

Proportionality & Necessity in Use of Force

One of the most critical principles guiding the lawful use of force in Canada is the concept of **proportionality and necessity**. This principle is enshrined in Section 34 of the Criminal Code, which outlines when an individual may lawfully defend themselves or others. Understanding this standard is essential for legal professionals, law enforcement officers, organizations, and civilians alike. This document explores how proportionality and necessity are defined in law and how they apply in real-world cases.

1. Section 34 of the Criminal Code

Section 34 of the Criminal Code provides the foundation for self-defense in Canada. It allows a person to commit an act that would otherwise be considered an offence if it is done for the purpose of defending or protecting themselves or others, provided that the act is **reasonable in the circumstances**. The law requires courts to weigh multiple factors when determining whether the force used was justified, including:

- The nature of the threat faced (imminent vs. potential).
- The proportionality between the threat and the defensive response.
- Whether there were other means available to safely respond.
- The role of the defender in the incident (provocation, escalation, etc.).
- The relationship, if any, between the parties involved.
- The presence of weapons or other dangerous factors.

2. Proportionality Explained

Proportionality requires that the level of force used directly corresponds to the seriousness of the threat. For example, using deadly force against a minor, non-lethal threat would likely be deemed unreasonable. Courts will ask: Did the individual use no more force than necessary to repel the threat?

3. Necessity Explained

Necessity focuses on whether the use of force was unavoidable under the circumstances. If a safe avenue of retreat or de-escalation existed, but the defender escalated to violence instead, courts may find the force unjustified. Necessity acknowledges that defensive action must be the last reasonable option available.

4. Real-World Application

Canadian courts have applied Section 34 in numerous cases, illustrating how proportionality and necessity are judged. In *R. v. Lavallee*, the Supreme Court recognized the perspective of an abused woman defending herself against an imminent attack, setting an important precedent on how circumstances influence proportionality. Similarly, in *R. v. Khill*, the court scrutinized whether lethal force was necessary and proportionate when defending property against intrusion. These cases demonstrate that the law does not apply a one-size-fits-all rule but evaluates the unique pressures and risks faced in each situation.

Conclusion

Proportionality and necessity are the twin pillars of lawful self-defense in Canada. They ensure that defensive actions remain both justifiable and limited to what the situation requires. By understanding these principles, individuals and organizations are better prepared not only to act decisively in dangerous situations but also to defend their actions in the eyes of the law. At Horizon Protection & Training, our *Force Analysis Consulting* helps clarify these complex standards, offering expert guidance and independent reviews to ensure fairness, accountability, and safety.