

Garda Síochána (Recording Devices) Bill 2022
Regulatory Impact Analysis

June 2022

* An Garda Síochána does not have the specialist expertise or capacity to progress the implementation of the Bill. Staffing and consultancy support would be required between €2.23 and €3.38 million for the initial year.

Summary of Regulatory Impact Analysis (RIA)			
Department/Office: Department of Justice Criminal Justice, Legislation Function		Title of Legislation: Garda Síochána (Recording Devices) Bill 2022	
Stage: Publication of the Garda Síochána (Recording Devices) Bill 2022		Date: June 2022	
Related Publications:			
Available to view or download at: http://www.justice.ie			
Contact for enquiries: John Garry, Criminal Justice Legislation, Department of Justice		Telephone: 087 9898834	
OPTIONS			
	COSTS*	BENEFITS	IMPACTS
1.	The minimum scenario envisages outlay of €35 million euro in capital costs and €10 million in annual costs.	The benefits will increase with the bigger scenarios where the technology becomes more embedded across the organisation Each scenario envisages more expenditure. For example, the minimum scenario provides for 2,500 body worn cameras. The medium provides for 4,100 and the maximum provides for 14,000.	Digital evidence is now central to most criminal prosecutions. There is a concern that An Garda Síochána needs a strong, robust and modern legal basis for use of such technology. For the most part, this Bill does not commit An Garda Síochána to using particular tools. It does however provide the lawful basis that it requires, should it wish to do so.
2.	The intermediate scenario envisages outlay of €59 million euro in capital costs and €14 million in annual costs.		
3.	The maximum scenario envisages outlay of €126 million euro in capital costs and €32 million in annual costs.		

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1. Policy Context/ Objectives

Overall Policy Objective

To provide An Garda Síochána with a modern and robust legal framework for using new, existing, and advancing digital technologies to assist with the investigation, detection, prevention or prosecution of criminal offences, safeguarding against and the prevention of threats to public safety and public order, and the protection of the security of the State.

Context

The Commission on the Future of Policing in Ireland issued its final report in September 2018. It noted that modern police services are increasingly using digitally-enabled operating models to become more effective, efficient, responsive and transparent. The report referred to the digital technologies available to An Garda Síochána at present as being limited and outdated, and called for a new and comprehensive digital strategy for the organisation. It also recommended that An Garda Síochána should deploy body-worn cameras which can help to improve front line capabilities through the accurate recording of incidents, expeditious analysis, enhanced situational awareness, and will offer a degree of protection to both the general public and to Garda members providing another perspective on interactions that take place.

The Commission strongly supported intelligence-led policing. It stated that the modernisation of policing in Ireland depends on the transformation of An Garda Síochána's digital technology in order to supply the information necessary to guide decision making. If new technologies are to be adopted, an appropriate and robust legal framework must be provided. While the Gardaí have common law powers in this area, these technologies represent a significant intrusion on an individual's right to a private life, and as such, should be subject to clear operating standards, principles and procedures. The most appropriate way of providing for this is through primary legislation, which will have the necessary scrutiny and oversight of the Oireachtas in setting these principles and standards.

In December 2018, the Government accepted the Commission's report in its entirety and it was noted that the Minister for Justice would revert to Government with proposals in relation to legislative changes to underpin the use of recording devices in Q2 2019 (S180/20/10/1002C).

The Minister for Justice took the decision to use this Bill to modernise and extend the law in relation to Garda powers to use other forms of recording devices. Section 38 of the Garda Síochána Act 2005 allows for the Garda Commissioner to authorise the installation and operation of CCTV for the sole purpose of securing public order and safety in public places by facilitating the deterrence, prevention, detection, and prosecution of offences. The 2005 Act only allows for fixed and permanent systems employing optical devices for recording images. Since 2005, a range of other possible mobile technical solutions have become available that will assist in front-line policing and investigations. Therefore, this Bill is intended to provide a strong legal basis for the expansion of the digital tools available to An Garda Síochána.

On 25th June 2019, the Government approved (S180/20/10/1002D) the drafting of a General Scheme of a Bill to provide a legal basis for:-

- * the deployment and use of body-worn cameras by An Garda Síochána, and
- * the extension of the circumstances in which Closed Circuit Television (CCTV) and Automatic Number Plate Recognition (ANPR) devices may be used by An Garda Síochána.

A pre-legislative scrutiny hearing for the Garda Síochána (Recording Devices) Bill, (formerly known as the Garda Síochána (Digital Recording) Bill) took place on 21st September 2021 and the report was received on the 17 December 2021.

2. Identification and Description of Options

An Garda Síochána has conducted an initial assessment of costs in accordance with the Department of Public Expenditure & Reform's guidelines. The table below has been prepared gives an broad indication of the costings for potential minimum, intermediate or maximum scenarios that may be considered for the entire Bill across the following

areas: Body-Worn Cameras, Digital Evidence Management Systems, Network Upgrade, ANPR and CCTV.

