March 23, Hill's mother, Diane Hill of Hanford, said the death of her son on New Year's Eve has been devastating.

"There's no words to say how much I miss him," she said. "He was the sweetest son I could ever have."

Attorney Neil Gehlawat of Bakersfield said there are many unanswered questions about Hill's death.



Donald "Donnie" Hill. Family of Donald Hill

"We suspect the conduct of the officers led to his heart to stop beating," Gehlawat said. The pending lawsuit will bring out more details, he said.

The city had 45 days to respond before attorneys could file a lawsuit in Kings County Superior Court and federal court.

Hill, 30, lived in San Diego where he had a civilian job with the Navy. On Dec. 31, 2016, he was in Lemoore, where he graduated from high school, and was visiting a brother and friends at home, his attorney said.

According to the Kings County Sheriff's Office, which is doing an investigation, Hill began having bizarre interactions with family and friends, an ambulance crew and the Lemoore Police Department.

"Many described Hill's actions as possibly being under the influence of drugs or of psychotic outbursts," a Sheriff's Office news release said. "Donald would appear to regain some form of composure and request no interaction with mental health or other medical services."

In the evening, family members of Hill called police to report that his behavior had become even more bizarre and that family members had to restrain him, the news release said.

Police handcuffed him and "placed a spit hood over his head to prevent him from further spitting incidents," the news release said.

He was placed onto the floor on his side and became unresponsive, the Sheriff's Office said.

The lawyer for Diane Hill said her son had vomited.

American Ambulance performed lifesaving measures and took him to Adventist Medical Center. He was pronounced dead at 8:50 p.m.

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# THE STAR

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CANADA

## Mentally ill man who died in Lindsay jail was pepper sprayed, held down with leg irons, subdued by officers, report says



By Fatima Syed Staff Reporter  
Tues., Feb. 6, 2018





In the hours before he died in a segregation cell at a Lindsay, Ont. jail, 20 to 30 officers were involved in subduing a man with schizophrenia. They pepper sprayed him twice; covered his face with a spit hood; and held his body down with leg irons.

ARTICLE CONTINUES BELOW

Documents obtained by the Star through a freedom of information request detail these occurrences as Soleiman Faqiri's last moments in the Central East Correctional Centre, as found by an internal investigation by the Kawartha Lakes Police Service.

The 30-year-old Ajax man died on Dec. 15, 2016, in what police described at the time as an "altercation" with correctional officers in the jail, where he was being held on remand, awaiting a mental health assessment.

Faqiri had been arrested on Dec. 4 for charges of aggravated assault, assault and uttering threats. He did not have a criminal record, said the report, but had been apprehended by the Durham Regional Police Service, using their authority under the Mental Health Act, approximately 10 times over the past 10 years.

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**'My beautiful son is dead': Family still searching for answers after Whitby man's 2016 death in prison**

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In Ontario, the act permits officers to apprehend individuals if they believe that person is at risk of causing harm to themselves or others

— officers take these individuals for a medical examination.

In June 2017, a coroner's report found Faqiri suffered more than 50 injuries, including a bruised laceration on his forehead, and multiple bruises and abrasions on his face, torso and limbs, from a three-hour confrontation with prison officers before dying in a segregation cell. The report said it was unknown what injuries were from his struggle with the officers, and couldn't ascertain the cause of death.

The Faqiri family's lawyers, Edward Marrocco and Nader Hasan, said in an email that police had provided the family "partial access" to documents obtained in the investigation into Soleiman's death late last week.



"We remain bewildered that an investigation revealing this evidence could lead to the conclusion that the Kawartha Lakes police had "no grounds" to pursue criminal charges against the officers involved in Soleiman's death," said the lawyers.

"The information we have received...is very troubling and raises a number of questions that will need to be answered by the Kawartha Lakes Police Service."

The family did not provide comment.

In the course of the five days Faqiri spent in segregation, reports obtained by the Star show he refused to wear anything besides his underwear, and he repeatedly covered himself in his own urine and feces.

He was seeing a ministry psychiatrist, but refused to take his medication. (According to the report, Faqiri had a history of non-compliance with his prescribed medications.)

From the onset, his fitness to face the charges against him was questioned because of his mental illness. The report states he had refused to leave his cell multiple times for both in-person and video

appearances at court.

