

ACLU-VT Testimony on Racial Bias Bill
Chloé White, Policy Director
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Senator Sears and the members of the Senate Judiciary Committee:

The ACLU appreciates the opportunity to comment on this legislation. Despite important gains, we are reminded daily that racism and bigotry remain embedded in the fabric of our democracy and in our state. We support the bill's intent when it comes to battling these injustices and ensuring Vermont is a welcoming and inclusive place for all.

We do have a few questions or concerns regarding this legislation, however. Regarding investigatory powers, under this bill, the AGO would have the power to investigate discrimination and hate-motivated crimes just as the office or a State's Attorney has the power to investigate unfair acts in commerce under 9 V.S.A. §2460. According to that section of the statute, whenever the AGO has reason to believe any person to be in violation of consumer protection law, they may examine or cause to be examined any books, records, papers, memoranda, and physical objects bearing on the alleged violations. While such broad authority may be reasonable in the arena of unfair commercial acts, we find the grant of similar authority when it comes to possible private, constitutionally-protected speech or other hate-motivated or discriminatory conduct problematic. In the criminal context, a warrant would be required to demand and obtain such records. While the standard may be lower in the civil context, we are concerned about allowing such intrusive searches merely due to a 'reason to believe' a violation of chapters 31 or 33 has occurred. We urge the committee to ensure due process rights are respected, even in the context of a civil investigation.

We also note that membership of the bias incident working group created in Section 2 consists solely of members of law enforcement. We urge the committee to add other, non-law enforcement members to this body to ensure that the group is inclusive of different views and perspectives.

Thank you for the opportunity to testify. I look forward to any questions you may have.



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