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Bully pulpit: Houston subpoenas pastors' sermons, then backs off amidst outcry

Pastors had slammed demand from Mayor Annise Parker, city as a threat to religious freedom

By [Valerie Richardson](#) - *The Washington Times* - Wednesday, October 15, 2014

After calling church sermons "fair game" for subpoena, Houston Mayor Annise Parker backed down Wednesday from the city's effort to force local pastors to turn over speeches and papers related to a hotly contested transgender rights ordinance.

The city had asked five pastors for "all speeches, presentations, or sermons" on a variety of topics, including the mayor, and "gender identity."

The subpoena prompted a storm of criticism when it became public Tuesday. The pastors are involved in legal efforts to overturn the Houston Equal Rights Ordinance, also known as the "bathroom bill."

The pastors and their allies called the city's broad demand a threat to religious freedom and proof that gay and transgender rights bills can be used as weapons to demonize Christianity.

"The government has no business asking pastors to turn over their sermons," said Sen. Ted Cruz, Texas Republican.

Ms. Parker's office initially doubled down in the face of such criticism but issued a statement late Wednesday saying the mayor "agrees with those who are concerned about the city legal department's subpoenas for pastors' sermons."

The statement says the city will "move to narrow the scope during an upcoming court hearing" and that city attorney David Feldman "says the focus should be only on communications related to the petitions to overturn the ordinance."

Joe La Rue, legal counsel for the Alliance Defending Freedom, which has moved to quash the subpoenas, called the mayor's turnaround "wholly inadequate."

He noted that the city still appears to want some sermons and other documents related to the

lawsuit over the petition drive, which the city rejected after saying too many of the signatures were invalid.

"These sermons, emails and texts have nothing to do with whether the coalition gathered enough signatures to qualify for the ballot," Mr. La Rue said.

The city's statement added that the subpoenas were issued by "pro bono attorneys helping the city prepare for the trial regarding the petition to repeal the new Houston Equal Rights Ordinance" and "Neither the mayor nor City Attorney David Feldman were aware the subpoenas had been issued until [Tuesday]."

However, Ms. Parker, a self-declared lesbian, defended the subpoenas after she was aware of them, according to her Wednesday afternoon statement.

In a post on her Twitter feed late Tuesday, around midnight, Ms. Parker said that issuing subpoenas for sermons was appropriate if the pastors had been active in promoting the signature-gathering effort to overturn the ordinance.

"If the 5 pastors used pulpits for politics, their sermons are fair game," Ms. Parker said on Twitter. "Were instructions given on filling out anti-HERO petition?"

Her tweets also chided what she called biased reporting and lamented "how little fact checking is done."

According to a press conference Ms. Parker gave Wednesday, "the goal" of the subpoena" was "to find out if there were specific instructions given on how the petitions should be accurately filled out. It's not about, 'What did you preach on last Sunday?'"

The subpoena controversy has erupted amid a battle over the ordinance, passed by the City Council in May, which allows people to use public bathrooms designated for use by the opposite sex. The measure is aimed at prohibiting discrimination based on "gender identity," which is now a "protected characteristic" under Houston law.

A pastor-led coalition opposed to the ordinance submitted about 50,000 signatures, three times the number required, to force a voter referendum on the issue. Even so, Mr. Feldman ruled the petitions insufficient as a result of "irregularities," which prompted four people to file a lawsuit challenging his decision.

Mr. Feldman also defended the city's effort to seize sermons at first in an interview Tuesday with KTRK-TV, the ABC affiliate in Houston.

"If they choose to do this inside the church, choose to do this from the pulpit, then they open

the door to the questions being asked," Mr. Feldman said.

City officials came under fierce criticism earlier Wednesday for the sermon subpoenas. Mr. Cruz also called the decision a "grotesque abuse of power."

"For far too long, the federal government has led an assault against religious liberty, and now, sadly, my hometown of Houston is joining the fight," Mr. Cruz said in a statement. "This is wrong. It's unbecoming of Texans, and it's un-American."

Alliance Defending Freedom attorneys filed a motion in a Texas district court seeking to quash the subpoenas as "overly broad, irrelevant, and cause undue burden or harassment."

The motion notes that none of the five pastors subpoenaed is a party to the lawsuit.

The five pastors targeted by the subpoenas are Hernan Castano, Magda Hermida, Khan Huynh, Steve Riggle and David Welch, all of whom opposed the ordinance.

Mr. Welch, executive director of the Texas Pastors Council, said city officials appear to be interested in "demonizing" the pastors by finding something politically incorrect in the stacks of sermons, emails, presentation notes and other communications requested under the subpoenas.

Having said that, he said, "Most of our pastors are not afraid, certainly on the basis of the sermon materials they're requesting."

"Probably most pastors are thrilled to say, 'Hey, spread my sermons far and wide,'" Mr. Welch said. "It's not about the fear of giving them the content that's the issue here. It's that they're using the power of the sword to demand and compel [documents] that are inherently protected under the First Amendment, and we're not going to give that ground."

Mr. Castano, who serves a largely Spanish-speaking congregation, told KTRK-TV in Houston that "This is not what America, the nation, is about."

"For a city government to step into the churches and ask pastors to turn in their sermons and all their speeches, it's gone too far," Mr. Castano said in a Tuesday interview. "They want to put fear in our hearts. They want to stop the people from expressing the right that they have to oppose abuse of power in government, to oppose something that is not right."

The documents named in the subpoenas include "[a]ll speeches, presentations, or sermons related to HERO, the Petition, Mayor Annise Parker, homosexuality, or gender identity prepared by, delivered by, revised by, or approved by you or in your possession."

The subpoena also asks for "All communications with members of your congregation regarding HERO or the Petition."

A court date on the lawsuit challenging the signature verification results is slated for Jan. 19, but no court has been set for the subpoena motion, Mr. Welch said.

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