On Dec. 6, Faqiri was moved to a segregation cell “due to concerns for his safety, the safety of other inmates, and the safety of [jail] staff,” said the report. The court was informed of his mental health issues and remanded him, indicating that three days of medical help may help improve his capacity to understand court proceedings.

Three days later, on Dec. 9, Faqiri refused to get dressed for his video court appearance. He had smeared his own feces on himself, said the report. The court was told the prosecutor made several attempts to contact Faqiri’s family for assistance, but had been unsuccessful.

Previously, Faqiri’s parents and his older brother, Yusuf, told the Star they tried to visit their son three times in prison and each time they were denied access. Yusuf and his brother, Sohrab, say they went to both court and jail, too.

On Dec. 12, Yusuf and a mental health nurse who had been dealing with Faqiri since his arrival at the jail appeared in court; Faqiri appeared via video. The nurse told the court Faqiri wasn’t speaking to anyone, refusing his medicine, not eating properly, and lying on the floor, making no eye contact. Yusuf said that Faqiri was much worse than he’d remembered.

After hearing their evidence, the justice ruled that Faqiri be assessed by a mental health facility in Whitby.

Faqiri died before the assessment was completed.

Documents show that at 1 p.m. on Dec. 15, Faqiri was taken out of his cell by three officers and a health-care manager; he was covered in his own urine and feces.

Faqiri was handcuffed and covered in blankets, and escorted in a wheelchair to a shower down the hall from his cell. The wheelchair was used for hygienic reasons.

At 1:15 p.m., Faqiri entered the shower area; his handcuffs were removed. He was in the shower for an hour and a half, and, according to the report, he refused, on four occasions, to leave.

What happens next wasn’t entirely captured on video — for the privacy of the inmates, there are no cameras in the cells or showers. Faqiri’s final hours are based on investigators’ interviews with officers involved, witnesses and forensic evidence.

During his shower, the report notes Faqiri was squirting water and shampoo at the correctional officers through the window of the barred shower door.

Unable to make him stop, officers called their supervisors requesting the assistance of the Institutional Crisis Intervention Team — a group of officers that calm any disturbances caused by inmates



Requests for a crisis team to assist were denied and correctional officers were advised to manage Faqiri themselves.

At 1:45 p.m., a welding shield — a clear plastic free standing shield — was placed just outside the shower door to protect the officers in the area where Faqiri was throwing water and shampoo.

The jail's superintendent called Faqiri's psychiatrist to assist, who came and offered him snacks — crackers and peanut butter. This calmed Faqiri down.

Around 2:50 p.m., the supervising officer was able to handcuff Faqiri through the shower door. Five officers walked Faqiri back to his cell. The report states he began to display aggressive behaviour when a sixth officer, who had no previous history with Faqiri, joined them.

Faqiri began to resist, said the report, spitting at the guards, while still in the hallway. A guard used pepper spray on him as they reached his cell.

Faqiri was pulled and pushed into the cell by all six officers. He continued to display "aggressive and assaultive behaviour," said the report. An officer delivered a knee strike; another forced his right lower leg on his back.

The struggle lasted for over 10 minutes, said the report. Faqiri tried to hit the officers with his hands, which are still handcuffed together, and also spat at and bit them. As Faqiri repeatedly tried to get up, officers delivered body strikes to his body to keep him grounded, "where they can better gain control of him," said the report.

Pepper spray is used on him again.

A “code blue” was called, indicating officers needed help, and 20 to 30 officers came to the cell area. According to corrections ministry policy, when a “code blue” is called, all officers who can attend are told to go and assist.

The report states that these new officers started to “tap out” the officers “who were exhausting themselves in the struggle.” One of the first to leave was the supervising officer who had begun the escort.

A second officer takes command, said the report, and requested that a spit hood be brought and placed on Faqiri. This officer also requested leg irons to be brought and placed on him. The officer directed other officers to start leaving the cell to ensure their safety and to calm Faqiri’s behaviour.

The report states Faqiri’s mental health began to improve, as the officers slowly backed out of the cell. At this point, he was lying on his stomach with his hands up above his head, still handcuffed. He was turned around so that his head was at the back of the cell, and away from the door.

