

If you are unsure about whether your department's test is legal, you can call or email the ACLU at (212) 519-7807 or womensrights@aclu.org.

■ **What alternatives could my department use instead of a physical ability test?**

Many alternative selection methods are available that can increase the diversity of a police department while maintaining high standards. Some of them are:

- *Health-based screening.* When done properly, testing aerobic capacity can predict important aspects of job performance, like efficiency, morale, and likelihood of injury.
- *Post-training testing.* Both new recruits and SWAT team members learn many skills during training and on the job. The unfair effects of screening tests can be lowered if all candidates are first given the chance to improve their fitness and learn key techniques.
- *Eliminating the physical test altogether.* Many federal, state, and local law enforcement agencies across the country have no physical ability tests, yet their officers perform at a high level.

What should I do if I want to join a police department or SWAT team that uses a physical ability test?

If you want to join a police department or SWAT team with a physical test, find out in advance what will be tested, and train as much as possible. Give the test your best effort.

If you do not pass, consider seeking legal advice. A lawyer can help you consider whether the test is discriminatory, and what your legal options are. What you say to a lawyer will usually be kept strictly confidential.

Many physical ability tests now being used keep women out of police departments and SWAT teams unlawfully. They continue to be used simply because they are never challenged. Taking a stand against a discriminatory test

used by your police department is a difficult decision, but it may be the only way to get rid of a discriminatory test. This can clear the way for you and other women to begin or advance in a policing career.

Notes:

1. U.S. v. Erie, 411 F. Supp. 2d 524, 562 (W.D. Penn. 2005).
2. U.S. v. Mass., 781 F. Supp. 2d 1 (D. Mass. 2011).

How to learn more:

If you suspect that a physical ability test used in your department is discriminatory, you can get more information from the ACLU Women's Rights Project:

By phone: (212) 519-7807

By email: womensrights@aclu.org

On the web: <https://www.aclu.org/secure/sex-discrimination-employment>

CONTACT US:



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Physical Ability Tests for Police Departments and SWAT Teams

Know Your Rights in the [Workplace](#)





Physical Ability Tests for Police Departments and SWAT Teams

Know Your Rights in the Workplace

This guide can help you figure out if your department's physical ability test unlawfully discriminates against women.

It answers these questions:

What is a physical ability test?

How can I tell if my department's physical ability test is illegal?

What should I do if I want to join a police department or SWAT team that uses a physical ability test?

What is a physical ability test?

A physical ability test measures a job candidate's strength, speed, endurance, or other physical attributes. Timed runs, wall climbs, push-ups, sit-ups, and obstacle courses are common physical tests used by police departments.

Some physical ability tests are used to screen candidates just entering a police force. Other tests screen police officers who want to join a SWAT team or other special unit.

■ Why are physical ability tests a problem for female officers?

Physical ability tests often disqualify women from police jobs at a higher rate than men. In legal terms, the tests have a "disparate impact" on female officers.

Under the law, physical tests that have a disparate impact on women are often illegal, but departments continue to use them simply because they are not challenged.

■ What kinds of physical ability tests have the effect of excluding women?

Some tests that disqualify women at a higher rate than men are:

- tests of upper body strength, like wall climbs, pull-ups, and dummy drags
- obstacle courses
- tests with one cut-off score for everyone, regardless of sex or age
- tests that have been used for many years without being updated

These are examples of some tests that exclude female candidates. Other kinds of tests may also have an unlawful "disparate impact" on women.

■ Isn't a physical ability test necessary to screen out unqualified applicants?

Sometimes. But in other cases, physical tests screen out qualified candidates. This happens when a test does not measure the real skills needed for job success, or when it measures only a few job skills while ignoring many others. A test may also screen out candidates who actually could perform the job after being properly trained.

Historically, physical tests have been used to keep women out of policing and other traditionally male professions. The law recognizes this, and it prohibits employers from using physical tests having a "disparate impact" on women unless there is a very good reason for doing so.

How can I tell if my department's physical ability test is illegal?

If your department's test excludes women at a higher rate than men—in other words, if it has a "disparate impact"—it may be illegal, even if the department is not purposely trying to keep women off the force.

Tests with a disparate impact are legal only if the abilities tested are very closely related to the actual day-to-day demands of the job. For example:

- A court struck down a sit-up and push-up test because a person who can do more sit-ups and push-ups "is not necessarily the one who will perform best in the physical activities performed by police officers."¹
- A court did not approve a weight lifting test and obstacle course for corrections officers because the purpose of the tests—measuring "strength" or "stamina"—was not specific enough, and because the obstacle test did not resemble any real-life event.²

■ If my department's test measures abilities used on the job, does that make it legal?

Not necessarily. The law imposes strict requirements on police departments using physical tests. If any of these are not met, the test may be illegal:

- The *cutoff* score used must only keep out candidates who could not succeed in the job. Where a test has a disparate impact on women, departments are not allowed to simply hire the top scorers on a test if some of the lower scorers could have done the job successfully.
- The test must be *validated*. This means that the department must have experts study the test to make sure that it closely tracks the actual job.
- Even if it meets all of these requirements, a test is still illegal if there is some alternative way to choose candidates that excludes fewer women.