Opening Statement to the Joint Committee on Justice
General Scheme of the Garda Síochána (Recording Devices) (Amendment) Bill 2023

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Members of the Joint Committee on Justice:

Thank you for the invitation to contribute to the discussion of the Amendment draft to the General Scheme of the Garda Síochána Recording Devices Bill. My name is Dr Ciara Bracken-Roche and I am an Assistant Professor in the School of Law and Criminology at Maynooth University and an Adjunct Professor in Criminology in the University of Ottawa. I am a specialist in surveillance technologies and privacy including national and international frameworks, policies, and I focus mostly on the development, regulation, and use of new technologies for policing, public safety, and security purposes.

I welcome the production of the draft Bill generally, and the Amendment specifically, to bring Facial Recognition Technology (FRT) under the rule of law with the aim of helping safeguard the Irish public. However, I am concerned that the adoption of Facial Recognition Technology could do more harm than good, and could be counterproductive for An Garda Síochána's operational goals. The development and consistent review of Gardaí practices, resources, and technologies should occur in tandem, with new technologies need to be assessed on their own merit, but also in the context of broader organisational operations.

I would like to highlight three key points relating to effectiveness and the proprietary nature of FRT for the committee, but I am happy to discuss other aspects of my submission afterwards.

Firstly, in relation to public order policing or surveillance of public spaces, everyday garments can often render FRT useless because these physical barriers stop FRT from seeing the face clearly. Baseball caps, face coverings, face masks, glasses, hoods, and umbrellas can all potentially obstruct FRT. Notwithstanding, the chilling effects should prohibit the use of FRT in public spaces in the first instance.

Secondly, FRT relies on vast databases of images to operate, using algorithms to find details about one face to assess its similarity to other faces. Some systems, instead of positively identifying an unknown person will calculate a probability match score between the unknown person and specific face templates stored in the database. Instead of a single match, the system offers up several matches ranked by probability score (EFF 2023). This puts privacy at risk as individuals who have nothing to do with an event might still be brought into investigation if their probability score is high enough.

And lastly, the proprietary nature of FRT means the algorithms and processes inside the system are 'blackboxed', unexplainable to government institutions and the public alike. The practices employed by FRT companies are questionable at best with one of the largest international providers, Clearview AI, being fined and sanctioned for inappropriate collection, use, and disclosure of personal

information, creating risks of significant harm to individuals who have never been engaged in a crime, and collecting images in an unreasonable manner (OPC 2021).

I appreciate that these comments are necessarily brief, but I am happy to elaborate further and look forward to the forthcoming discussion.

Dr Ciara Bracken-Roche