The supervising officer told Faqiri that his handcuffs were going to be removed and he would be re-handcuffed with his hands behind him. Faqiri, said the report, acknowledged and responded to instruction.



The cell door was locked and closed from the outside.

The report says a short time later, officers looked into the cell window and observed Soleiman was “possibly not breathing.” The officers entered the cells and removed the handcuffs and began CPR. Nurses soon arrived with a defibrillator.

Paramedics were called at 3:14 p.m. by a nurse, who said “there’s nurses everywhere, officers and vital signs absent.” According to the

transcript of the 911 call, the nurse said they were still performing CPR on Faqiri.

According to a homicide/sudden death report, Faqiri was dead by the time paramedics arrived.

Members of the City of Kawartha Lakes Police Service (KLPS) were notified of the death “almost immediately,” at 3:45 p.m.

Faqiri’s family was informed that night.

In the hours that followed, a Kawartha Lakes police investigative team was created and the scene was secured and all disposable or time sensitive evidence was gathered and secured. All video was requested.

The shower, where Faqiri had been earlier, was still running, said the report; investigative officers were told it was broken and the water could not be turned off, said the report.



The interviews didn’t provide a lot of information, said the report, as jail guards had closed the “hatches” to the doors of each inmate’s cell, thus preventing them from looking out into the common hallway, or getting involved.

The investigative team reviewed all reports filed by officers involved and also examined video of the incident. The team interviewed most of the officers who were directly or indirectly involved in the incident. According to the report, those officers investigators believe were directly involved in use of force against Soleiman were advised of their Charter rights, and cautioned for the offence of murder.


“No correctional officer refused to speak to police,” said the report.


Based on all of this, in October 2017, “investigators did not form the belief that Soleiman’s death was as a result of criminal actions by the involved correctional officers.”

A coroner’s inquest into Faqiri’s death is pending.

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HALIFAX

## Hearing delayed for Halifax police officers involved in man's death in cell



By Zane Woodford Star Halifax  
Tues., April 23, 2019







HALIFAX—A review board hearing into the conduct of three officers involved in the death of a man in police custody has been adjourned pending the outcome of a criminal trial for two other officers.

ARTICLE CONTINUES BELOW

Corey Rogers, 41, died in police custody on June 16, 2016 after being arrested for public drunkenness outside a Halifax children's hospital. Rogers was taken to Halifax Regional Police headquarters and put in a cell at about 11 p.m. on June 15, according to the province's police watchdog, the Serious Incident Response Team (SIRT).

At 1:45 a.m. on June 16, he was found unresponsive in his cell. He was pronounced dead eight minutes later.

Rogers' mother, Jeannette Rogers, alleges police put a spit hood over her son's head and he died by asphyxiation. A spit hood is a device that stops someone from spitting or biting.

The two booking officers in the case, special constables Daniel Fraser and Cheryl Gardner, were charged with criminal negligence in November 2017 after an investigation by SIRT. Fraser and Gardner are scheduled to stand trial in October in front of a judge and jury in Nova Scotia Supreme Court.

The three arresting officers, constables Ryan Morris, Donna Lee Paris and Justin Murphy, were set for a police review board hearing on Tuesday. That hearing has now been adjourned until after Fraser and Gardner stand trial.

Nova Scotia's police review board hears appeals of disciplinary decisions rendered against police officers stemming from public complaints. Rogers complained about the three officers' conduct after her son's death but wasn't happy with the suspensions she said they received, so she appealed the decision.

"Justin Murphy received 10 days suspension, Donna Lee Paris received nine days and Ryan Morris received eight days," Rogers told reporters after the hearing was adjourned on Tuesday.

"And my son will be dead forever."

In a statement emailed to the Star, Halifax Regional Police spokesperson Const. John MacLeod said “there were no suspensions in relation to the death of (Corey) Rogers.”

MacLeod confirmed the three officers were still Halifax Regional Police constables. The Star also asked what had changed within the department since Rogers’ death but did not receive an answer.

“We are unable to provide further comment on the police review board hearing as it is a private personnel matter,” MacLeod wrote.

Rogers said the three officers carried her son into the booking room at Halifax Regional Police headquarters and then dragged him into a cell. The specific nature of the allegations against them has yet to be revealed.

