

## Document 1

Dated December 2018 – February 2020

### Exchange 1

**From:** [REDACTED]  
**Sent:** 05 December 2018 18:00  
**To:** [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>  
**Cc:** [REDACTED] <[REDACTED]@gov.scot>  
**Subject:** RE: Gender Recognition- evidence on number of trans people who have surgery/don't have surgery

[REDACTED]

Ms Somerville has sent me on a link to a research paper- <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0016885> which is being used in correspondence sent to another MSP to back up the figure of 70-80%. I haven't read through the paper in its entirety yet.

Do you have any thoughts or comments? There is some suggestion that one of the researchers Cecilia Djehne has criticised some of the uses that some activists have made of the findings of the paper in regard to patterns of offending after sex reassignment.- <https://medium.com/@notCursedE/do-trans-women-retain-male-pattern-violence-df67954373fd> [She seems to suggest that the paper has been misinterpreted and commentators miss out that trans men (FTM), violence patterns increase towards the male controls, after sex reassignment. But I haven't found comment on any surgery statistics.]

Thanks for anything further you can suggest.

[REDACTED]

### Extract of email

**From:** [REDACTED] <[REDACTED]@gov.scot>  
**Sent:** 06 December 2018 15:36  
**To:** [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>  
**Cc:** [REDACTED] <[REDACTED]@gov.scot>  
**Subject:** RE: Gender Recognition- evidence on number of trans people who have surgery/don't have surgery

Hi [REDACTED],



## Exchange 2

**From:** [REDACTED]@gov.scot> **On Behalf Of** Cabinet Secretary for Justice  
**Sent:** 13 March 2019 10:15  
**To:** [REDACTED]@gov.scot>  
**Cc:** Cabinet Secretary for Justice [REDACTED]@gov.scot>; McFarlane J (John)  
[REDACTED]@gov.scot>  
**Subject:** Portfolio Q8 - Supplementary  
**Importance:** High

Hi [REDACTED]

We've got a likely supplementary to the Portfolio Questions you're leading on:

**Joan McAlpine:** To ask the Scottish Government whether Police Scotland and the Scottish courts service record incidents according to the alleged perpetrator's birth sex, or by self declaration. **(S5O-02988)**

**Joan McAlpine** - Depends on the answer

The minister will be aware that offending rates vary significantly according to biological sex, with males accounting for 65% of violent crime and more than 99% of sexual crime. Longitudinal studies in Sweden suggest male pattern offending remains the same even if men transition or self declare themselves to be women. Does the Cab Secretary agree with criminologists that it would be misleading if data showed a rise in female sex offending for example, including rape, when these crimes were actually committed by men - number of criminologists have expressed their concern to me

Can you take a look at and draft up an answer/any additional background on this?

Aware we're pushed for time on this.

Feel free to forward on to anyone else who should be included, aware this may cross into different teams.

Thanks,  
[REDACTED]

[REDACTED] | [REDACTED]  
[REDACTED]

Scottish Government, [REDACTED] St Andrew's House, Regent Road, Edinburgh, EH1 3DG | [REDACTED] |  
[REDACTED] | [www.gov.scot](http://www.gov.scot) |

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**Cc:** Pearce H (Hilary); [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED];  
[REDACTED]  
**Subject:** RE: Portfolio Q8 - Supplementary

**Importance:** High

[REDACTED]  
[REDACTED] is aware of the Swedish study referred to in the supp question and we'll see if we can send round a short summary.

[REDACTED]  
[REDACTED]  
**From:** [REDACTED]  
**Sent:** 13 March 2019 10:56  
**To:** [REDACTED]@gov.scot>; [REDACTED]@gov.scot>;  
[REDACTED]@gov.scot>; [REDACTED]@gov.scot>;  
[REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]  
[REDACTED]@gov.scot>; [REDACTED]@gov.scot>  
**Cc:** Pearce H (Hilary) [REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]  
[REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]  
[REDACTED]@gov.scot>  
**Subject:** RE: Portfolio Q8 - Supplementary

Here is the link to the article and a section on conclusion re crime rate-

<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0016885>

As a conclusion on crime rate it says-

“Crime rate

Transsexual individuals were at increased risk of being convicted for any crime or violent crime after sex reassignment (Table 2); this was, however, only significant in the group who underwent sex reassignment before 1989.”

