Dear Mr [name]

RE: Freedom of Information Act 2000 Request

I write in response to your Freedom of Information Act 2000 (or ‘FoIA 2000’) request dated 22 November 2016. I note from your request that you seek information in the form of the following questions:

1. Confirmation as to whether the College provides training, guidance, etc. to police forces regarding the use of spit hoods or similar devices.

2. If so, please provide copies of the documents associated with or constituting this training, guidance, etc.

3. Regardless of whether the College provides training, guidance, etc. to police forces regarding the use of spit hoods or similar devices, please:
   
   (a) Disclose copies of any correspondence (including internal correspondence) or other documents in your possession (including meeting minutes) regarding the use of spit hoods or similar devices.

   (b) Disclose any medical advice obtained or collated by the College regarding the risk presented to officers by being spat at.

Decision

After conducting careful searches for any information relevant to your request, I can confirm that there is information held in relation to part of your request which will be disclosed, some information which is held but is not to be disclosed and finally, there is no information held in relation to 3(b) of your request. I have provided a response to each part of your request below.

1. The College does provide training and guidance to police forces regarding the use of spit hoods. Within the College document, the ‘Personal Safety Manual’ is a specific section with regards to the use of spit hoods. The Personal Safety Manual is a published document and can be found via our website at [http://www.college.police.uk/Pages/Home.aspx](http://www.college.police.uk/Pages/Home.aspx)

2. For ease of reference, I attach the extract from the Personal Safety Manual which relates to spit hoods (PDF document).
3. (a) As per your request, we enclose minutes from the meeting of the Association of Chief Police Officers of England, Wales & Northern Ireland Strategic Firearms & Conflict Management Portfolio Working Group on Self- Defence Arrest & Restraint. The meeting was held on 1st April 2015. The minutes have been redacted to remove any details which would compromise operational safety and/or disclose police tactics and personal information of the attendees at the meeting. In redacting the document we have applied s23, s31 and s40 Freedom of Information Act 2000 and the relevant sections of the Act can be found at Appendix A along with an explanation as to why they have been relied upon.

(b) The College of Policing provides guidance around the use of spit hoods however the availability and use of equipment such as spit hoods/guards remains a local decision for the Chief Constable of each force. On that basis the decision to make spit guards available to forces is a national-level decision and you may wish to contact the National Police Chiefs' Council (NPCC) who may hold information in relation to this aspect of your request. The NPCC be contacted via the following web link: http://www.npcc.police.uk/Info/Generalenquires.aspx.

Your attention is therefore drawn to the refusal/redaction notice provided in Appendix A. This notice details the reasons for the redactions in the attached minutes from the Strategic Firearms & Conflict Management Portfolio Working Group on Self- Defence Arrest & Restraint on 1st April 2015.

May I take this opportunity to thank you for your interest in the College of Policing. Your attention is drawn to the complaint rights provided in Appendix B.

Yours sincerely,

Jessica Hetherington | Ethics, Integrity and Public Interest
Ethics, Integrity and Public Interest Unit
College of Policing

Email: FOI@college.pnn.police.uk
Website: www.college.police.uk
Appendix A
Refusal Notice (on the grounds that some material requires redaction)

<table>
<thead>
<tr>
<th>Exemption applied</th>
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<td>Information supplied by security bodies</td>
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<td>s40 FOIA 2000</td>
<td>Personal information</td>
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Section 23(1) (information supplied by, or relating to, bodies dealing with security matters)

Section 23 (1) provides:

‘Information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies [dealing with security matters]’

Information held that falls within the scope of your request is exempt from disclosure by virtue of Section 23 (1). This is an absolute and class-based exemption, and as such, it does not require a consideration of the public interest or evidence of any harm or prejudice.

Section 31 (1) (a) (law enforcement)

Section 31 provides –

‘(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice —

(a) the prevention or detection of crime’

There are two essential elements of the application of this exemption:

1) Would disclosure of the information be likely to prejudice the prevention or detection of crime?
2) If so, does the public interest in maintaining the exemption outweigh the public interest in disclosure?

The provision to refuse access to information under section 31 (1) (a) of the Act is both qualified and prejudice based. I am, therefore, required to establish the nature of the prejudice and/or harm that may result from
disclosure and where prejudice and/or harm is established, but not certain, determine the likelihood of it occurring. In addition, I must also conduct a public interest test to determine whether the public interest lies in disclosing or withholding the requested information.

**Prejudice and harm considerations**

As clarified in the case of Hogan v IC and Oxford City Council, the requisite prejudice must be real, actual or of substance; the exemption is engaged if disclosure is more likely than not to cause such prejudice, or if there is a very significant and weighty chance of it, even if falling short of being more probable than not.

I consider that the disclosure of the requested information is more likely than not to cause such prejudice.

The disclosure of the redacted information within the minutes of the meeting has the very real effect of the unintended disclosure of law enforcement capabilities, or lack thereof, which may have an undesirable impact on law enforcement operations. This in turn, creates an undeniable risk to the safety of the public.

Furthermore, the disclosure of the requested information is likely to prejudice the prevention or detection of crime by providing information which could, whether alone, or when pieced together with other information, enable individuals to successfully undermine the effectiveness of policing capabilities. This runs the very real risk of compromising the ability of law enforcement agencies to bring incidents and operations to a safe conclusion. Disclosure of information which is likely to have a real and adverse effect on law enforcement capabilities, cannot be said to be in the public interest.