“To be perfectly honest, I would like to see them lose their badges,” she said.

Rogers supported the adjournment of the hearing because she wants video footage of her son in police custody released to the public, and that wouldn’t have happened due to the pending criminal trial.

“That was exactly what I wanted because the video will be shown at the criminal trial, and I think the public needs to see that,” she said.

“I have been diagnosed with PTSD, and that was after I viewed the videos at SIRT. All in all, I’m hanging in there and I need to do that because I need to see changes made within the system.”

Rogers said Halifax Regional Police have adopted a new policy regarding the use of spit hoods. However, she wants to see spit hoods banned completely.

“It doesn’t make sense to put a bag over an intoxicated person’s head to begin with. If they’re agitated then it’s only going to make them more agitated, I would think,” she said.

Having worked as a psychiatric nurse, Rogers said she’s seen alternatives to spit hoods, like masks for doctors and nurses, that police could use instead.

“I know nothing will bring Corey back, but if I can help to make a change for others, I don’t ever want to see another mother or family go through this,” she said. “If I can make a change of some sort to alleviate that, that will be Corey’s legacy.”

Lawyers for Fraser, Gardner and Morris, along with the lawyer representing the municipality and the police force, supported the adjournment.

Lawyer Brian Bailey, representing Paris and Murphy, was opposed to the adjournment because he had transported a witness to Halifax to testify in the hearing.

Former Supreme Court of Nova Scotia justice Simon MacDonald, the vice-chair of the review board, said if the hearing went ahead there'd have to be a publication ban imposed on the proceedings to protect the criminally charged officers' right to a fair trial. That process would stretch into the late summer, he said, and could even delay the criminal trial.






The trial is scheduled to begin on Oct. 28 and conclude in early November, according to the Nova Scotia Public Prosecution Service. MacDonald said there was no need to wait till sentencing was concluded to restart the hearing.

After the trial is over, Rogers also plans to petition the Nova Scotia Justice Department for a public inquiry into her son's death.

Zane Woodford is a Halifax-based reporter focusing on City Hall. Follow him on Twitter: @zwoodford

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## Strapped to the 'Devil's Chair' and 'pepper-sprayed to death': Horrific fate of mentally ill grandfather 'tortured by police until he died'



- Nick Christie, 62, was detained by Florida police in March 2009
- Had been suffering depression and had a 'mental breakdown'
- No-one has ever been charged following the incident
- Relatives now suing Lee County Sheriff's Department for 'wrongful death'

By LEE MORAN

UPDATED: 12:29 EDT, 12 January 2012

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A mentally ill grandfather died after police officers strapped him naked to a chair, smothered him with a 'spit hood' and pepper-sprayed him 10 times during a 43-hour ordeal, it has been claimed.

Nick Christie, 62, was allegedly tortured in the 'Devil's Chair' at Lee County jail after being detained by Florida police officers in March 2009 following a 'mental breakdown'.

The hood, designed to stop him from spitting at officers, meant he could not escape the noxious spray's fumes - and he was never allowed to clean the residue from his body.

His family is now suing Lee County Sheriff's Department for 'wrongful death'.

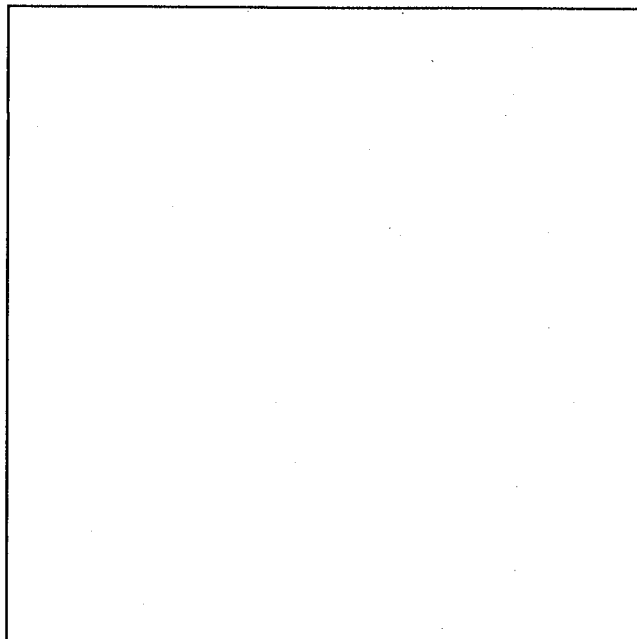
Scroll down for video...





