



# MARYLAND POLICE ACCOUNTABILITY ACT OF 2021

## POLICE REFORM REGULATIONS FREQUENTLY ASKED QUESTIONS

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The Maryland Police Accountability Act of 2021 became effective July 1, 2022. The Act establishes requirements for police accountability and discipline, as well as establishing other requirements for police officers to include mental health and physical agility assessments. As the Maryland Police Training and Standards Commission (MPTSC) is establishing guidelines and promulgating regulations to implement the requirements of the legislation, many inquiries have been received related to different aspects of the legislation. This document will attempt to address these frequently asked questions (FAQs) received thus far to assist law enforcement agencies with the implementation, as well as provide citizens with a better understanding of the process. These FAQs and their responses will be updated periodically along with general guidance from MPTSC. Law enforcement agencies should consult with their legal advisors regarding interpretation of new requirements and processes.

Questions not addressed in this document can be emailed to [pctc.policereform@maryland.gov](mailto:pctc.policereform@maryland.gov).

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# POLICE COMPLAINTS

## **WHERE CAN YOU SUBMIT COMPLAINTS ABOUT A POLICE OFFICER?**

Complaints can be submitted to a county police accountability board or directly to the police agency where the officer is employed. *(Public Safety Article, §3-102 and 103)*

## **WHAT CONSTITUTES POLICE MISCONDUCT?**

Police misconduct means a pattern, a practice, or conduct by a police officer or law enforcement agency that includes one or more of the following:

1. Depriving persons of rights protected by the Constitution or law of the State or the United States;
2. A violation of a criminal statute; and
3. A violation of law enforcement agency standards and policies.

*(Public Safety Article, §3-101)*

## **WHAT INFORMATION IS NEEDED WHEN FILING A COMPLAINT AGAINST A POLICE OFFICER?**

The following information is needed to file a complaint:

1. The name of the police officer accused of misconduct;
2. A description of the facts on which the complaint is based; and
3. Contact information of the complainant or person filing on behalf of the complainant for investigative follow-up.

*(Public Safety Article, §3-103)*

## **DOES A COMPLAINT NEED TO BE NOTARIZED?**

No, a complaint against a police officer does not need to be notarized, nor is the complainant required to have anyone witness their complaint before submitting it. *(Public Safety Article, §3-103)*

## **WHO INVESTIGATES A COMPLAINT AGAINST A POLICE OFFICER?**

Each law enforcement agency will conduct a thorough investigation and submit findings to the agency head, who will then submit the official report along with all body worn camera footage and other documentary evidence to the administrative charging committee. *(Public Safety Article, §3-102 and 104)*

## **HOW LONG DOES AN INVESTIGATION TAKE TO BE COMPLETED?**

The length of time for an internal investigation to be completed will depend on the complexity of the investigation, the availability of witnesses and investigative contacts, and the collection and review of evidence. Minor cases may only take a week or two, but complex cases can take longer depending on the circumstances. Once the investigation is complete and submitted to the administrative charging committee, the committee must make a determination within 30 days after completion of the investigation or request additional information. Disposition by the administrative charging committee must be made within a year and a day of the filing of the complaint by a citizen. *(Public Safety Article, §3-113)*

## **WHO CAN YOU CONTACT IF YOU HAVE A QUESTION ABOUT THE STATUS OF AN INVESTIGATION?**

Each law enforcement agency will have a victims' rights advocate available to assist a complainant with the following:

1. Explain the complaint, investigation, administrative charging committee, and the trial board process;
2. Provide the complainant with an opportunity to review a police officer's statement, if any, before completion of an investigation;
3. Notify a complainant of the status of the case at every stage of the process; and
4. Provide a case summary to a complainant within 30 days after final disposition of a case.