Minimum scenario	Intermediate scenario	Maximum scenario
2,500 BWC	4,100 BWC	14,000 BWC
250 ANPR vehicles	500 ANPR vehicles	1,500 ANPR vehicles
5 agencies for ANPR	10 agencies for ANPR	20 agencies for ANPR
25 Garda CCTV systems	50 Garda CCTV systems,	100 Garda CCTV systems
20 non-Garda CCTV systems	50 non-Garda CCTV systems	50 non-Garda CCTV systems
250 in-vehicle custody CCTV	500 in-vehicle custody CCTV	1,500 in-vehicle custody CCTV
10 in station custody CCTV	30 in station custody CCTV	60 in station custody CCTV
Divisional level ACMO	Divisional level ACMO	Divisional level ACMO
Capital Costs €35 million	€59 million	€126 million
Annual Costs €10 million	€14 million	€32 million

These costings relate to the technology solutions and hard costs only. See earlier footnote regarding initial set up costs.

3. Analysis of Costs, Benefits and Impacts for Options

An Garda Síochána conducted a full cost/benefit analysis of the various proposals contained in the Bill. It is not envisaged that there would be any significant expenditure until 2023 at the earliest and approval from the Department of Public Expenditure and Reform will be sought before there is any commitment to outlay monies. This legislation does not place any obligations on An Garda Síochána to expend funds. It merely provides them with powers to engage in certain activities, should funding be agreed.

A pilot study is necessary to inform the policy and procedures in the use and deployment of body worn cameras. The main costs will be the purchase of the cameras, the purchase of servers for the storage of the camera data and the upgrading of the Garda ICT infrastructure to support the deployment of the cameras.

In relation to recording devices in vehicles, there will be costs in installing cameras in Garda cars. In addition, it is envisaged that there will be a requirement to provide overt recording equipment to support the policing of large events and public gatherings. Budgetary costs are yet to be defined.

In relation to ANPR data, there are policy options available. An Garda Síochána could apply for planning permission for to place cameras on poles at strategic locations and to establish its own network. The PSNI has approximately 600 cameras placed strategically around Northern Ireland. To replicate such a system in Ireland could cost a significant amount of money. Part 3 of the Bill allows for the transfer of ANPR data to An Garda Síochána from State bodies who already have cameras in these locations. There will be costs in relation to re-programming cameras to allow data to be transferred and there will be storage costs for the data but the approach set out in part 3 using the data of other State organisations, should reduce the costs of implementing this significant policing requirement. It should be pointed out that there may be some locations, that are strategic for national security reasons where other State bodies do not have ANPR cameras, and in these situations, An Garda Síochána may need to install their own cameras.

4. Consultation

The Criminal Legislation Function of the Department of Justice has engaged extensively with An Garda Síochána over the last three years. The Department has also consulted the Policing Authority, the Garda Síochána Inspectorate and the Garda Síochána Ombudsman Commission.

The Department acknowledges that there are privacy issues arising in respect of recording and storing images in light of the right to a privacy under the Constitution and under Article 8 of the European Convention on Human Rights. We have engaged

with the Irish Human Rights and Equality Commission and the Irish Council for Civil Liberties.

Data Protection is another important consideration, particularly since the GDPR and accompanying Law Enforcement Directive (LED) were agreed at European Union level in 2016. Data processing for law enforcement purposes must be necessary and proportionate and the Data Protection Commissioner has also been consulted in relation to how these powers comply with the GDPR and LED.

Outside of this jurisdiction, we have engaged with the Police Service of Northern Ireland, the UK Home Office and Devon and Cornwall police.

5. Enforcement and Compliance

In the first instance, ensuring the legislation is properly implemented will be a matter for the Garda Commissioner. Ultimately, the Courts will have oversight and will decide if the data recorded is admissible. The Garda Síochána Ombudsman Commission is mandated to provide independent oversight of policing and ensuring An Garda Síochána operates within the law. Also, the Data Protection Commissioner will have enforcement powers in relation to data protection arrangements.

In relation to the use of recording devices, such as body worn cameras, the Garda Commissioner is charged with preparing a Code of Practice, a data protection impact assessment, a human rights impact assessment. The Code of Practice will address the rules as to when it is appropriate to use these devices and when it is not. It will address confidentiality rules as well as storage, access and retention provisions.

Part 3 provides for the transfer of ANPR data from other State organisations, the National Roads Authority (Transport Infrastructure Ireland), DAA Plc. and Dublin Port Company to An Garda Síochána. The Minister for Justice will consult the Data Protection Commissioner before designating any further bodies as relevant bodies for this part.

Part 4, provides that the Commissioner must authorise new CCTV schemes and will ensure that such schemes are necessary and proportionate.

Part 6 of the Bill relates to Third Party CCTV. It requires a Court authorisation for any access exceeding three days. There will also be oversight by a designated judge.

6. Review

The operation of Part 3 and Part 6 will be kept under review by a designated judge of the High Court.

There are various other provisions throughout the Bill for review after a number of years.