**Tortured: Nick Christie was placed in a 'Devil's Chair' and repeatedly pepper-sprayed during a 43-hour ordeal, it has been claimed**

The incident has raised concern about the behaviour of U.S. police officers, especially as no-one has ever been charged in connection with the alleged crime.



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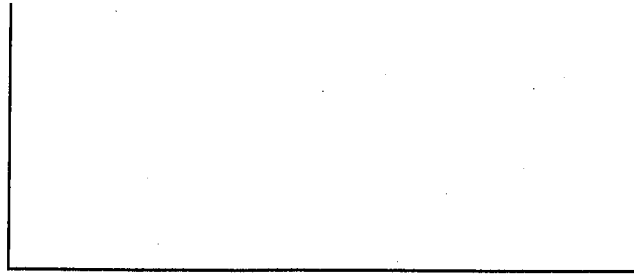
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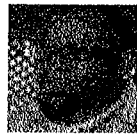
We design  
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By SHEA



The retired boilermaker had suffered from heart disease and emphysema, put down to his years as a smoker and of continual exposure to asbestos

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It is not clear who exactly took the shocking photograph, which was later handed to FOX 13's news team, of Christie strapped into the chair with a hood over his face.

The retired boilermaker, from Ohio, had suffered from heart disease and emphysema, put down to his years as a smoker and of continual exposure to asbestos.

He was being treated for depression when he decided to take some time out and visit his brother in Fort Myers.

Prior to the trip, his doctor moved away, leaving no-one to manage his emotional state or possible side effects of his drugs.

His wife Joyce was so worried about his trip that she contacted Lee County police to ask them to keep an eye out for him.

She also asked a captain from the Girard, Ohio, police to urge his Florida counterparts to take him to hospital if they found him.

Christie was first arrested on March 25 for being drunk in a public place. This has subsequently been contested as he may merely have been in a severely confused state.

He was released after telling jail attendants of his various medical conditions. Two