*(Public Safety Article, §3-108)*

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# POLICE ACCOUNTABILITY BOARDS

## WHAT IS A POLICE ACCOUNTABILITY BOARD?

The Maryland Police Accountability Act of 2021 became effective July 1, 2022. It establishes many requirements for police accountability and discipline. One requirement is that each county and Baltimore City must establish a police accountability board (PAB) that will conduct the following business:

1. Hold quarterly meetings with heads of law enforcement agencies and county government officials to improve matters of policing;
2. Appoint members to administrative charging committees (ACC) and trial boards;
3. Receive complaints of police misconduct filed by members of the public;
4. On a quarterly basis, review outcomes of disciplinary matters considered by ACC's; and
5. Annually submit a report to the governing body of the county that identifies trends in the disciplinary process and makes recommendations on changes to policy that would improve police accountability.

*(Public Safety Article, §3-102)*

## WHO APPOINTS THE MEMBERS OF THE POLICE ACCOUNTABILITY BOARDS (PAB)?

The local governing body of each county and Baltimore City shall establish the membership of the PAB. To the extent practicable, the membership of the PAB shall reflect the racial, gender, and cultural diversity of the county. Each local governing body shall determine the number of PAB members. The local governing body will also appoint the chair of the PAB. The State of Maryland does not have a statewide police accountability board.

*(Public Safety Article, §3-102)*

## CAN ANYONE APPLY TO BE A MEMBER?

Each local governing body shall establish eligibility requirements for membership. However, the law specifically excludes any active police officer from becoming a member. *(Public Safety Article, §3-102)*

## ARE THERE CONFIDENTIALITY REQUIREMENTS TO BE A MEMBER?

Yes, members are required to sign a confidentiality agreement on PAB matters related to complaints until final disposition of the case. *(COMAR 12.04.09.03)*

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# ADMINISTRATIVE CHARGING COMMITTEES

## WHAT IS AN ADMINISTRATIVE CHARGING COMMITTEE (ACC)?

A group of citizens from a local community that is responsible for reviewing internal investigations of police officer misconduct. After reviewing the findings of the investigation, committee members will make a determination whether a police officer should be administratively charged or not administratively charged. Each county shall have one administrative charging committee to serve countywide law enforcement agencies and local law enforcement agencies within the county. A statewide administrative charging committee shall serve statewide and bi-county law enforcement agencies. *(Public Safety Article, §3-104)*

## WHO SITS ON AN ADMINISTRATIVE CHARGING COMMITTEE?

A county administrative charging committee shall be composed of:

1. The chair of the county's police accountability board (PAB), or another member of the PAB designated by the chair of the accountability board;
2. Two civilian members selected by the county's PAB; and
3. Two civilian members selected by the chief executive of the county.

The statewide administrative charging committee shall be composed of:

1. Three civilian members appointed by the Governor;
2. One civilian member appointed by the President of the Senate; and
3. One civilian member appointed by the Speaker of the House.

*(Public Safety Article, §3-104)*

## DO ACCS HANDLE ALL POLICE OFFICER MISCONDUCT CASES?

No. ACCs will only handle complaints of police misconduct involving members of the public. Administrative cases that do not involve the public will be handled through the law enforcement agency's administrative process. (Examples include: uniform dress and grooming standards, equipment violations, and vehicle operations not involving the public). *(Public Safety Article, §3-104)*

## DO MEMBERS OF THE ACC RECEIVE ANY TRAINING?

Yes, members appointed to serve on an ACC will receive 40 hours of training in police procedures provided by staff of the Maryland Police Training and Standards Commission. Members must complete the training prior to hearing cases presented to the ACC. *(Public Safety Article, §3-104)*

## ARE ACC PROCEEDINGS OPEN TO THE PUBLIC?

The administrative charging committee, a public body, must act in accordance with the Open Meetings Act (General Provisions Article, 3-101 – 105). However, since the nature of their discussions will be personnel matters (enumerated exception to open meetings), a significant portion of their meetings will be in a closed session.

