

# **General Scheme of the Garda Síochána (Recording Devices) (Amendment) Bill 2023 - Joint Committee on Justice**

## **Summary of Opening Statement**

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Good evening,

My name is Nessa Lynch, and I am joining you from New Zealand where it is already Wednesday morning. I am a Research Fellow at Victoria University of Wellington, New Zealand, and I will return to Ireland in March to take up the Matheson Lectureship in Law, Technology, and Innovation at University College Cork. I have deep experience in biometrics and biometric regulation from an academic perspective, in various regulatory and ethics roles in the public sector, and more recently in a senior leadership role in police.

I would like to highlight three overarching points from

### **Human rights compliance**

Biometric technologies in policing (such as FRT) involve the collection, analysis, and retention of sensitive personal data, and thus pose risks to collective and individual human rights such as privacy and the right to be free from discrimination. Ethnic and social minorities, and young people are likely to be impacted due to their use of public space and existing inequities in impact of policing.

Yet, the state has a duty to protect the human rights of all people, and to investigate and resolve serious crime and risks to public safety.

While social licence or public opinion cannot override fundamental human rights, police must be empowered to use available technology to fulfil their duties in law enforcement and the protection of the public.

### **Retrospective facial recognition technology – risks and opportunities**

Facial recognition technology is a broad suite of technology with a spectrum of impact. The category of use case at issue in this proposal is retrospective, meaning it occurs on already collected and retained imagery. This is classed as a speed and scale improvement on existing human capabilities rather than an entirely new capability (such as live automated FRT). The technology can drastically cut the time to identify persons of interest in footage or collections of images.

My previous work on FRT use in policing has categorised retrospective FRT medium to low risk with the proper controls, particularly around the parameters of the comparison images, and confining usage to certain serious offences. This aligns to the scheme of the new European Union regulatory regime for AI.

Accuracy and the potential for bias in interpretation and identification remain significant concerns, but within the context that visual identification by human witnesses has a high degree of unreliability and potential biases.

**A system which ensures safe, ethical, and human rights compliant use of technology**

Legislation is a broad power which empowers and restricts police use of technology, but safe, ethical, and human rights compliant use of technology require a system of controls.

Some of these are within your power as legislators to enact or to signal importance to the Gardaí,

These include legislative or regulatory controls such as the code of practice, independent oversight of patterns of use, requirements for internal supervisory controls. It also includes technology assurance such as well governed procurement of technology, assurance of use including regular audit of use, technical rules on matching, forensic face examiner training, training of detectives and expert users in the system. At a more fundamental level, an important control is the values and ethics that need to be embedded in the policing organisation, recruit training, detective training and leadership culture.

Many of these controls will be operational matters for the Gardaí, but the legislative and regulatory oversight mechanisms can empower these controls and signal their importance.

Thank you for the opportunity to contribute expertise to this important issue, and I look forward to your questions and hearing the contribution of the other experts.