

PE1876/JJ: Accurately record the sex of people charged or convicted of rape or attempted rape

Michelle Thomson MSP written submission, 7 November 2025

This is my third letter to the committee concerning PE1876.

I again give apologies that I cannot attend in person due to my own obligations in convening the Economy & Fair Work Committee at the same time and date.

I am pleased that Police Scotland are eventually giving evidence to set out what their latest position is in this matter.

I remain concerned at the multiple inconsistencies in Police Scotland's position on recording rape and other offence types.

In respect of rape and attempted rape, as documented by the petitioners Murray Blackburn Mackenzie, Police Scotland previously defended a recording policy based on gender self-declaration to the Committee.

As of September 2024, the Chief Constable has maintained that they record rape and serious sexual assault based on biological sex, although I note the petitioners understand that Police Scotland has not issued a directive or similar to clarify this. The petitioners also note conflicting accounts as to Police Scotland's policy position prior to September 2024.

In June 2025, The Herald reported 'widespread confusion and unease' over how suspects who identify as transgender are recorded in official systems'.¹ The Herald also reported that Police Scotland told the Free Speech Union, "*There is no set policy on the gender and pronouns used by Police Scotland when a suspect/criminal is transgender.*"

Given these inconsistencies, I would like to raise the following questions related to the petition:

1. What is Police Scotland's current position on recording rape and serious sexual assault?
2. When was the current policy established?
3. Has this position been communicated to officers? If so, on what specific date and by what mechanism?

There is further confusion as to how different crime types are recorded. In a press interview in September 2024, the Chief Constable indicated that sex or gender identity may be recorded differently according to offence types. I note that Police

¹ *Police Scotland 'coercing' officers to log suspects by gender*, The Herald, 8 June 2025.

Scotland did not respond to the petitioners, [when they asked for clarity on this point earlier in the year](#).

Sex is a key determinant of offending. [Criminal Proceedings in Scotland statistics](#) show that in 2022-23 more males than females were convicted in all crime and offence categories. The sex of an offender is also directly relevant to people's experiences of crime and victimisation. Recording sex accurately on police systems matters for understanding offending patterns, and the accuracy of official statistics derived from police data.² To that end, I would also like to ask the following questions:

4. What is Police Scotland's position on recording sex and/or gender identity for other crime types?
5. Does Police Scotland recognise that a small number of misclassified cases *within the female cohort* may significantly skew data on patterns of female offending?

Yours sincerely

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² For example, Criminal Proceedings in Scotland is derived from Criminal History System data.