

Damned if You Do, Damned if You Don't

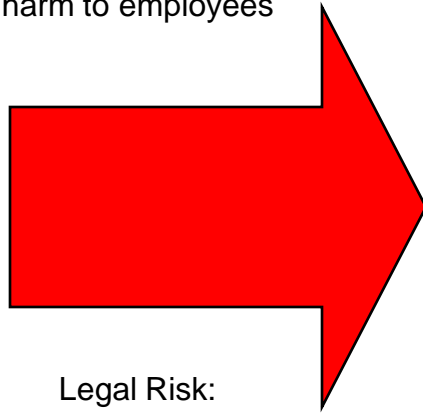
**Legal Liability Implications
for Employers in Protecting Employees from
Physical Violence in the Workplace**

May 28, 2008

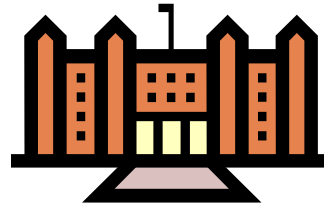
ESAO Health & Safety Conference

Threat:

workplace violence
harm to employees



Security Officer



Your Organization

Legal Risk:

- OH&S culpability
- C-45 prosecution
- occupiers' liability

Under the Criminal Code, security officers are legally justified in using reasonable force to ...

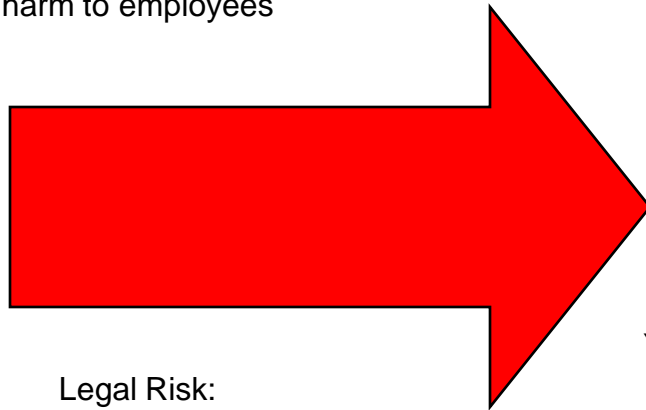
- Prevent assaults on themselves or others
- Prevent the commission of offences
- Keep off or remove trespassers
- Effect citizens' arrests

(ss. 37, 27, 41, 494, 25)

Security Officer

Threat:

workplace violence
harm to employees

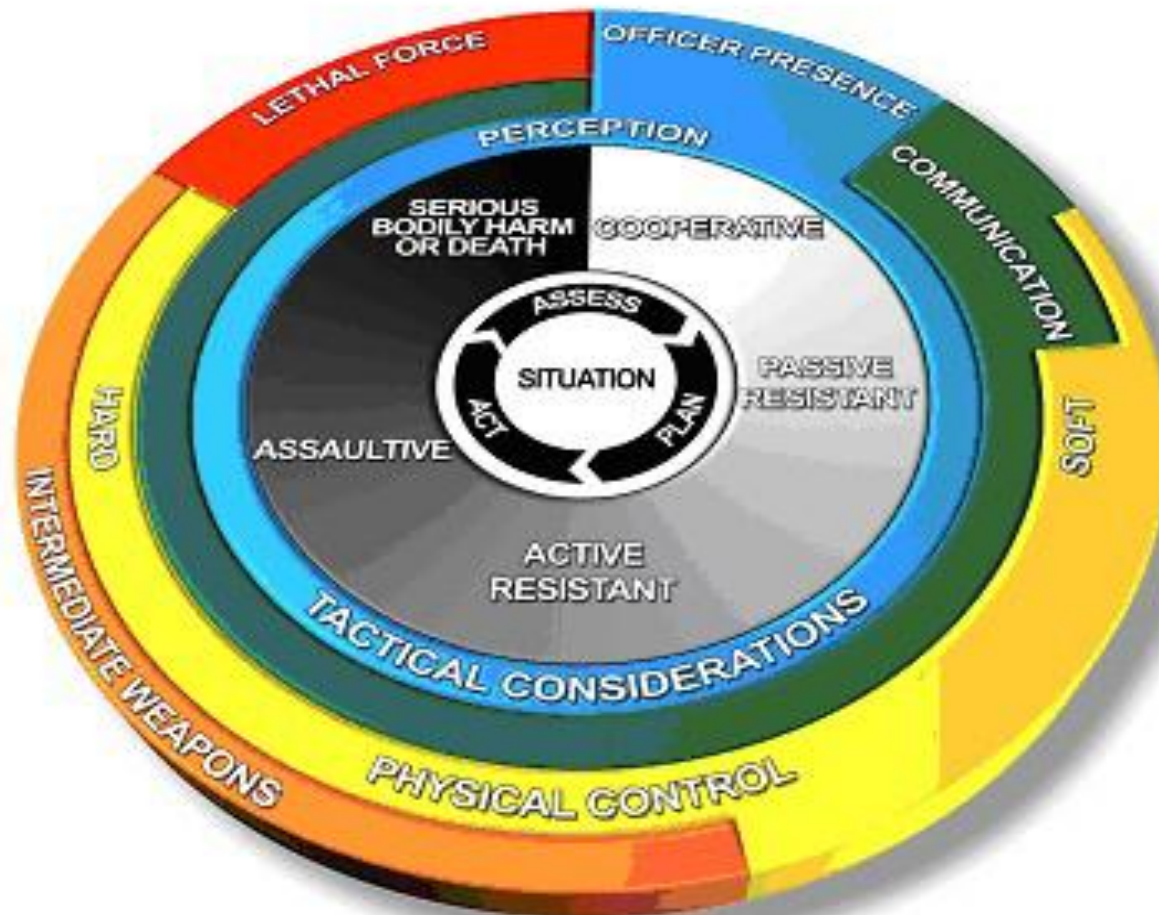


Your Organization

Legal Risk:

- OH&S culpability
- C- 45 prosecution
- occupiers' liability

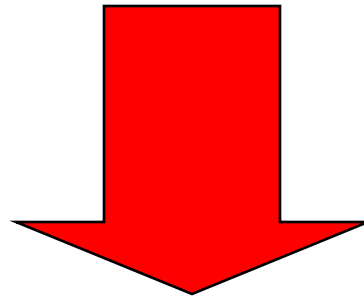
Ontario Use of Force Model (2004)



The officer continuously assesses the situation and selects the most reasonable option relative to those circumstances as perceived at that point in time.

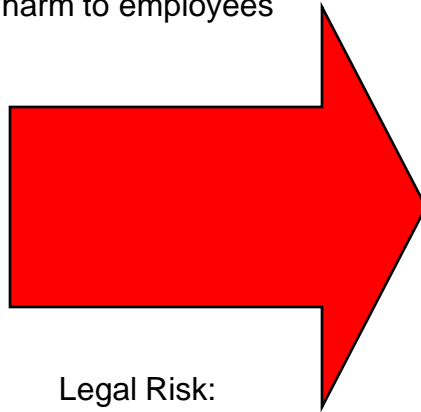
Threat:
workplace
violence harm to
security officers

Legal Risk:
- OH&S culpability
- C- 45 prosecution
- tort liability

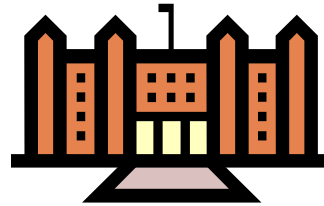


Threat:
workplace violence
harm to employees

Protective Equipment
(handcuffs, batons)