[REDACTED]  
**From:** [REDACTED]@gov.scot>  
**Sent:** 13 March 2019 11:28  
**To:** [REDACTED]@gov.scot>; [REDACTED]@gov.scot>;  
[REDACTED]@gov.scot>; [REDACTED]@gov.scot>;  
[REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]

[REDACTED] gov.scot>; [REDACTED] gov.scot>  
Cc: Pearce H (Hilary) [REDACTED] gov.scot>; [REDACTED] gov.scot>; [REDACTED]  
[REDACTED] @gov.scot>; [REDACTED] @gov.scot>; [REDACTED]  
[REDACTED] gov.scot>  
**Subject:** RE: Portfolio Q8 - Supplementary

[REDACTED]  
Further to our telephone discussion.

Cecilia Dhejne, one of the authors of the study has said in a published interview that the study in relation to crime rates that the findings are being “misrepresented” by some people [my emphasis]. We were proposing to seek more input in this area from analytical colleagues but this still needs taken forward.

**“Dhejne:** The individual in the image who is making claims about trans criminality, specifically rape likelihood, is misrepresenting the study findings. The study as a whole covers the period between 1973 and 2003. If one divides the cohort into two groups, 1973 to 1988 and 1989 to 2003, one observes that for the latter group (1989 – 2003), differences in mortality, suicide attempts, and crime disappear. This means that for the 1989 to 2003 group, we did not find a male pattern of criminality.

As to the criminality metric itself, we were measuring and comparing the total number of convictions, not conviction type. We were not saying that cisgender males are convicted of crimes associated with marginalization and poverty. We didn’t control for that and we were certainly not saying that we found that trans women were a rape risk. What we were saying was that for the 1973 to 1988 cohort group and the cisgender male group, both experienced similar rates of convictions. As I said, this pattern is not observed in the 1989 to 2003 cohort group. The difference we observed between the 1989 to 2003 cohort and the control group is that the trans cohort group accessed more mental health care, which is appropriate given the level of ongoing discrimination the group faces. What the data tells us is that things are getting measurably better and the issues we found affecting the 1973 to 1988 cohort group likely reflects a time when trans health and psychological care was less effective and social stigma was far worse.”

[REDACTED]

## Exchange 3

**From:** [REDACTED]

**Sent:** 04 April 2019 08:37

**To:** [REDACTED]

**Cc:** [REDACTED] [REDACTED]

**Subject:** Gender Recognition- sex and gender- Data- Study used to suggest trans women retain male patterns of behaviour

1. You asked for more information about research I knew of concerning the evidence quoted in the recent PQ by Joan McAlpine that trans women retain male patterns of offending to use in contacting JAS re criminal statistics.

2. The article which I know of is this one, following on a research study based in Swedish information is this one from 2011

<https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0016885&type=printable>

3. This is an article criticising this use of the study-

<https://medium.com/@notCursedE/do-trans-women-retain-male-pattern-violence-df67954373fd>

4. [This \[https://www.transadvocate.com/fact-check-study-shows-transition-makes-trans-people-suicidal\\_n\\_15483.htm\]](https://www.transadvocate.com/fact-check-study-shows-transition-makes-trans-people-suicidal_n_15483.htm) article includes parts of an interview with one of the authors of the original 2011 piece, Cecilia Djehne. In the interview, she notes that in fact:

“The study as a whole covers the period between 1973 and 2003. If one divides the cohort into two groups, 1973 to 1988 and 1989 to 2003, one observes that for the latter group (1989 – 2003), differences in mortality, suicide attempts, and crime disappear. This means that for the 1989 to 2003 group, we did not find a male pattern of criminality. As to the criminality metric itself, we were measuring and comparing the total number of convictions, not conviction type. We were not saying that cisgender males are convicted of crimes associated with marginalization and poverty. We didn’t control for that and we were certainly not saying that we found that trans women were a rape risk. What we were saying was that for the 1973 to 1988 cohort group and the cisgender male group, both experienced similar *rates* of convictions. As I said, this pattern is *not* observed in the 1989 to 2003 cohort group.

