

05.24.00 USE OF FORCE

24.01 Definitions.

1. Use of Force: An action by a commissioned member of the Department to compel compliance by an unwilling subject.

2. Deadly Force: Any force that creates a substantial likelihood of causing serious bodily injury or death.

3. Imminent: About to occur.

4. Objectively reasonable: A use of force is objectively reasonable if a trained, reasonable commissioned member of the Department could have appropriately used that level of force if faced with the circumstances that confronted the member using force.

24.02. General Use of Force. A commissioned member of the Department may use force when the officer reasonably believes the force is necessary to bring about a lawful arrest, search or detention or to prevent escape after arrest. Before using force, a commissioned member of the Department will manifest his or her purpose and identify himself/herself as a peace officer unless the officer reasonably believes the officer's purpose and identity are already known by or cannot reasonably be made known to the person arrested. In every situation, members will use only the amount of force that is objectively reasonable based on the totality of the circumstances they confront. Members will use force only in accordance with Department training. Only weapons authorized by the Department may be utilized.

24.03. Use of Deadly Force. Commissioned members of the Department may use deadly force when the use of force is authorized and:

1. the officer reasonably believes that deadly force is immediately necessary to defend the officer or another person from a substantial risk of death or serious bodily injury,

2. the use of deadly force is immediately necessary to make an arrest and the officer reasonably believes that the conduct for which arrest is authorized included the use or attempted use of deadly force by the person to be arrested; or,

3. the use of force is immediately necessary to make an arrest and the officer reasonably believes there is a substantial risk that the person to be arrested will cause death or serious bodily injury to the officer or another if the arrest is delayed.

24.04 Discharging Firearms.

1. A commissioned officer is prohibited from discharging a firearm at or in the direction of any person including toward any part of an occupied vehicle unless:

- a. the use of deadly force is justified under 05.24.03; and,
- b. the discharge does not present an unreasonable risk of injury to third parties.

2. Commissioned officers are accountable for the consequences of each round that is discharged and must continually re-evaluate whether circumstances justify using deadly force as those circumstances evolve.

24.05 Discharging Firearms at Vehicles. In evaluating whether to use deadly force by discharging a firearm at a vehicle, members shall consider that the danger inherent in discharging a firearm is increased when shooting at a moving vehicle. There is a risk of harm to any occupants of the suspect vehicle who may not be involved, or involved to a lesser extent, with the actions of the suspect creating the threat. In exercising discretion regarding firearms discharges at a vehicle, members will abide by the following restrictions:

1. The discharge of a firearm with the intent and purpose of disabling a vehicle is considered a use of deadly force for purposes of this policy. Members may discharge a firearm for the purpose of disabling a vehicle only if circumstances justify the use of deadly force.

2. Members may discharge a firearm at a vehicle for the purposes of disabling the vehicle only when the member reasonably believes that the vehicle is solely occupied by the driver; or if passengers are present, the member reasonably believes that the passenger(s) are actively engaged in the circumstances justifying the use of deadly force.

3. No commissioned member shall intentionally position his or her body into the path of a vehicle that is attempting to flee. Whenever possible, the affected member should make a reasonable effort to get out of harm's way if a vehicle is moving toward him/her.

24.06 Discharge of Firearm from Aircraft.

1. In addition to the other requirements of this policy, a firearms discharge from an aircraft is authorized only when an officer reasonably believes that the suspect has used or is about to use deadly force by use of a deadly weapon against the air crew, ground officers or innocent third parties.

2. For purposes of authorizing the discharge of a weapon from an aircraft, a suspect's driving behavior including aggressive or reckless driving to evade arrest does not constitute use of a deadly weapon by the suspect.

24.07 Discharge of Firearm from Tactical Marine Unit. In addition to complying with 05.24.03-05.24.05 above, a firearms discharge from a tactical marine unit is authorized only when the following conditions are present:

1. Ground personnel are unavailable to respond to the threat in a reasonably effective manner.

2. There are no reasonably effective alternative means of eliminating an imminent threat of death or serious bodily injury to officers or another person.

24.08 Vehicle Used as a Tool. A commissioned member of the Department may have to use the vehicle as a tool to end the commission of a crime. Using a vehicle as a tool is considered a use of force and members will be guided by 01.05.24.02 General Use of Force and 01.05.24.03 Use of Deadly Force. Those members trained in the Precision Immobilization Technique will be guided by the techniques and training taught by DPS EVOC.

24.09 Deviations from Use of Force Policy. The Department's Use of Force policy may not cover all circumstances that will confront commissioned members of the Department. In all situations, officers are expected to act with intelligence and exercise sound judgment based on a deep reverence for human life. Any deviations from this policy will be examined rigorously on a case-by-case basis for specific exigencies that required deviation. The involved officer must be able to articulate clearly the reasons for the use of force as well as the reason for any deviation from this policy.