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# DISCIPLINARY MATRIX

## WHAT IS A DISCIPLINARY MATRIX?

Disciplinary matrix means a written, consistent, progressive, and transparent tool or rubric that provides ranges of disciplinary actions for different types of misconduct.

Under Public Safety Article 3-105, The Maryland Police Training and Standards Commission shall develop and adopt, by regulation, a model uniform disciplinary matrix for use by each law enforcement agency in the State. Each law enforcement agency shall adopt the uniform State disciplinary matrix for all matters that may result in discipline of a police officer. The Uniform State Disciplinary Matrix can be found in COMAR (Code of Maryland Regulations), 12.04.10.

## WHO DETERMINES DISCIPLINE FOR AN OFFICER?

After reviewing an administrative police misconduct investigation, an administrative charging committee (ACC) shall determine if sufficient evidence (preponderance of evidence) exists to administratively charge a police officer. If charges are warranted, an ACC shall use the disciplinary matrix and recommend a penalty to the agency head. The agency head may accept the recommendation or increase the penalty, within the guidelines of the violation category and disciplinary range. An agency head may not reduce the recommendation of the ACC.

A complaint of police misconduct that does not involve a member of the public will be handled by the law enforcement agency of the involved officer and the agency head shall administer discipline, consistent with the Uniform State Disciplinary Matrix.

## CAN A POLICE OFFICER APPEAL THE DECISION OF AN ACC OR AGENCY HEAD?

After receiving notification of discipline, a police officer may either accept or reject the offer of punishment. If the police officer accepts the discipline, it shall be administered as offered. If a police officer refuses the discipline offered, the matter will be referred to a trial board. (*Public Safety Article, §3-105*)

## CAN MISCONDUCT PRIOR TO JULY 1, 2022, BE CONSIDERED AS AN AGGRAVATING FACTOR WHEN DETERMINING DISCIPLINE?

The repeal of LEOBR (Law Enforcement Officers Bill of Rights) is a change in process but does not preclude prior misconduct from being considered as an aggravating factor in a new ACC discipline case. The Uniform State Disciplinary Matrix regulation defines “aggravating factor” to include “an officer’s prior disciplinary history” for varying periods of time. (*COMAR 12.04.10.03*)

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# TRIAL BOARDS

## WHAT IS A TRIAL BOARD?

A police trial board is a disciplinary tribunal that hears cases of alleged police misconduct and determines if a police officer is guilty of the misconduct. If guilt is proven by a preponderance of the evidence, the trial board will determine the discipline. (*Public Safety Article, §3-106*)

## WHO ESTABLISHES A TRIAL BOARD?

Each law enforcement agency shall establish a trial board process in accordance with Public Safety Article §3-106. A small law enforcement agency may use the trial board process of another law enforcement agency by mutual agreement.

## WHO SERVES ON A TRIAL BOARD?

Maryland Public Safety Article §3-106 outlines the composition of a trial board to include:

1. Actively serving or retired administrative law judge or a retired judge of the District Court or Circuit Court, appointed by the chief executive officer of the county;
2. A civilian who is not a member of an administrative charging committee, appointed by the county's police accountability board; and
3. A police officer of equal rank to the police officer who is accused of misconduct appointed by the head of the law enforcement agency.

## ARE TRIAL BOARDS OPEN TO THE PUBLIC?

Yes, trial boards are open to the public, except in circumstances to protect:

- a victim's identity;
- the personal privacy of an individual
- a child witness;
- medical records;
- the identity of a confidential source;
- an investigative technique or procedure; or
- the life or physical safety of an individual.

## DO TRIAL BOARD MEMBERS RECEIVE TRAINING?

Yes, before serving as a member of a trial board, an individual must receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission.

## IS THE BURDEN OF PROOF IN A TRIAL BOARD THE SAME AS A CRIMINAL TRIAL?

No, the burden of proof in a trial board is proof by a preponderance of the evidence. Preponderance of the evidence requires the party with the burden of proof to demonstrate that an allegation is more likely to be true than false. This standard of proof is less than the "beyond a reasonable doubt" standard used to prove criminal liability.

