| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-2751  Responded to: 30 October 2024 |
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Your recent request for information is replicated below, together with our response.

**Please can you provide the number of arrests you made under Section 1 of the Malicious Communications Act 1988, over the same time period and in the same year-by-year breakdown.**

The Malicious Communications Act 1988, does not extend to Scotland and section 17 of the Act therefore applies. The information sought is not held by Police Scotland.

**I would like to know how many arrests you made under Section 127 of the Communications Act 2003 in the following years: 2017, 2018, 2019, 2020, 2021, 2022, 2023, and the first nine months of 2024. Please can you provide separate figures for each year.**

The Criminal Justice (Scotland) Act 2016 removed the separate concepts of arrest and detention and replaced them with a power of arrest without warrant - where there are reasonable grounds for suspecting a person has committed, or is committing, an offence.

When a person is arrested, a statement of arrest should be read over as soon as reasonably practicable, and details recorded in the arresting officer’s notebook.

A person is ‘Not Officially Accused’ (a suspect) when arrested *and* *not* cautioned and charged. They are ‘Officially Accused’ once arrested *and* cautioned and charged.

If conveyed to a police station, the arrested person will have their details recorded in our National Custody System.

There are situations however whereby a person must be released from police custody prior to their arrival at a police station - effectively they are ‘de-arrested’ - where the reasonable grounds for suspicion no longer exist. In those circumstances, the details of an arrested person are not held electronically.

As a result, we are unfortunately unable to collate comprehensivearrest data, as case by case assessment of all officer notebooks would be required - in addition to the partialarrest data held in the National Custody System.

Unfortunately, I estimate that it would cost well in excess of the current FOI cost threshold of £600 to process your request and I am therefore refusing to provide the information sought in terms of section 12(1) - Excessive Cost of Compliance.

For the reasons outlined above, Police Scotland do not collate data on arrests.

Instead, data is compiled and published based on recorded and detected crimes - [Crime data - Police Scotland](https://www.scotland.police.uk/about-us/how-we-do-it/crime-data/).

Detected crimes are those where an accused has been identified and there exists a sufficiency of evidence under Scots Law to justify consideration of criminal proceedings.

To be of assistance, we have gone on to consider whether your request could be answered on the basis of detected crimes.  
Crimes in Scotland are recorded in accordance with the Scottish Government Justice Department offence classification codes, many of which cover more than one piece of legislation.

The offence set out at s127 of the Communications (Scotland) Act 2003 can be covered by the following offence classification codes:

* 'Communications Act 2003 (sexual)'
* 'General post office/ telecommunications offences' (which covers non-sexual content)

Whilst the first classification is specific to section 127 offences, the second includes a number of other offences set out in different legislation including the Mobile Telephones Act 2002, the Post Office Act 1953, the Postal Services Act 2000 and the Telecommunications Act 1984.

Unfortunately, it is not possible to ascertain which of the General post office/ Telecommunications offences relate to section 127 of the Communications (Scotland) Act 2003 without an individual assessment of each case.​

As illustrated by our published statistics, there are a vast number of reports which would require individual assessment. - [Crime data - Police Scotland](https://www.scotland.police.uk/about-us/how-we-do-it/crime-data/)

If you require any further assistance, please contact us quoting the reference above.

You can request a review of this response within the next 40 working days by [email](mailto:foi@scotland.police.uk) or by letter (Information Management - FOI, Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH). Requests must include the reason for your dissatisfaction.

If you remain dissatisfied following our review response, you can appeal to the Office of the Scottish Information Commissioner (OSIC) within 6 months - [online](http://www.itspublicknowledge.info/Appeal), by [email](mailto:enquiries@itspublicknowledge.info) or by letter (OSIC, Kinburn Castle, Doubledykes Road, St Andrews, KY16 9DS).

Following an OSIC appeal, you can appeal to the Court of Session on a point of law only.

This response will be added to our [Disclosure Log](http://www.scotland.police.uk/access-to-information/freedom-of-information/disclosure-log) in seven days' time.

Every effort has been taken to ensure our response is as accessible as possible. If you require this response to be provided in an alternative format, please let us know.