The difference we observed between the 1989 to 2003 cohort and the control group is that the trans cohort group accessed more mental health care, which is appropriate given the level of ongoing discrimination the group faces. What the data tells us is that things are getting measurably better and the issues we found affecting the 1973 to 1988 cohort group likely reflects a time when trans health and psychological care was less effective and social stigma was far worse.”

[REDACTED]

## Extract of email

From: [REDACTED]

Sent: 04 April 2019 17:53

To: [REDACTED]; [REDACTED]

Cc: [REDACTED]; [REDACTED]; [REDACTED] Rennick NS (Neil);

Henderson G (Gavin); [REDACTED]; [REDACTED]; [REDACTED]

[REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]

[REDACTED] Cowan WJ (Willie)

**Subject:** Sex and gender: criminal justice stats

**Attachments:** Gender Recognition-sex and gender- Data- Study used to suggest trans women retain male patterns of behaviour; Gender Recognition-sex and gender- last week's meeting with Cab Sec- actions- crime statistics; RE: Meeting with Criminologists.data users

[REDACTED]  
[REDACTED]  
[REDACTED]

## SEX AND GENDER: CRIMINAL JUSTICE STATISTICS

7. First of all, in her PQ Ms McAlpine said that “Longitudinal studies elsewhere suggest that male-pattern offending remains the same even if men self-declare themselves to be women”. The evidence we are aware on this is shown above. Are you aware of any other evidence on patterns of criminal behaviour by trans people and whether they retain the patterns of their birth sex? Any lines to take you could provide on this for MACCS cases etc would be appreciated.

[REDACTED]  
[REDACTED]

## PQ EXTRACT

Incident Recording (Gender Identity) 8. Joan McAlpine (South Scotland) (SNP): To ask the Scottish Government whether Police Scotland and the Scottish Courts and Tribunals Service record incidents according to the alleged perpetrator’s birth sex, or by self-declaration. (S5O-02988)

The Cabinet Secretary for Justice (Humza Yousaf): With regard to victims, witnesses and suspects, Police Scotland and the Scottish Courts and Tribunals Service record incidents according to a person’s self-identified gender. Police Scotland requires no evidence or certification as proof of gender identity other than a person’s self-declaration, unless—it is important to emphasise this—it is pertinent to any criminal investigation with which they are linked and it is evidentially critical that Police Scotland legally requires such proof.



Joan McAlpine: I thank the cabinet secretary for that answer, but I think that many people will be shocked to hear it. He will be aware that offending rates vary significantly according to biological sex, with males accounting for 84 per cent of violent crime and more than 95 per cent of sexual crime. Longitudinal studies elsewhere suggest that male-pattern offending remains the same even if men self-declare themselves to be women. Does the cabinet secretary agree with criminologists that, if data shows a rise in female sex offending, for example, including rape, that is misleading when those crimes are actually committed by men?

Humza Yousaf: I will try to give the member some reassurance. Of course, I would be happy to see the longitudinal studies that she mentions. I have to say that I meet criminologists regularly and none of them has raised this issue with me, but I am happy to look at any studies that exist. If we should have an unexpected result, such as a rise in the number of women being recorded as committing sexual offences, we would, of course, investigate that further. However, I would say that the statistic that the member quotes—men accounting for 96 per cent of sexual crime—is, in itself, evidence that there is certainly not a pattern of behaviour of those who are born biologically male self-identifying as women to either commit sexual offences or manipulate statistics. If the member would like to provide me with details of those studies, she can, and if she would like to have discussions with criminologists, as I regularly do, I am happy to explore the issue further in detail.

## Extract of email

**From:** [REDACTED] <[REDACTED]@gov.scot>

**Sent:** 09 April 2019 19:12

**To:** [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>

**Cc:** [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Rennick NS (Neil)

[REDACTED] <[REDACTED]@gov.scot>; Henderson G (Gavin) <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED]

[REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Cowan WJ

(Willie) <[REDACTED]@gov.scot>

**Subject:** RE: Sex and gender: criminal justice stats

[REDACTED] (copy as before, plus JAS colleagues)

On the research side of things, I'm not personally aware of any other significant studies. However, I think I would be careful to distinguish between the motivations of individuals



To: [REDACTED]@gov.scot>  
Cc: [REDACTED]@gov.scot>  
Subject: RE: Sex and gender: criminal justice stats

Hi [REDACTED],

[REDACTED] asked me to look into this as per below, do you have a deadline? There appear to be a good few papers, but I've not yet dived into the rabbit-hole of citations!

