

→ So Fagan's **voluntary (continuing) act** (not an omission) to 'hold' the wheel of his car as a weapon on the policeman's foot was the **intentional assault** via the **application of force without consent**.

Does injury need to be caused?

COMMON LAW BATTERY

Actual application of unlawful violence/force against V – does not require apprehension.

Application of Force:

- Directly aimed at V and done by D's body and controlled by D
- Merest physical force is sufficient to warrant an assault

Occurrence of Injury

- No injury is required, **if injury occurs then a statutory offence has been committed.**
- Collins v Wilcock [1984]: 'only the slightest of touches required'

OFFENCES AGAINST THE PERSON UNDER THE CRIMES ACT 1958 (VIC)

S.15	Definitions
S.15A	Intentionally CSI in circs of gross violence
S.15B	Recklessly CSI in circs of gross violence
S.16	Causing serious injury intentionally
S.17	Causing serious injury recklessly
S.18	Causing injury intentionally or recklessly
S.20	Threat to kill
S.21	Threat to cause serious injury
S.21A	Stalking
S.22	Conduct endangering life
S.23	Conduct endangering person
S.24	Negligently causing serious injury

<p>s.15: Injury</p>	<p>"injury" means—</p> <ul style="list-style-type: none">(a) physical injury; or(b) harm to mental health <p>whether temporary or permanent;</p> <p>"physical injury" includes unconsciousness, disfigurement, substantial pain, infection with a disease and an impairment of bodily function;</p> <p>"harm to mental health" includes psychological harm but does <u>not</u> include an emotional reaction such as distress, grief, fear or anger unless it results in psychological harm;</p>
<p>s.15: Serious injury</p>	<ul style="list-style-type: none">i. an injury (including the cumulative effect of more than one injury) that—<ul style="list-style-type: none">i. endangers life; orii. is substantial and protracted; or(b) the destruction, other than in the course of a medical procedure, of the foetus of a pregnant woman, whether or not the woman suffers any other harm

S.16: INTENTIONALLY CAUSING SERIOUS INJURY

AR	MR	DEFENCE
D's Voluntary Act caused serious injury to another	D intended to cause serious injury See: <i>Westaway</i> test	<i>No Lawful Excuse</i>

S.17: RECKLESSLY CAUSING SERIOUS INJURY

AR	MR	DEFENCE
D's Voluntary Act caused serious injury to another	D was aware that his acts would probably cause serious injury See: <i>Campbell</i> test	<i>No Lawful Excuse</i>

S.18: INTENTIONALLY OR RECKLESSLY CAUSING INJURY

AR	MR	DEFENCE
D's Voluntary Act caused the injury to another	D intended to cause the injury <i>OR</i> D was aware that act would probably cause injury	<i>No Lawful Excuse</i>

S.15A- CAUSING SERIOUS INJURY INTENTIONALLY IN CIRCUMSTANCES OF GROSS VIOLENCE

S.15B CAUSING SERIOUS INJURY RECKLESSLY IN CIRCUMSTANCES OF GROSS VIOLENCE

AR	MR	DEFENCE
<p>(a) the offender planned in advance to engage in conduct and at the time of planning— (b) the offender in company with 2 or more other persons caused the serious injury; (c) the offender entered into an agreement, arrangement or understanding with 2 or more other persons in causing the serious injury; (d) the offender planned in advance to have with him or her and to use an offensive weapon, firearm or imitation firearm ...etc (e) the offender continued to cause injury to the other person after the other person was incapacitated; (f) the offender caused the serious injury to the other person while the other person was incapacitated.</p>	<p>(a)(i) the offender intended that the conduct would cause a serious injury; or (a)(ii) the offender was reckless as to whether the conduct would cause a serious injury; or (a)(iii) a reasonable person would have foreseen that the conduct would be likely to result in a serious injury;</p>	<p><i>No Lawful Excuse</i></p>

S.20: THREAT TO KILL

AR	MR	DEFENCE
D threatens to kill V	D intends V would fear the threat will be carried out See: <i>R v Westaway</i>	<i>No Lawful Excuse</i>

S.21: THREAT TO INFLICT SERIOUS INJURY

AR	MR	DEFENCE
D threatens to inflict serious injury	was reckless as to whether the V would fear threat would be carried out See: <i>R v Campbell</i>	<i>No Lawful Excuse</i>