

Summary of the Substantiated Assault Case
Endorsed by the IPCC in 2001

The complainants were illegal immigrants (I.I.s). While awaiting repatriation to China, they were detained in a border detention centre. On one morning while the police officers of the centre were collecting blankets as usual, some of the I.I.s allegedly refused to return the blankets. A confrontation between the I.I.s and the police officers ensued. Three police officers (PC X, PC Y and SPC Z) entered the cell and subdued the I.I.s with their batons. As a result, some I.I.s sustained injuries. A complaint of 'Assault' was made by the I.I.s against the three police officers.

2. The complainants were sent to hospital for medical treatment. According to the medical findings, the injury of Complainant A (COM A) was most significant as scalp laceration was found on his forehead. Several other I.I.s were found to have sustained minor injuries.

3. CAPO started its investigation shortly after the incident. Repatriation of the complainants was postponed as they were invited to assist in CAPO's investigation. However, prior to completing the investigation, all of them chose to return to China. Notwithstanding this, they agreed to testify in court if required and they left their means of contact in China before being repatriated.

4. Based on the complainants' statements and the results of the identification parades, CAPO identified PC X as the assailant who had hit the forehead of COM A. CAPO's legal adviser considered that PC X had used excessive force in the incident as the hitting of COM A's forehead was unnecessary. On the Department of Justice's legal advice, criminal charge was laid against PC X.

5. PC X pleaded not guilty to the charge. As the complainants were required to attend the trial as witnesses, the Liaison Bureau of the Police tried to contact them through their means of contact but in vain. As the witnesses could not be located, the Prosecution decided to withdraw the charge against PC X.

6. Although PC X was exonerated from the criminal charge, CAPO considered that his use of excessive force in the incident evidently amounted to 'Assault'. CAPO classified the allegation of 'Assault' against PC X as 'Substantiated' and similar allegations against PC Y and SPC Z as 'Unsubstantiated'.

7. In examining this case, the IPCC noticed that COM A had pointed out that two police officers had hit his forehead during the incident. From the results of the identification parades, it was noted that SPC Z had been positively identified by COM A and another I.I. as the other officer who had hit COM A's forehead. The IPCC therefore requested CAPO to re-classify the allegation of 'Assault' against SPC Z as 'Substantiated'. CAPO agreed with the IPCC's observations. The allegation of 'Assault' against SPC Z was upgraded to 'Substantiated'.^(Note 1)

8. The IPCC endorsed CAPO's revised investigation results.

9. Subsequent to the incident, the Force conducted a review of the facilities and procedures in use at the detention centre concerned. Twenty-four improvement measures were implemented. While appreciating the Police's initiative, the IPCC further suggested the Force to distribute explanatory leaflets in simplified Chinese characters and/or play audio-tapes recorded in Putonghua to advise the I.I.s of the relevant police procedures with a view to eliminating possible misunderstanding. The Force was requested to follow-up on the Council's suggestion.

Note 1

According to CAPO Manual Chapter 2-16-(a)(ii), the existing practice of counting allegations is that allegations of the same nature arising from the same incident with the same result of investigation would be collectively treated as one allegation. In this case, the Assault allegations against PC X and SPC Z, which were both found to be Substantiated, was collectively treated as one count of Assault allegation.

Note 2

Apart from the 'Assault' allegations, this complaint case also involves two 'Neglect of Duty' allegations, which are classified as 'Substantiated Other Than Reported'. ***Only the 'Assault' allegations are presented in the above case summary.***