I refer to your letter of 4 October addressed to the SPA’s Interim Chief Executive advising of the Sub-Committee’s proposed inquiry into facial recognition and how policing in Scotland makes use of this technology, and seeking responses from the SPA to a number of related questions.

I note that in its correspondence with the Sub-Committee of 20 August, 12 September and 1 November 2019, Police Scotland has confirmed that there are no current plans to introduce the use of facial recognition software nor any other new biometric technology. In addition, Police Scotland has confirmed that facial recognition in a live setting, such as public space cameras, CCTV or other means, has not been trialled, tested or piloted by the service.

We recognise, however, that there is significant public interest in this technology and the Authority is therefore developing its plans for proportionate oversight of this issue in the period to come.

The Authority has also supported the establishment of the Scottish Biometrics Commissioner and underpinning Code of Practice and has provided evidence to the Justice Committee on the Bill currently before Parliament. As the Sub-Committee is already aware, these key developments emerged from the Scottish Government’s Independent Advisory Group (IAG) on Biometrics, on which the SPA’s Director of Forensic Services Tom Nelson was a member. Mr Nelson gave evidence to the Justice Committee on the Bill as recently as 29 October 2019.

It is entirely appropriate therefore that Police Scotland awaits what we hope is the approval and implementation of this important legislation before engaging fully with the Authority and a future Scottish Biometrics Commissioner on any proposed use of such biometric technology.

The remainder of your questions relate not to the use of facial recognition software but to the use for some five years now by Police Scotland of a ‘facial search’ facility on photographs that are uploaded onto the Police National Database (PND). As Police Scotland has made clear in its correspondence with you, this is a quite different process and the Authority would want to avoid this already well-scrutinised database issue being conflated with, or distracting from, a focus on the undoubted challenges, opportunities and ambiguities of emergent live-time facial recognition technologies.

I note your questions related to previous SPA oversight and assurance processes on this PND issue. As explained in ACC MacDonald’s letter of 12 September 2019, this
area of policing is subject to a range of external assurance. In fulfilling its role, the Authority will rely on and utilise input from the most appropriate expertise and skills on a particular issue and which may reside elsewhere in the system. The Authority is therefore satisfied that external assurance is in place.

I can confirm that HM Inspectorate of Constabulary in Scotland (HMICS) carried out an Audit and Assurance review in 2015 of the use of facial search functionality within the UK Police National Database (PND) by Police Scotland. The then SPA was consulted by HMICS on that work and was a recipient of its published report and recommendations in January 2016. Indeed in that report, HMICS stated that the key planning decisions in relation to placing Scottish records on the PND, including planning for updates such as the facial search capability, were ‘made prior to the establishment of Police Scotland and the Scottish Police Authority’.

The HMICS report found that Police Scotland was making proportionate and necessary use of facial search, and identified the need for improved legislation and independent oversight of biometrics – recommendations for Police Scotland, the Scottish Government and the SPA that were absorbed within the range of subsequent work that brought the draft Scottish Biometrics Commissioner legislation that is now being scrutinised by the Scottish Parliament.

I trust this this response is of assistance to you.

Susan Deacon CBE
Chair
6 November 2019