## **DOES A TRIAL BOARD HAVE TO USE THE UNIFORM STATE DISCIPLINARY MATRIX WHEN DECIDING PUNISHMENT?**

Yes, a trial board must use the Uniform State Disciplinary Matrix when determining discipline for a police officer who has received a sustained verdict for misconduct.

## **CAN A CHIEF OR SHERIFF INCREASE OR DECREASE THE DISCIPLINE DECISION OF A TRIAL BOARD?**

No, the decision of a trial board is final, unless appealed by a police officer to the circuit court of the county in which the law enforcement agency is located or if the trial board is from a statewide law enforcement agency, the Circuit Court for Anne Arundel County. A police officer must file the appeal within 30 days after the date of issuance of a trial board decision.

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# IMPLICIT BIAS TESTING & TRAINING

## WHAT IS IMPLICIT BIAS?

Implicit bias is a form of bias or prejudice that occurs unconsciously and unintentionally, that nevertheless may influence judgments, decisions, and behaviors.

## WHAT IS IMPLICIT BIAS TESTING?

Public Safety Article, §3-207(l) requires implicit bias testing for new police officers and incumbent police officers, subject to the availability of testing standards that are generally accepted by experts in the field of police psychology. After extensive research, the Police Training and Standards Commission determined that there is currently no valid implicit bias test that meets the statutory requirements, thus no testing will be conducted.

Implicit bias training is available throughout the State and is required to be completed annually by police officers.

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# PHYSICAL AGILITY ASSESSMENT

## **WHAT IS THE PHYSICAL AGILITY ASSESSMENT (PAA) FOR POLICE OFFICERS?**

The Maryland Police Accountability Act of 2021 established many new requirements for police officers, including a physical agility assessment. A physical agility standard was adopted by the Maryland Police Training and Standards Commission (MPTSC) and requires police officers to annually submit to an agency developed assessment that meets adopted standards to ensure continuing fitness for officers to carry out their assigned duties.

## **WHAT ARE THE REQUIREMENTS OF THE PHYSICAL AGILITY ASSESSMENT?**

In 2021, a job task analysis was conducted for the Commission (MPTSC) to identify the specific functions ordinarily performed by police officers. The basic job task functions were identified based on the frequency each task was performed or the importance of that task being performed properly. The following evaluation components were identified as part of the job task analysis:

1. The police officer will climb over a barrier.
2. The police officer will pull/drag a 150lb individual at least 15 feet.
3. The police officer will demonstrate the ability to run for a distance of at least 300 feet.
4. The police officer will demonstrate the ability to traverse up and down at least two (2) flights of stairs.

*\*Law enforcement agencies who conduct a comparative internally developed physical assessment, that includes the four components, may request their test be used in lieu of the above Physical Agility Assessment.*

## **IS THE REQUIRED PHYSICAL AGILITY ASSESSMENT BASED ON A “PASS/FAIL”?**

The assessment is not a test, therefore it is not a pass/fail. As a condition of certification, a police officer shall submit to an annual physical agility assessment to establish continuing fitness to carry out the officer's assigned duties as a police officer. (*Public Safety Article, §3-209(e)*).

## **IS THERE A MINIMUM HEIGHT REQUIREMENT FOR THE BARRIER?**

The MPTSC decided to allow the department or agency administering the assessment to determine the height and/or width of the barrier based on their job function and typical surroundings.

## **CAN AGENCIES USE A 150LB RESCUE DUMMY IN PLACE OF DRAGGING A 150LB INDIVIDUAL?**

Yes, an agency can use a rescue dummy in place of an individual to perform this component.

## **IS THE 300 FEET RUN TIMED? IS THERE A DEFINITION OF “RUN”?**

This is an assessment, not a test, thus there is no time requirement. The amount of time and/or style of running should be considered by each agency as part of the results of the assessment when attesting if the individual can perform their assigned duties.