Please find the public interest test considerations that I have identified and considered in relation to my application of section 31 (1) (a) of the Act stated below.

**Public interest considerations favouring disclosure**

There is a clear public interest in making appropriate information available to the public in order to promote openness, transparency and to provide reassurance to the public, in particular in terms of assurance as to the quality of training provided by the College.

The increased public awareness of law enforcement capabilities and the way in which the police seek to bring law enforcement operations and incidents to a safe conclusion would promote a feeling of safety in the general public. In addition, the use of public money as well as the income generated by public bodies such as the College, is also a matter of strong public interest.

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1 [2011] 1 Info LR 588
Public interest considerations favouring non-disclosure

I consider that disclosure of the requested information runs the very real risk of disclosing the law enforcement capabilities and police tactics.

The effect of disclosure has the likely effect of hindering the effective prevention and detection of crime and would compromise the ability to bring incidents and operations to a safe conclusion. Disclosure of information that undermines the operational integrity of law enforcement capabilities and that will adversely affect public safety and have a negative impact on law enforcement generally cannot be said to be in the public interest.

Evaluation

As stated above, the public interest test is a consideration of whether the community benefit of possession of the information outweighs the potential harm. It is not an evaluation of what interests the public. On weighing up the competing interests, I find that the public interest test favours withholding the requested information on this occasion.

I acknowledge that there is a clear public interest in transparency in relation to police training. However, this must be weighed against the very real and considerable risk that disclosure of the information may bring, in particular as regards to disclosure of law enforcement capabilities, as well as the risk of compromising specific operations and in turn jeopardising the safety of officers and the public at large.

I consider that the disclosure of information that is highly likely to provide assistance in undermining police tactics and law enforcement operations and thereby prejudice the effective prevention or detection of crime cannot be in the public interest and as such, I am unable to provide you with the information requested under section 31 (1) (a) of the Act.

Section 40 (2) (personal information)

Under section 40 (2) by virtue of section 40 (3) (a) (i), personal data of a third party can be withheld if it would breach any of the data protection principles to disclose it. Personal data is defined in section 1 (1) of the Data Protection Act 1998 (DPA) as:

data which relate to a living individual who can be identified –
(i) from those data, or
(ii) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intention of the data controller or any other person in respect of the individual.’
The two main elements of personal data are that the information must ‘relate’ to a living person and that the person must be identifiable. Information will relate to a person if it is about them, linked to them, has some biographical significance for them, is used to inform decisions affecting them, and has them as its main focus or impacts on them in any way. In the present case, the information ‘relates to’ individuals who are named in the minutes of the Strategic Firearms & Conflict Management Portfolio Working Group on Self-Defence Arrest & Restraint meeting (1st April 2015). This information is biographical in terms of providing enough information, which identifies their name and job title and area of work. It is my view that the data subjects would be identifiable from that information.

Personal data is exempt if either of the conditions set out in sections 40 (3) and 40 (4) of FoIA 2000 are met. The relevant condition in this case is at section 40 (3) (a) (i) of FoIA 2000, where disclosure would breach any of the data protection principles. In this case I have considered whether disclosure of the personal data would breach the first data protection principle, which states that ‘personal data shall be processed fairly and lawfully.’

Furthermore, at least one of the conditions in Schedule 2 should be met. The relevant Conditions of Schedule 2 being:

‘1 The data subject has given his consent to the processing...
6 (1) The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.’

Likely expectation of the data subject
It is my view that to disclose the information requested would result in the release of personal data into the public domain. In this vein, I consider that there would be no legitimate expectation to assume that the College would disclose this information without consent of the individuals concerned first being obtained. Exception is given of course to those who hold senior positions within the College of Policing, the UK police service, and the Police and Crime Commissioner, where there is an expectation that such information would be disclosed with or without consent.

The legitimate public interest
I acknowledge that there is a legitimate public interest in knowing how the College spends public money and how decisions are made. However, I consider that as the substance of the information requested is subject to disclosure to the requester, and only names and personal details of individuals have been redacted along
with the other exempted information, this goes some way to meeting the legitimate public interest in the present case.

I consider that whilst there is a legitimate public interest in the disclosure of the withheld information, for the reasons set out above, I do not consider that the legitimate public interest would outweigh the interests of the data subject in the present case. I am of the opinion that the data subject would have a reasonable expectation that this information would not be disclosed without their consent and it would not be fair to them to put this information into the public domain without such consent. It is for this reason that the College of Policing have withheld this information under section 40 (2) by virtue of section 40 (3) (a) (i).
Appendix B

Complaint Rights

If you are dissatisfied with the handling procedures or the decision of the College of Policing made under the Freedom of Information Act 2000 (the Act) regarding access to information you can lodge a complaint with the College of Policing to have the decision reviewed.

Complaints should be made in writing, within **forty (40) working days** from the date of the refusal notice, and addressed to: FOI team, Central House, Beckwith Knowle, Otley Road, Harrogate, North Yorkshire, HG3 1UF or email: FOI@college.pnn.police.uk

In all possible circumstances the College of Policing will aim to respond to your request for internal review within **20 working days**.

The Information Commissioner

If, after lodging a complaint with the College of Policing you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at https://ico.org.uk/for-the-public/official-information/.

Alternatively, write to:

**Information Commissioner's Office**

**Wycliffe House**

**Water Lane**

**Wilmslow**

**Cheshire**

**SK9 5AF**

**Phone: +44 (0)1625 545 700**