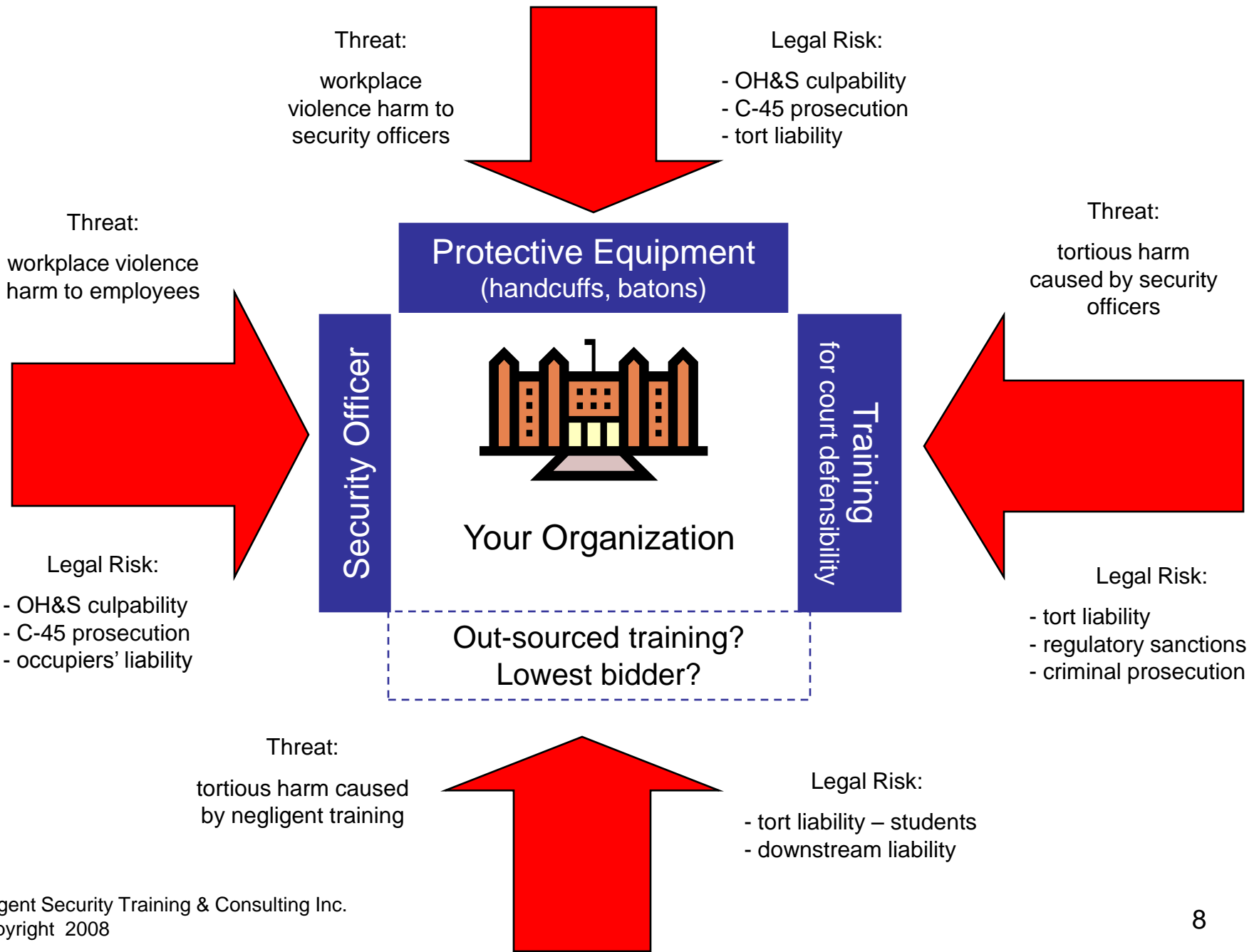
Security Officer

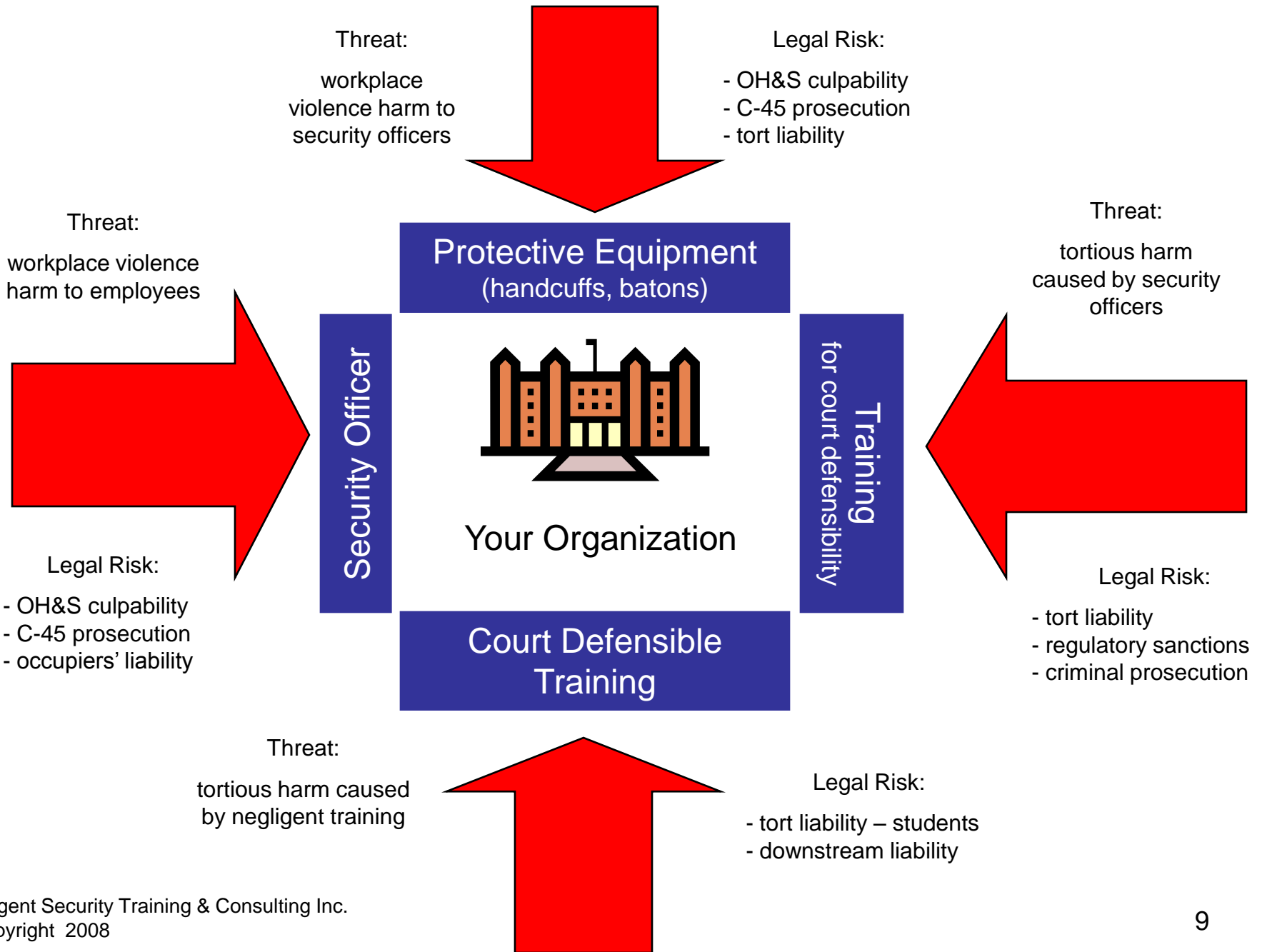


Your Organization

Legal Risk:
- OH&S culpability
- C- 45 prosecution
- occupiers' liability







Court Defensible Training



Instructor Credentials

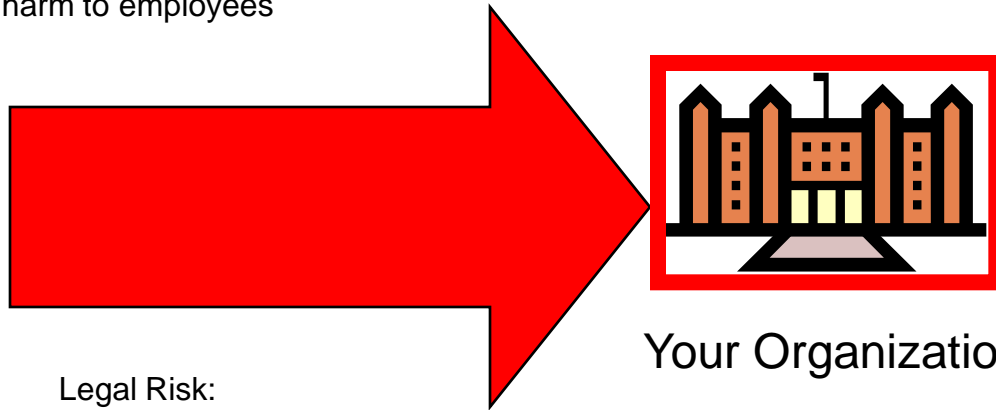
- Proper certification?
- Recognized by police training authorities?
- Recognized by courts?
- Errors and omissions insurance?

Curriculum

- Is there a curriculum?
- What kind of record – keeping is done?
