

S.9 – House Judiciary
April 24, 2015

**Comparison of standards or “thresholds” for reporting abuse and neglect
in 33 V.S.A. § 4913 (mandatory reporter statute)**

33 V.S.A. § 4913(a) states that individuals who work in certain occupations who have “reasonable cause to believe that any child has been abused or neglected shall report or cause a report to be made” to DCF within 24 hours.

I. Current law: “reasonable cause to believe” that a child has been abused or neglected

Statute: “Reasonable cause to believe” is used in over 30 VT statutes, including in 5 different statutes within Title 33. However, it is not defined.

Case law: In the context of 19th Century debtor law, “reasonable cause to believe” was defined as a state of facts or circumstances which would lead any prudent man to make inquiries. Reed v. Moody, 60 Vt. 668 (1888). More recently, the Vermont Supreme Court has found that law enforcement officers had a reasonable cause to believe that a driver was under the influence of alcohol, State v. Pierce, 173 Vt. 151 (2001), or that dismantled vehicles might be evidence of a crime, State v. Driscoll, 137 Vt. 89 (1979), based upon the specific and articulable facts in those cases. Therefore, the presence or absence of “reasonable cause to believe” is highly fact, and case, dependent.

II. Vermont School Board’s Association: “reasonably suspects” that a child has been abused or neglected

Statute: “Reasonable suspects” or “suspects” is used over 10 times in VT statute, but there is no apparent definition of the term.

Case law: “Reasonably suspects” or “reasonable suspicion” is a well know standard, especially as to the basis for a law enforcement officer to perform an investigatory stop. A reasonable suspicion requires more than a mere hunch, and whether an officer has the requisite reasonable suspicion will be determined based on the totality of the circumstances. No one factor or specific combination of factors, will be determinative. State v. Sullivan, 194 Vt. 361 (2013). An officer must have specific and articulable facts, which, along with rational inferences, would warrant a reasonable belief in potential wrongdoing. State v. Edmonds, 192 Vt. 400 (2012).

In the context of search and seizure law, “reasonable basis” or “reasonable belief” is sometimes used in a nearly interchangeable way with “reasonable suspicion.” See, U.S. v. Bailey, 743 F.3d 322 (2d Cir. 2014), cert. denied, 135 S.Ct. 705 (2014) (Terry “pat down” justified if officer, based on specific and articulable facts, taken with rational inferences, provide a particularized and objective basis to believe individual might be armed).

III. Take-aways and questions to consider

Terms such as “reasonable cause to believe” and “reasonable suspicion” are difficult to define, but well established in case law. They are highly fact specific, and therefore case dependent.

Standards or “thresholds” that have been discussed or suggested:

- Current law: “reasonable cause to believe”.
- H.41: “cause to believe”.
- Vermont School Board’s Association: “reasonably suspects”.
- State’s Attorney’s and Committee’s 4/22/15 draft: “suspects”.
- No “threshold”: any mandated reporter who observes or receives any information, report, or allegation that may indicate that any child may have been abused or neglected, or is at risk or being abused or neglected, shall report within 24 hours.

What is the problem the Committee wishes to address?

- To lower the threshold for reporting?
- Are the different terms that different in application?
- Defining terms to clarify the standard for the courts? Is this necessary?
- Defining terms to clarify the standard for mandated reporters? Will inserting a definition achieve this?
- In any adjudication, regardless of whether “reasonable suspicion” or “suspicion,” or “reasonable cause to believe” or “cause to believe” is used in the statute, will the issue of reasonableness still be incorporated into the fact finder’s determination?