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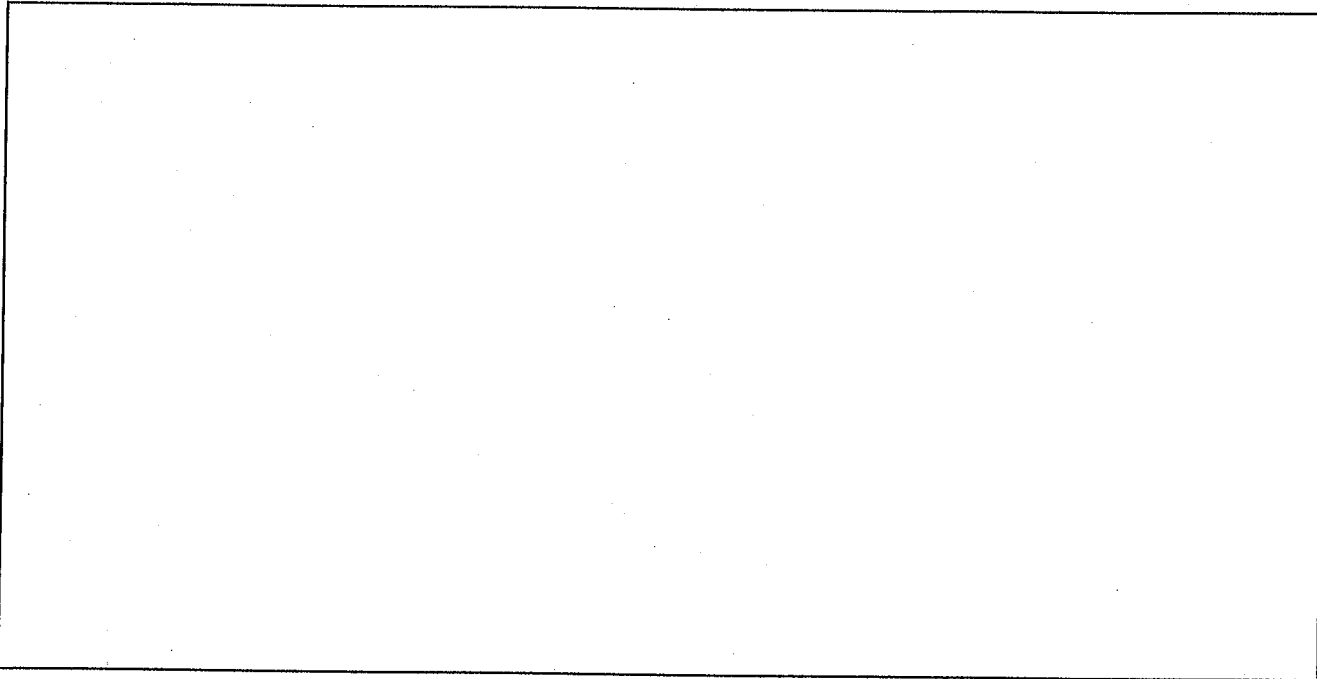
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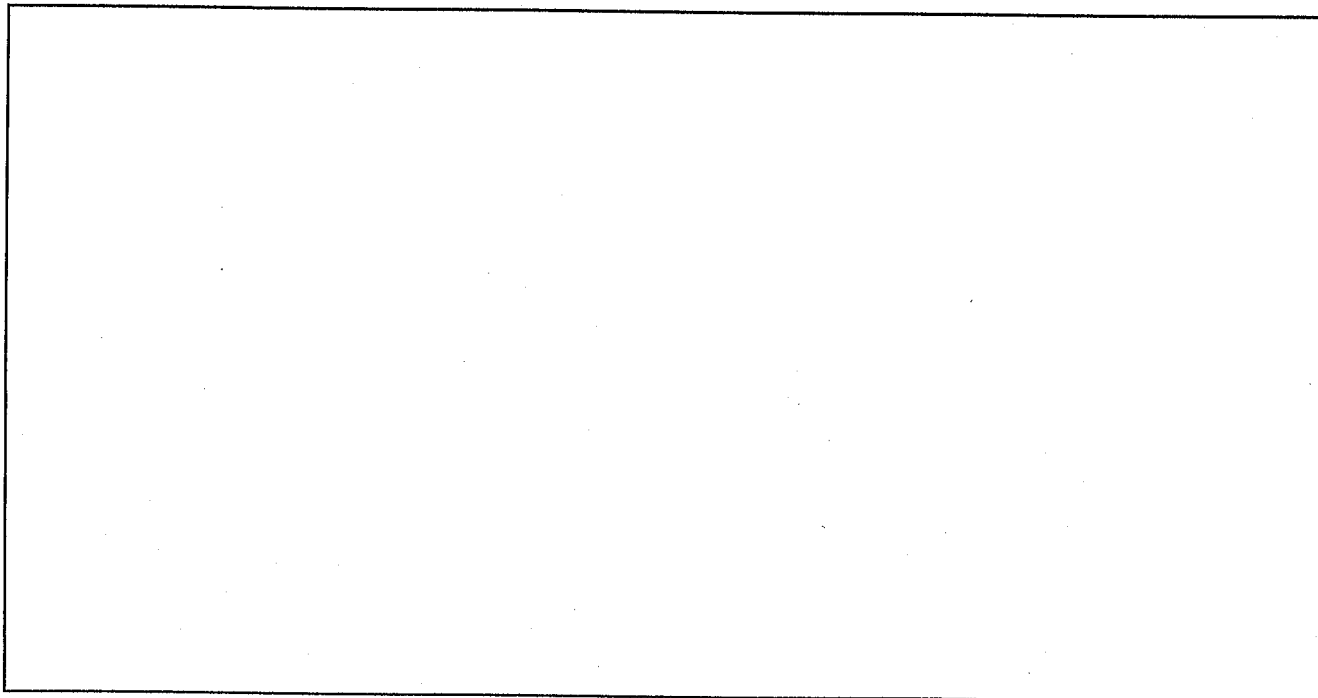
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He was released after telling jail attendants of his various medical conditions. Two days later, on March 27, he was arrested for trespassing at the hotel where he was staying.