Cheers,

[REDACTED]

[REDACTED]  
[REDACTED] | [REDACTED]  
*Scottish Government*  
[REDACTED]

From: [REDACTED]  
Sent: 23 April 2019 12:23  
To: [REDACTED]  
Cc: [REDACTED] [REDACTED]  
Subject: RE: Sex and gender: criminal justice stats

I have started to work up advice for CabSec Justice now on this proposed meeting which will refer to the one piece of research we found. I will circulate for views. I expect I will need to send this up at the end of this week, beginning of next at the latest. I think the submission could go up without your having formed views on the evidence if need be.

[REDACTED]

## Extract of email

From: [REDACTED]  
Sent: 24 April 2019 12:24  
To: [REDACTED]  
Cc: [REDACTED] [REDACTED] [REDACTED]  
Subject: RE: Sex and gender: criminal justice stats

Afternoon [REDACTED]

I've had a look at the available literature, and have the following comments:

a) The Swedish study mentioned, which you confirmed in an earlier e-mail shows that from 1973 to 1988, transwomen showed similar rates of convictions (not looking at specific crime types) as cis-males (but not in the period 1989-2003), appears to be the only significant study in this area.

Happy to discuss.



## Exchange 5

### Extract of email

**From:** [REDACTED]

**Sent:** 26 April 2019 16:29

**To:** [REDACTED]; [REDACTED]

**Cc:** Rennick NS (Neil); Henderson G (Gavin); [REDACTED]; [REDACTED]; [REDACTED]

[REDACTED]

**Subject:** RE: Sex and gender and stats; draft email to Analytical Services colleagues

[REDACTED]

However, in relation to reported crime, I suppose that trans men might commit less commonly committed crimes which women more often commit, so there might be 'skewing' of those. [The study from 2011 referenced in the draft submission to CSJ suggested that trans men who had surgery before 1989 had a higher crime conviction rate than their female control group.]

[REDACTED]

## Exchange 6

### Extract of email

**From:** [REDACTED]  
**Sent:** 07 January 2020 16:47  
**To:** Cabinet Secretary for Social Security and Older People  
**Cc:** [REDACTED] Minister for Older People and Equalities; [REDACTED] Rennick NS (Neil); Henderson G (Gavin); [REDACTED] [REDACTED] [REDACTED]; [REDACTED]; [REDACTED]; Campbell J (Jeanette) (Special Adviser)  
**Subject:** Gender Recognition Act 2004: article by Dr Peter Dunne

### PS/Cabinet Secretary

8. Our view is that Dr Dunne's article makes a number of useful points. For example:

- It notes (and we have seen this previously) that Swedish research by Dhejne *et al* does not suggest that trans women are a rape risk even though some people argue this research found that trans men commit violent crime.

[REDACTED]  
[REDACTED]  
[REDACTED]

Exchange 7

### Extract of email

**From:** [REDACTED] <[REDACTED]@gov.scot>  
**Sent:** 13 February 2020 12:15  
**To:** [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>  
**Cc:** [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>; Henderson G (Gavin) <[REDACTED]@gov.scot>; [REDACTED] <[REDACTED]@gov.scot>  
**Subject:** Media query - GRA Fol - Scotsman  
**Importance:** High

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

1. I attach above, in ERDM and word, draft answers to these questions and would be grateful for comments.
2. Some specific points arise:
  - Does [REDACTED] have any comments on the answer to question 4 and the Swedish research?

[REDACTED]  
[REDACTED]

### Extract of email

**From:** [REDACTED]  
**Sent:** 13 February 2020 13:55  
**To:** [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
**Cc:** [REDACTED] [REDACTED]; [REDACTED]; Henderson G (Gavin); [REDACTED]  
**Subject:** RE: Media query - GRA Fol - Scotsman

Hi [REDACTED] [REDACTED],

I have added comments on question 3; I'm content with the responses drafted for questions 4 and 15.

Thank you,

