



ORGANIZING A LEGAL DISCUSSION (IRAC, CRAC, ETC.)

Introduction

The organization of your writing will determine whether or not a reader will understand and be persuaded by your argument. Brilliant rhetoric will only carry you so far—if your piece does not follow a clear structure, many of your points will be lost or misunderstood. As a result, it is crucial that your writing follow a clear organizational format that will be intelligible to your reader.

Most legal writing requires the writer to analyze a set of facts using legal rules gleaned from a myriad of sources, including cases, statutes, and secondary materials. Unlike the non-legal writing you've done in college and at work, legal writing has its own specific structure that lawyers everywhere use in one form or another—and which they expect to see in your written work.

Whether they call it IRAC (Issue, Rule, Application, Conclusion), CRAC (Conclusion, Rule, Application, Conclusion), or CREAC (Conclusion, Rule, Explanation, Application, Conclusion), all lawyers write in the same way: by laying out the issue to be discussed, the legal rule relevant to the issue, the analysis of the pertinent facts based on that rule, and the overall conclusion reached.

Although this may sound daunting at first, it will quickly become second nature. Below is a primer on how to structure a legal argument using IRAC. CRAC and CREAC are incredibly similar to IRAC, and the same principles apply.

Where do I use IRAC?

IRAC is used after your facts section, in the 'discussion' section of your memo, or the 'argument' section of your brief. Each discrete legal topic will have its own IRAC structure, under a separate sub-heading. For example, an affirmative defense and a necessary element of a claim would each receive their own complete, independent IRAC discussions.

How do I use IRAC?

With practice, it will feel entirely natural to organize your legal discussion following the IRAC form. In the meantime, below is a basic outline of the IRAC format and its best uses.

Issue

State the issue in the first paragraph at the beginning of the sub-section: what is the legal question you will need to analyze? Why do you need to analyze this issue? This first section should give your reader an understanding of what you intend to discuss and why you must discuss it.

In a memo, you should be neutral in your statement of the facts while also predicting how the judge will rule on the issue.

Best: state the relevant issue in a way that reveals your conclusion

- **Example:** The Court will likely rule that Officer used unconstitutionally excessive force under the *Graham* test as applied to the facts of this case.

- **Good:** state the relevant issue in a neutral fashion.

- **Example:** The judge must then decide whether the balancing test in *Graham* warrants a finding of excessive force.

- **Not Good:** state the relevant issue as a question

- **Example:** Did the Officer use excessive force under the *Graham* test?

Note that using the question format is stylistically disfavored in the legal profession.

In a brief, you should be more opinionated and assert how your client would like the issue to be resolved.

Best: assert that the relevant issue should come out in your client's favor and (briefly) explain why

- **Example:** The balancing test in *Graham* warrants a finding of excessive force because Officer responded to an unthreatening suspect with a serious intrusion into his Fourth Amendment rights.

- **Good:** assert that the relevant issue should come out in your client's favor

- **Example:** The court should find that the officer used excessive force under the balancing test in *Graham*.

- **Not Good:** state the relevant issue in a neutral fashion

- **Example:** The court will need to employ the balancing test in *Graham* to decide whether the officer used excessive force.

Rule/Explanation

After you lay out the issue, you will need to establish the governing legal rule that the court will employ to resolve that issue. Your rule section should resemble a funnel: set out the broadest principles first, with the smaller, secondary components, or exceptions to the rule following afterwards. Generally, you will be able to naturally create a funnel by discussing authorities in order from most important to least important. State holdings of cases briefly, and only include relevant facts and conclusions. Depending on the nature of your case, you may also wish to include a paragraph discussing particularly relevant precedent in order to establish how the rule works in practice.

- Order of Authorities: Constitution, statutes, regulations, Supreme Court cases, appellate court cases, trial court cases, and lastly, secondary sources.
- General → specific
- Baseline rule → exceptions
- **Tip:** For concise use of legal sources, use ellipses (Bluebook R. 5.3), and minimize use of block quotations
- Explain the whole rule; don't just give a one-liner

