

Austin police, Travis County jail officers sued over DWI blood draw

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An Austin woman has sued the city and Travis County, saying they violated her civil rights after she was arrested in 2013.

The lawsuit alleges that police officer Patrick Oborski arrested Caroline Callaway, 24, on Feb. 4 of that year after she refused to take a breath test to gauge if she was driving while intoxicated.

She was charged with DWI, possession of less than two ounces of marijuana and resisting arrest, search or transport — cases that are still pending in county court.

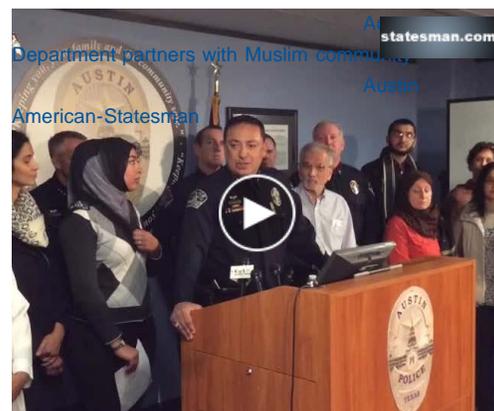
But the civil suit filed in federal court on Wednesday claims that Callaway did not physically resist officers or threaten them.

Still, the lawsuit says, Sgt. Adam Johnson took her to a small padded room where officers and deputies strapped her down in a restraint chair to draw her blood.

Callaway, who has an anxiety disorder, according to the lawsuit, started to tremble. Officers then put a bag over her head, making it difficult for her to breathe, the lawsuit says. After the nurse failed to draw Callaway's blood because she was shaking, "one of the officers used choke hold pressure points on her neck, until her body went limp," the suit says.

"Ms. Callaway was subjected to terrifying and potentially life-threatening brutality, an affront to her body and her dignity, when she posed no physical threat, and was strapped to a chair, and had presented at the most only passive and verbal resistance at any point during her arrest," it says. "The search was unlawful. The force used was excessive."

The affidavit for Callaway's arrest says that she was initially pulled over because she



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ran two red lights downtown. Her breath smelled strongly of alcohol, the affidavit says, and a field sobriety test indicated that she could be intoxicated.

After getting a warrant to draw her blood, officers strapped her in the chair because she continued to refuse them and was “adamant” and “defiant,” the affidavit says.

Because she was moving the needle a nurse was using to draw her blood came out and blood spilled onto Johnson’s hands, according to the affidavit.

“Jail staff then had to use pressure points in the jaw area of Callaway in an attempt to control Callaway,” it says.

Callaway says she suffered nerve damage and post-traumatic stress disorder as a result of the encounter, according to her lawsuit, and she is seeking an unspecified amount of money from the city and county.

Oborski, Johnson, several other unnamed officers and Travis County sheriff’s deputies, and a nurse who was working at the jail that day are also named in the suit, which was filed in federal court Wednesday.

Police officials did not immediately respond to a request for comment.

In a statement, the city said that it has not received the lawsuit but that it will “take the proper legal steps to defend the city against the allegations in the case.”

Roger Wade, a spokesman for the sheriff’s office, said officials there would not discuss pending litigation.

The 2013 DWI arrest was Callaway’s second in Travis County, according to records. She was convicted of an earlier charge in 2012.

Daphne Pattison Silverman, who is representing Callaway in the civil lawsuit, said in a statement that blood should be drawn in a medical environment and that Callaway hopes her lawsuit will lead Austin police to do that.

“Caroline is a strong young lady who was Valedictorian of her high school class, graduated from the University of Texas in December 2014 and embarked on the adventure of her first job in January of this year,” Silverman said. “Caroline wants to put this incident behind her, never to think about it again. After several years of contemplation, Caroline realized that she had a responsibility to prevent others from suffering this barbaric procedure.”

But Ken Casaday, president of the Austin Police Association, said officers can take blood from citizens with a warrant signed by a judge, as happened in this case.



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“I know these officers well and I am confident they had a valid reason to draw Callaway’s blood,” he said.

Staff writer Nicole Chavez contributed to this report. This story was updated to include a response from the city of Austin; Ken Casaday, president of the Austin Police Association; and the Caroline Callaway’s lawyer, Daphne Pattison Silverman.

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