| Police Scotland logo | Freedom of Information Response Our reference: FOI 24-1069  Responded to: 16 May 2024 |
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Your recent request for information is replicated below, together with our response.

## I'd like to see statistics regarding the number of results of audits done by the police force of the arrests made by their officers (and communications made with members of the public whom these audits determine have been illegal arrests, and subsequent retraining of police officers).

## Arrest is a very difficult area to get right - judges have to correct decisions made in court by other judges who have misunderstood when an arrest is allowed by PACE (Metropolis v MR). Which kind of makes it impossible for anyone other than the most senior and experienced police officer to make an arrest - and yet the law says the decision cannot be delegated upwards by the officer making the arrest and must be the sole decision of the arresting officer and then the custody officer.

## Consequently, it's crucial that the police force gives very detailed and careful training to their officers that takes into account all relevant case law (eg Alger v Metropolis, Metropolis v MR) and that there are frequent audits that all the arrests that are being made are within the law. Just like you'd do with Health and Safety procedures.

## So, you can help me get the data on how often these audits happen and how often it is found that the arrest was illegal.  It's your duty to help, and you'll know how to get at the data easily.

## First, could you give me the number of arrests that were audited.

## I assume the very senior police officers will need to see this kind of data frequently - it they don't know that the arrests are being checked and audited, they can have no confidence that the arrest their force is making are legal. Think Key performance indicators.

## So please provide the periodic eg monthly figures on arrests, arrest audits and how many of those arrests are considered by the force to have been illegal  - that would be a good start. Feel free to go back as far as you can or as time allows. If necessary, I'll send one foi request for each month going back 5 years, but that won't be ideal for either of us.

## We have to be cognisant of the amount of time that this request takes, because FOI officers just love to reject the request based on time. So, just get me what info you can on the above

## If you can't give me any info at all, then it's kind of looking like a prima facie case that the police aren't auditing their arrests. Crikey. That's very scary.

## How many letters or other communications have been sent to members of the public that the police have found through their internal checks to have been arrested illegally. Feel free to go back as far as you can, obviously within the time allowed.

I can advise that Police Scotland does not hold the above requested information. In terms of Section 17 of the Act, this letter represents a formal notice that information is not held.

By way of explanation, Pace is not applicable In Scotland and we do not have an equivalent legislation. However, to be of assistance I have provided a link below for our Custody Standard Operating Procedure.

[Standard Operating Procedures C - Police Scotland](https://www.scotland.police.uk/access-to-information/policies-and-procedures/standard-operating-procedures/standard-operating-procedures-c/)

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.