

## Biden subpoena seeks identity of Facebook page's creator

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Attorney General Beau Biden's office wants to force Facebook to identify the creators of an anonymous page that often excoriates Wilmington and New Castle County officials, saying the identities are needed in an ongoing criminal investigation.

The American Civil Liberties Union has intervened on behalf of the owners of the Facebook page "Peaceful Rioters for Wilmington, Delaware," seeking in a Superior Court filing to quash Biden's subpoena.

The 11-month-old Peaceful Rioters page, which shows 366 "likes," includes postings on various issues, including last week's retirement of Wilmington Police Chief Christine Dunning and efforts to combat the city's rampant gun violence.

Most posts are commentary, often caustic, about stories in the media. But a few have included scurrilous accusations involving political figures.

One post quotes from what the page claims was a recording of a sexually charged conversation involving Mayor Dennis Williams, former Mayor James M. Baker and former City Council President Ted Blunt. "PRW agreed not to disclose the recording's owner because of its original owner's position in city government," the October posting said.

A December post made harsh comments and allegations about "the on and off the clock activities" of David Grimaldi, the top aide to New Castle County Executive Tom Gordon, and seeks "any further information" about Grimaldi, promising prospective sources it would "keep all personal information confidential."

The subpoena by Deputy Attorney General Matthew B. Frawley, the son of late Mayor Daniel S. Frawley, seeks "the registered owner or other identifying account information" for the Peaceful Rioters page.

ACLU officials said the page's owner, whom the motion identified as an anonymous "blogger" identified only as "John Doe," was notified by Facebook about the subpoena, leading him to turn to the civil liberties lawyers this week to block it.

The motion said the subpoena must be quashed unless a Superior Court judge determines it "has reasonably been issued to investigate matters of public peace, safety or justice" and doesn't violate the blogger's constitutional rights to free speech and unreasonable search and seizure.

"While the page contains statements people might not like, it does not threaten public peace, safety or justice," the ACLU motion said.

Biden and Frawley did not return calls for comment. The Attorney General's Office, in a written statement, stressed that its subpoena was not prompted by the page's content, commentary or rumors.

"The Delaware Department of Justice strongly supports citizens' constitutionally-protected free speech

rights. This subpoena is specifically limited to an ongoing criminal investigation,” Biden spokesman Jason Miller wrote. “We have no further comment on the ongoing investigation.”

The site asks “who is accountable for decades of neglect in Wilmington’s neighborhoods and businesses?” adding that its mission is to “inform residents of news effecting (sic) their city.” It encourages tips from sources to its email account or Twitter page and promises “our sources are kept top secret.”

Frawley’s Dec. 11 subpoena, signed by Biden, was issued on Dec. 13 to Facebook’s Menlo Park, Calif., headquarters. The one-page document said, “subscriber is not to be notified or made aware of this investigation.”

Frawley wrote that the “information sought is relevant and material to the above-captioned law enforcement inquiry” into “Peaceful Rioters of Wilmington.”

Jodi Seth, a spokeswoman for Facebook, said Tuesday the company “does not comment on ongoing cases.”

Kathleen MacRae, the Delaware ACLU’s executive director, said Biden’s office now must convince the court that the information being sought in the criminal probe outweighs the blogger’s constitutional rights.

“We do not have any details about it whatsoever,” she said of the investigation. “For all we know, they could be doing somebody a favor to try to find out who this guy is, so there could be retribution for what he is writing about the city and county. There may be a legitimate issue here, but we just don’t know based on what they said in the subpoena.”

The News Journal learned about the subpoena and the ACLU’s intervention Tuesday in an email sent to the paper by the blogger. Attempts to interview the blogger or get further comment were unsuccessful, but his page Tuesday listed the subpoena and a notice about it from Facebook’s Law Enforcement Response Team.

“In all likelihood County Executive Thomas Gordon, his Chief-of Staff Dave Grimaldi, and Wilmington Mayor Dennis P. Williams are involved in this violation of Civil Rights as well,” the blogger wrote on the page. “PRW believes our anonymity is at stake and there is a conspiracy amongst some elected officials to seize our First Amendment Rights.”

City and county officials would not comment, spokespersons for Williams and Gordon said.

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