**Shocking: Nick Christie, pictured in the restraining chair at Lee County jail**



**Moved: Nick Christie was eventually taken to hospital, after 43-hours of what has been claimed was 'torture' at the hands of deputies**

Nicholas DiCello, whose Cleveland firm Spangenberg Shibley & Liber has filed a civil rights lawsuit on behalf of his estate, said it was a 'minor' offence.

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He said: 'He was having another mental episode. He was bewildered, acting crazy, and so the hotel got fed up and asked him to leave. When he didn't go, they called the police.'

DiCello said jail staff did not screen Christie's mental health before he was jailed, even though they had the list of his conditions from his first arrest, and locked his medications in a truck.

He was never given any drugs during his 43 hours in custody, he also claimed. The trouble started when Christie, who was uncooperative from the time of his arrest, became angry.

Deputies responded by directly spraying him or fogging his cell with pepper spray at least 10 times. He was never allowed to wash the spray off.

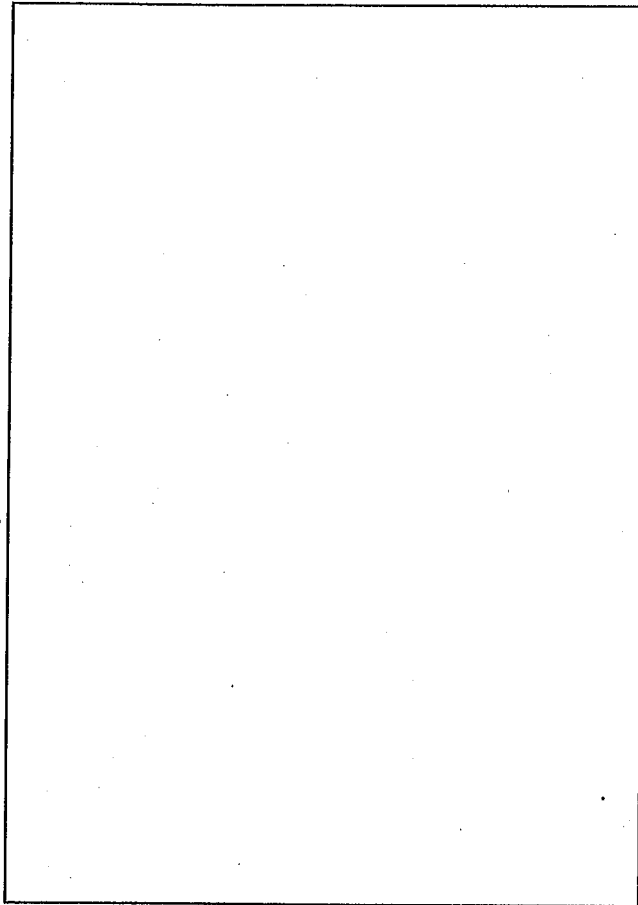
Other inmates in the jail told Fort Myers News-Press that the blasts were so strong the secondary effects caused them to gag.

Christie was then placed into a restraining chair to bind inmates at both wrists, both ankles, and across the chest.

Inmates, along with a deputy trainee named Monshay Gibbs, have already testified that Christie was sprayed at least two more times after he had been strapped to the chair.

He was also stripped naked, and outfitted with a spit mask, a hood designed to prevent inmates from spitting on jail personnel.

But the mask kept the pepper spray close to his nose and mouth, meaning he kept inhaling it for six hours. Christie, whose wife Joyce flew to Florida on hearing of his arrest; is said to have pleaded with officers by saying the mask made it difficult for



