

Watching the video of Alabama police officer Eric Parker slamming Sureshbhai Patel to the ground, I internalized that concern immediately. And so did my immigrant mother, a retiree in Oklahoma. “Subodh, *Beta*, it’s scary,” she said. “It could happen to any of us, any time.”

As usual, my mother is right. And it has happened.

In the last year, our legal system from Ferguson to Staten Island and from Florida to California has fumbled to address alleged police-brutality incidents. Too few desis, however, realize that these incidents far-too-often impact our own community.

Consider a recent case our law firm handled in another red state.

An Indian immigrant widow — a retired nurse and mom — was driving home after dark from worship at her Hindu temple, attired in a *salwaar kameez*. A plainclothes officer in an unmarked vehicle tried to pull her over, for no apparent reason. She was never cited for any traffic violation. Fearful for her safety, and concerned based upon rumors she had heard that this might be someone pretending to be a policeman, the woman returned the short distance to the temple. She knew the parking lot was well lit and that her fellow devotees would still be dispersing.

As the woman left her car, the officer threw her — just like Patel — to the ground, shattering her knee into fragments. This left her bedridden for months, and has caused lifelong pain. She will likely need multiple knee replacements over her remaining years.

The woman’s anguished son — a lawyer himself — asked me to represent his mother in the family’s quest for accountability. And she eventually obtained a small taste of justice, in the form of a settlement with the officer’s municipal employer.

But the officer never lost his job. Nor was he criminally charged. And the settlement — while reflecting her locale’s conservative nature — will not fully compensate for a lifetime of pain and partial disability.

While money damages are the only way our legal system has of compensating for pain and suffering, a civil lawsuit or settlement cannot heal broken bones or shattered trust. And any compensation obtained through a civil suit comes only after the additional stress of the litigation process, which is rife with obstacles — any one of which could derail a victim’s suit.

What Patel will have to prove

Should Patel be forced to maintain his lawsuit to the end, he will have to prove that the stop was an unreasonable seizure under the Constitution’s Fourth Amendment. The test for that is whether the officers had ‘reasonable suspicion.’

The (in my opinion, racist) call from the neighbor reporting a suspicious ‘skinny black man’ ‘near’ a garage may have justified the initial police inquiry, but once the officers saw Patel engaged in no suspicious activity, and that Patel — as one officer so ungrammatically put it — ‘don’t speak a lick of English,’ detaining Patel was questionable at best.

Patel will also have to prove that the officers engaged in excessive force.

The US Supreme Court requires answers to the following



STEPHEN LAM/REUTERS

It could have been my immigrant father. A visiting uncle. Or me

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questions: First, how severe was the crime that the officer believed the suspect to have committed or be committing? Second, did the suspect present an immediate threat to the officers’ or the public’s safety? Third, was the suspect actively resisting arrest or attempting to escape?

Officers may only use force that is both ‘reasonable and necessary’ to effect an arrest or detention. Anything more is considered excessive. Courts consider the *need* for applying force, the relationship between the need and how much force is used, and the extent of the injury that the officer’s force inflicts.

Here, Patel was engaged in no crime. He presented no safety threat. The video and audio do not reflect any justification for slamming him to the ground. The amount of force was massive given the lack of need for it.

What about the injuries?

Partial paralysis. Face bloodied. Neck injuries. And cervical-fusion surgery required.

The hurdles

Police-brutality lawsuits like Patel’s face significant hurdles.

One is a legal doctrine called ‘qualified immunity.’ This protects officers from liability unless they acted so badly that no reasonable officer would have acted similarly — based on the law as it existed at the time of the incident. So, for example, courts have dismissed excessive-force cases even after acknowledging that the particular use of force was improper, because previous case law had not yet addressed that particular situation.

Qualified immunity is considered so important that officers may seek an appeal in the middle of a case, potentially dragging litigation on for years.

Another hurdle is that the US Supreme Court has cautioned that we may only judge the reasonableness of an

described as a ‘skinny black man’ before using force (acknowledged rather obvious.)

Some potential jurors (including Parker’s defense fund) just doing his job. Every place would generally

Fortunately for Patel, he did not sue Parker’s employer. He was charged with assault. The fullness of the officer’s

The police chief’s statement was unprecedented apology well for Patel and his unusual — to see public in such cases.

It’s time for more of

Those desis who have Americans who should ment abuses should no To some of our fellow A ly, some with badges, remain ‘the other.’ Black brown lives — indeed

Subodh Chandra is the Law Firm in Cleveland civil-rights matters, business litigation. He negotiated an agreement to improve police use federal prosecutor, he director Robert Mueller Law School