

# USE OF FORCE REPORT WRITING GUIDE



## The Constitutional Standard for Use of Force

The U.S. Supreme Court case of *Graham v. Connor*, 490 U.S. 386 (1989), established “Objective Reasonableness” as the standard for all applications of force in United States. This guide is designed to assist officers in articulating the facts of a Use of Force incident in accordance with the guidance provided in *Graham*. Remember, all Use of Force applications are judged based upon:

- The totality of the circumstances
- From the perspective of a reasonable officer
- At the moment force was used
- Without the benefit of 20/20 hindsight
- In circumstances that are tense, uncertain and rapidly evolving.

The court specified four specific factors, sometimes referred to as the *Graham* factors, which assist in determining reasonableness. Although not required, nor all inclusive, articulating these factors provides a good framework for justifying a particular Use of Force. The factors are and in this order:

- Whether the subject was an immediate threat to the officers or others
- Was the subject actively resisting arrest or detention?
- The severity of the crime at hand
- Was the subject trying to evade arrest or detention by flight

## Other Important Articulate Facts

The following list represent Facts (not conclusions), which if present, may assist in justifying a particular Use of Force. It is NOT intended to be all inclusive.

- The number of suspects vs. the number of officers involved (availability of backup)
- Pre-assault indicator (be specific... describe the subjects' actions/statements)
- Size, age, and physical condition of the officer/suspect
- Known or perceived physical abilities of the suspect (i.e. MMA, Wrestling)
- Previous violent or mental history (known by the officer at the time)
- Injury to the officer or prolonged duration of the incident
- The availability or proximity of weapons
- Environmental factors
- Officer on the ground or unfavorable position
- Characteristics of being armed (information from dispatch, bulges etc..)

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## Facts vs. Conclusions

Many police reports contain “conclusions” disguised as “facts”.

“Conclusions” are phrases or words that describe a subject’s actions, but lack clear articulation of the subject’s behaviors. When articulating force, particular attention should be paid to the specific actions and behaviors of the subject (facts). The following table provides a few examples of when “conclusions” should be replaced by “facts” in a written report. *This is particularly evident when officers say “based on the totality of the circumstances”. You need to describe what those circumstances are.*

<u>Conclusions</u>	<u>Facts</u>
Assaultive	“I’m going to kick your ass”, specific verbal threats or statements, turned body 90 degrees, boxer’s/fighting stance, suddenly closed the distance, shoved the officer, clenched fists, raised hands as if he was going to fight, 1000 yard stare.
Non-compliant	“I’m not going to jail”, ignored commands, acted contrary to commands, walked away, repetitive phrases, illogical responses...
Resistant	Pulled away, folded arms, became rigid, attempted to hide, unresponsive to physical force,
Matched description	Height, weight, clothing, gender, race, hair color, vehicle description, direction of travel...
Officer Safety	Weapons, physical size, known criminal history, refused to keep hands out of pockets, known violent history, type of crime, NCIC/BOLO info, time of day, characteristics of being armed, adjusting clothing, proximity to weapons...
High crime area	Number of arrests, types of arrests, personal observations, statistics, citizen complaints...
Suspicious activity	Unusual appearance for area (heavy coat in summer), unprovoked fight, looking in vehicles, stealthy movements...