**Worried: Joyce Christie said she had been concerned about her husband's trip to Florida**

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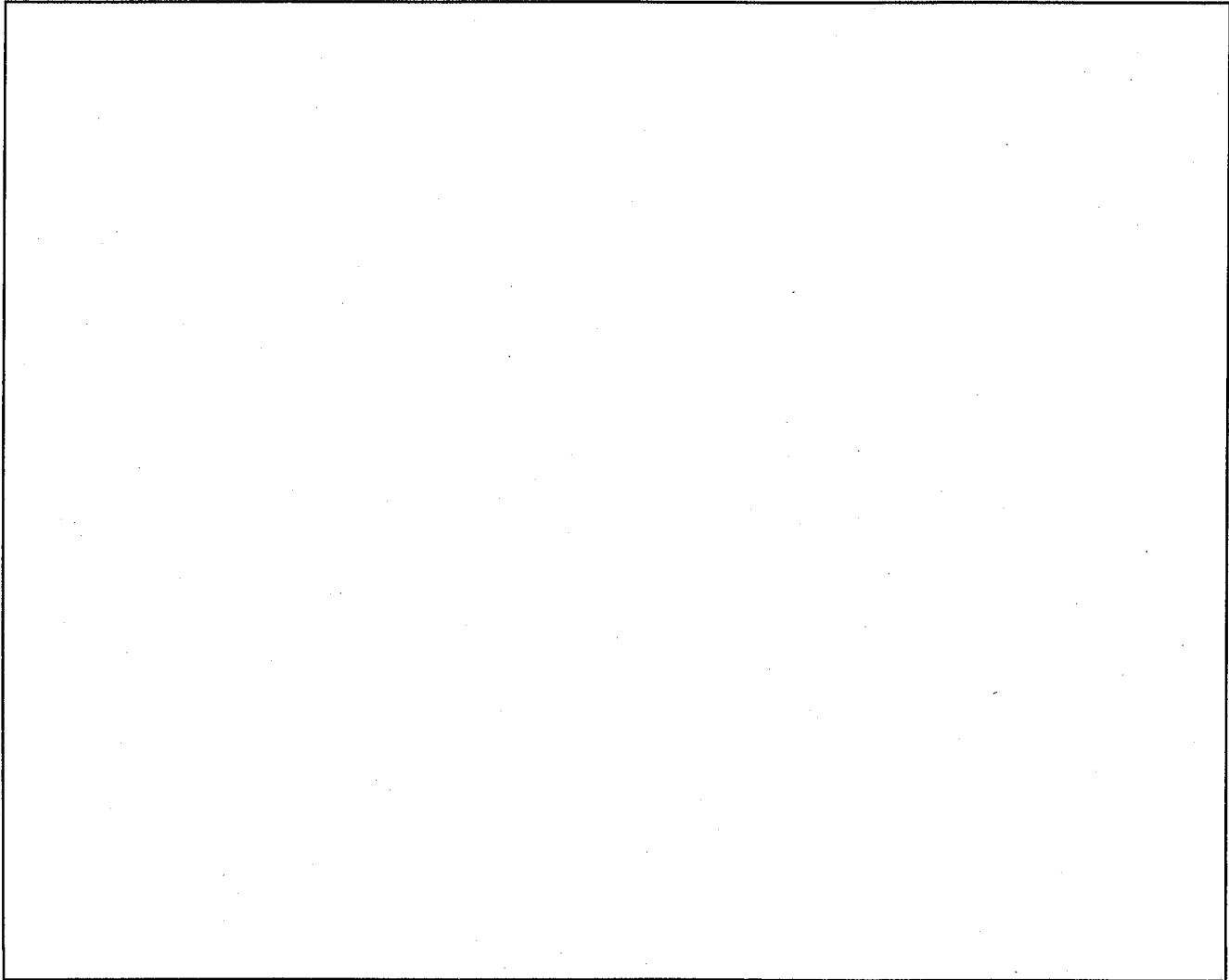
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DiCello added: 'She was actually relieved to hear he had been arrested She thought they had responded to her pleas for help, that they would take him to a hospital to be treated.'



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**Unaccounted for: No one at Lee County Sheriff's Department has ever been charged over the horrific incident**

Mrs Christie was not allowed to see her husband who, on March 29, went into respiratory distress and was taken to the Gulf Coast Medical Centre in Fort Myers.

It was there that doctors had to repeatedly change their gloves because of the amount of pepper spray on his body, hospital staff said.

Christie suffered multiple heart attacks over the next two days before being declared brain dead and his life support switched off on March 31.

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Deputy Medical Examiner Dr Robert Pflanzgraf later noted in his autopsy report that, two days after his death, brown-orange liquid pepper spray was still all over Christie's body.

Pflanzgraf ruled the death a homicide, as Christie's heart gave out due to stress from his exposure to pepper spray. An internal investigation concluded there no wrongdoing on the part of any Lee County deputy.

None of the deputies involved were disciplined in any way and Florida State Attorney Stephen Russell declined to press criminal charges. The wrongful death case is expected to go before a judge later this year.

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