### **WHAT CONSTITUTES A “FLIGHT OF STAIRS”? IS THERE A TIME REQUIREMENT?**

A flight of stairs is a set of steps between two floors or landings that is determined by each agency as part of the assessment when attesting if the individual can perform their assigned duties. There is no time requirement.

### **WHEN IS THE FIRST ASSESSMENT REQUIRED TO BE COMPLETED?**

Since the assessment is an annual requirement which became effective July 1, 2022, it will not be required as a condition of certification renewal until June 30, 2023. However, new officers must complete the assessment as part of their initial AFC (Application for Certification).

### **DOES THE PHYSICAL AGILITY ASSESSMENT ALIGN WITH THE JOB DUTIES OF THE AVERAGE PATROL OFFICER OR DUTIES BASED ON THE JOB CLASSIFICATION (E.G., AN ADMINISTRATIVE OFFICER, DETECTIVE, CRIME PREVENTION SPECIALIST, ETC.)?**

As a condition of certification, a police officer shall submit to an annual physical agility assessment to establish continuing fitness to carry out the officer’s assigned duties. (*Public Safety Article, §3-209(e)*)

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# MANDATORY REPORTING

## **WHAT MANDATORY REPORTING IS REQUIRED OF LAW ENFORCEMENT AGENCIES?**

A number of mandatory reports are required to be sent to various State agencies on an annual basis. The following reports are required to be sent to the Maryland Police Training and Standards Commission:

### **Serious Officer-Involved Incidents (Public Safety Article, §3–207(b))**

(b) (1) The Commission shall develop a system by which law enforcement agencies report to the Commission each serious officer-involved incident each year, including for each incident:

- (i) the number of officers involved by race, ethnicity, and sex;
- (ii) the number of officers disciplined by race, ethnicity, and sex; and
- (iii) the type of discipline administered to each officer, by the officer's race, ethnicity, and sex.

(2) The Commission shall annually summarize the information submitted by law enforcement agencies and:

- (i) post the summary, excluding the names of officers and other involved parties, on a website maintained by the Commission; and
- (ii) submit the summary to the General Assembly, as provided in § 2–1257 of the State Government Article.

### **Use of Force Complaints ( Public Safety Article, §3–514)**

(a) (1) Each law enforcement agency shall require a police officer who was involved in a use of force incident in the line of duty to file an incident report regarding the use of force by the end of the officer's shift unless the officer is disabled.

(2) The incident report required under paragraph (1) of this subsection shall include:

- (i) the type of encounter;
- (ii) the type of force used;
- (iii) the location of the incident where force was used;
- (iv) whether the individual against whom force was used was arrested;
- (v) what charges, if any, for which the individual against whom force was used was arrested;
- (vi) whether the individual against whom force was used requested or required medical care;
- (vii) whether the law enforcement officer requested or required medical care; and
- (viii) demographic information about any individuals against whom force was used and any law enforcement officer involved in the incident, including race, ethnicity, gender, and age.

(b) (1) On or before July 1, 2023, and July 1 each year thereafter, each law enforcement agency shall submit to the Maryland Police Training and Standards Commission the aggregate data of police officers' use of force reported in accordance with subsection (a) of this section for the previous calendar year, aggregated by numbers of complaints administratively charged, not charged, unfounded, and exonerated.

(2) On or before July 15 each year, the Maryland Police Training and Standards Commission shall post on its website and submit to the General Assembly, in accordance with § 2–1257 of the State Government Article, a compendium of the information submitted by law enforcement agencies under paragraph (1) of this subsection.

(3) If a law enforcement agency has not submitted the report required under paragraph (1) of this subsection by July 1 for the previous calendar year, the Governor's Office of Crime Prevention, Youth, and Victim Services may not make any grant funds available to that law enforcement agency.

*NOTE: Mandatory annual reports can be viewed on <https://mdle.net/reports.htm>.*

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