- Are students evaluated?
- Do students fail?

Threat:

workplace violence
harm to employees



Your Organization

Legal Risk:

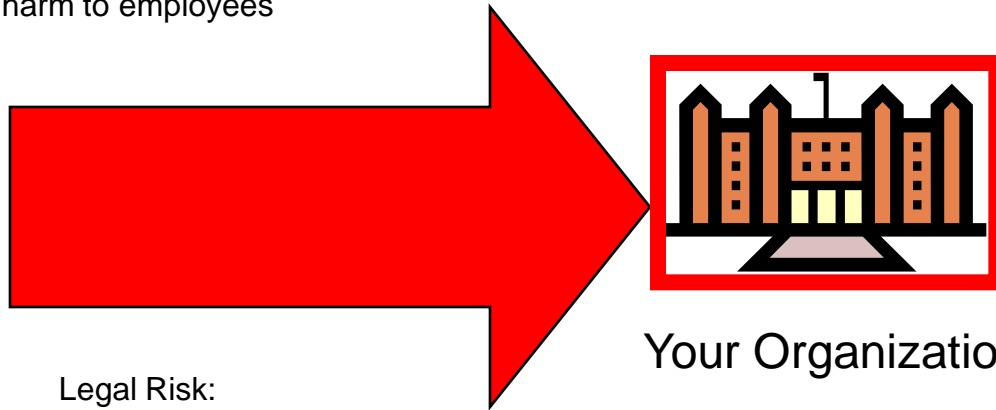
- OH&S culpability
- C-45 prosecution
- occupiers' liability

Bad Option #1 – No Security Officers

Security Officer

Threat:

workplace violence
harm to employees



Your Organization

Legal Risk:

- OH&S culpability
- C- 45 prosecution
- occupiers' liability

Bad Option #2 – Officers Instructed Not to Use Force



Bad Option #3 – Officers Expected to Use Force, But Given No Protective Equipment



**Bad Option #4 – Officers Given Protective Equipment,
But No Training on How to Use Force Safely**



Bad Option # 5 – Training Which Is More Likely to Increase Your Exposure to Liability Than Decrease It



Protective Equipment
(handcuffs, batons)



Security Officer



Training
for court defensibility



Court Defensible
Training



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