Example: It is well established that “the use of force is contrary to the Fourth Amendment if it is excessive under objective standards of reasonableness.” *Saucier v. Katz*, 533 U.S. 194, 201–02, 121 S.Ct. 2151, 150 L.Ed.2d 272 (2001) (citing *Graham v. Connor*, 490 U.S. 386, 109 S.Ct. 1865, 104 L.Ed.2d 443 (1989)). The reasonableness of the application of force applied by a police officer depends on a balancing of the force applied and the circumstances confronted by the officer. “A claim that excessive force was used in the course of a seizure is subject to an objective test of reasonableness under the totality of the circumstances of each case, including the severity of the crime at issue, whether the suspect posed an immediate threat to the safety of others, and whether he is actively resisting arrest.” *Sullivan v. Gagnier*, 225 F.3d 161, 165 (2d Cir. 2000) (citing *Graham v. Connor*, 490 U.S. at 395–396). Under the law, police are not permitted to use any degree of force in all instances—in some circumstances, no use of force is reasonable because none is required. *Bauer v. Norris*, 713 F.2d 408, 412 (2d Cir. 1983) (“the use of any force by officers simply because a suspect is argumentative, contentious, or vituperative is not to be condoned”) (internal quotations omitted). The Second Circuit has held that the degree of injury is not determinative of an excessive force claim; even an injury that is not permanent or severe can suffice. *Robinson v. Via*, 821 F.2d 913, 924 (2d Cir. 1987).

Example: When applying the balancing test in *Graham*, the court has held that there is little governmental interest in arresting a suspect for a minor offense. See *Jones v. Parmley*, 465 F.3d 46 (2d Cir. 2006) (jury could reasonably find that kicking and punching peaceful protesters in violation of local ordinance was excessive); *Thomas v. Roach*, 165 F.3d 137 (2d Cir. 1999) (verbal threats are a too minor a crime to create a strong governmental interest in the arrest). Therefore, a suspect's alleged crime must be sufficiently serious to warrant use of painful force, such as a taser, under a

Graham analysis. *Tennessee v. Garner*, 471 U.S. at 11. Given that the threat posed by the suspect is “the most important single element” of the Graham analysis, *Chew v. Gates*, 27 F.3d 1432, 1441 (9th Cir. 1994), any arrest in which the suspect poses no threat and is only wanted for a minor infraction likely does not give rise to a significant governmental interest.

Application

In this section, you will apply the rule to your facts, using the cases you’ve discussed in the rule section to draw analogies or distinctions. You should track the order and key phrases of the Rule section so that your reader can easily follow along. Don’t be afraid to repeat key terms and phrases—you will frequently need to do so to show that your case follows precedent. This section will be the bulk of your argument, and may run several paragraphs or pages long.

Example: In the instant matter, the officer’s use of force against Victim was objectively unreasonable because Victim committed only a minor offense and posed no threat to Officer. Officer arrested Victim for loitering under New York Penal Law § 240.35, which classifies the infraction as a violation – a lower grade than even a misdemeanor. This infraction is even less serious than the one at issue *Thomas* (verbal threats) and is equivalent to the minor ones in *Jones* (protest violation). Moreover, Victim posed so little threat to Officer that sanctioning taser use in this situation would run contrary to precedent and notions of justice. Victim did not approach Officer or manifest any intention to harm him. Much like in *Tennessee v. Garner*, 471 U.S. at 21, where substantial force was unreasonable because the fleeing suspect posed no threat to the officer, Victim was actually attempting to escape away from Officer.

Conclusion

Here, all you will need is a sentence or two that concisely state the outcome of the issue, based on the Application of the Rule to the facts of the case.

Example: Therefore, because Victim posed no threat to Officer and was only liable for a minor infraction, Officer’s use of force was excessive under *Graham*.

Putting it all together

Fully synthesized, IRAC will allow you to move from the main problems in a case through the governing law, and to a final conclusion. Consider one final example. Your client is getting divorced in Connecticut. Her husband argues that she did not fairly and reasonably disclose her property, which Connecticut law requires, because her disclosure inaccurately stated her overall assets. In a memo, you might analyze this point like this:

ISSUE, or Topic Sentence:

A court will not be convinced that my client's financial disclosures are 'incomplete.'

RULE:

A "fair and reasonable" disclosure refers to the nature, extent and accuracy of the information to be disclosed." *Friezo v. Friezo*, 914 A.2d 533, 545 (Conn. 2007). *Friezo* notes that "a fair and reasonable financial disclosure requires each contracting party to provide the other with a general approximation of their income, assets and liabilities." 914 A.2d at 550.

ANALYSIS: Interpret the Evidence

In *Friezo*, the defendant provided "an accurate representation, in writing," that "set forth a list of the defendant's assets and liabilities, most of which were valued individually." *Id.* at 551, 550. Here, my client provided a similarly detailed written valuation. Her husband's claims that the schedules omit key information about the value of my client's real estate holdings and miscalculate her total assets, undervaluing them by \$1,000,000, are inaccurate. My client provided either statements of value or recent assessments of value for each of her properties holdings to her husband. While Schedule A inaccurately states my client's total assets, this misstatement is a clerical error; each of her properties is accurately valued individually.

CONCLUSION: Reconnect This Point to Your Thesis

Since Connecticut requires only a "general approximation" of assets, a court will find my client's disclosure to be fair and reasonable.