



Irish Council for
Civil Liberties

ICCL: Monitoring rights during the pandemic
22-28 August 2020

COVID-19-RELATED ADVOCACY WORK

Our opposition to policing powers to criminalise breaches of gathering restrictions

On Friday morning, 28 August, media reports revealed the government's intention to introduce legislation conferring new powers on the gardaí to enforce public health guidelines, including the restriction of gatherings in the home to a maximum of 6 people from no more than 3 different households. In response to these media reports, our Executive Director Liam Herrick spoke on RTÉ radio 1 Today with Claire Byrne, on NewsTalk's [The Pat Kenny Show](#) to Pat Kenny and on Today FM's [The Last Word with Matt Cooper](#). Senior Policy & Research Officer Doireann Ansbro spoke on FM104. Policy Officer Deirdre Ní Cheallacháin spoke on [Nuacht TG4](#).

We reiterated our opposition to the introduction of such legislative measures on the basis that they would have far-reaching implications for our right to privacy, our right to the inviolability of the home, as well as our right to respect for private and family life under the European Convention on Human Rights. Criminal sanctions are not an appropriate or proportionate means for applying public health guidelines. An effectively communicated education campaign would be more appropriate and effective.

Recent surges in cases have been linked to outbreaks in congregated settings and we believe that there is a pressing need for targeted action to address this issue. We also raised the increasing lack of transparency around government decision-making processes concerning matters with potentially far-reaching implications for our human rights.

At lunchtime on Friday, it was announced that the government would not be considering the introduction of such legislation at the afternoon cabinet meeting, a development which we [welcomed](#).

On RTÉ radio 1's DriveTime programme on Friday evening, Independent Senator Michael McDowell [referred to our opposition](#) to the introduction of such legislation and reiterated our point that effective communication and education public health campaigns are more effective (at 44 minutes).

Our opposition to the use of spit hoods by gardaí (our submission can be viewed [here](#))

An Garda Síochána ordered 16,000 spit hoods for use during the pandemic. A spit hood is a full hood that covers the head and face of individuals to prevent them from spitting or coughing at gardaí. However, they have been called "anti-spit guards" by the authorities and the media, which gives the false impression that a spit hood is a protective device worn by gardaí.

This week, we made a detailed [submission](#) to An Garda Síochána, GSoc, the Garda Inspectorate, Policing Authority, Department of Justice and Minister for Justice reiterating our opposition to the use of spit hoods by gardaí ahead of the September review of their use.

We believe that their use may constitute inhumane and degrading treatment. Furthermore, a leading manufacturer of spit hoods has confirmed they do not provide effective protection against Covid-19. In fact, close contact is likely to occur while forcing a hood over a person's head.

We have written to the Garda Commissioner expressing our concerns about spit hoods twice. On both occasions, we asked to see the evidence base proving the necessity for introducing spit hoods as a) a measure to prevent the spread of COVID-19 or b) a device for restraint.

Given the high risk of excessive use of force in using spit hoods, as demonstrated in other jurisdictions where in some tragic cases their use has led to deaths in custody, we do not agree that using a hood can be a legitimate restraining device.