Subject:	Re: 5/8 testimony
Date:	Friday, May 9, 2025 at 11:03:22 AM Eastern Daylight Time
From:	wilda@madfreedom.org
To:	Nader Hashim
CC:	SENATE_JUDICIARY, Martin LaLonde
Attachments:	image001.png

Date: Thursday, May 8, 2025 at 12:11 PM
To: Nader Hashim <NHashim@leg.state.vt.us>
Cc: SENATE_JUDICIARY <SENATE_JUDICIARY@leg.state.vt.us>, Martin LaLonde <MLaLonde@leg.state.vt.us>
Subject: Re: 5/8 testimony

Dear Sen. Hashim:

Thank you for your email following my testimony before the House Judiciary Committee.

I want to clarify that my remarks reflected my personal impressions and concerns as a Vermont resident engaged in the legislative process—not a formal legal conclusion about the Senate Judiciary Committee's intent. In discussing the proposed requirement that law enforcement petition the court to access sealed records, I shared the perspective that this structure appears to be rooted in a lack of trust in officers' ability to appropriately exercise discretion. That impression was not stated as fact, but as a reasonable inference drawn from the structure and policy justifications offered for the petition requirement. Reasonable people may differ in their interpretations of legislative choices—that is, after all, the nature of public discourse in a democratic society.

With respect to your point about checks and balances: I fully agree that the justice system must include oversight and constraints. My concern is not about the existence of such checks in principle, but about the nature and mechanics of this particular one. The requirement that officers go to court for access to sealed records—without a clearly articulated standard for what

constitutes a compelling basis for access—creates ambiguity, procedural burden, and risk of delay that may not meaningfully advance the goal of protecting the integrity of sealed records. In fact, it may inhibit appropriate uses without improving accountability, which is what most members of the public ultimately care about.

On the matter of "reasonable suspicion," I'm well aware of its legal pedigree, including *Terry v. Ohio*. My concern is not with the doctrine itself, but with its application in this context. "Reasonable suspicion" in traditional criminal procedure has been litigated and clarified through decades of case law. By contrast, the bill applies the term in an unfamiliar procedural posture—one not tied to a stop, frisk, or search, but to a petition for access to a sealed record. It is unclear how courts would interpret or apply the standard in this setting. My point was that the bill does not specify the contours of the standard in this new context—*not* that the term is novel in criminal jurisprudence.

Lastly, I'll offer a broader reflection: Members of the public, including myself, engage in legislative hearings out of a commitment to civic responsibility. Not everyone who testifies will use legal terminology with precision, and few will be able to anticipate how their comments may be interpreted or received. I'm more than capable of engaging in spirited debate, but I worry that the tone of your email may discourage other members of the public from participating. Dissent and critique are part of our democratic process, and testimony—even when critical—should be met with openness, not defensiveness.

I appreciate the work you and your colleagues do, and I hope this exchange helps clarify my views and the spirit in which they were offered.

Thank you.

Wilda

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none of us is free until all of us are free

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From: Nader Hashim <NHashim@leg.state.vt.us>
Date: Thursday, May 8, 2025 at 11:58 AM
To: wilda@madfreedom.org <wilda@madfreedom.org>
Cc: SENATE_JUDICIARY <SENATE_JUDICIARY@leg.state.vt.us>, Martin LaLonde <MLaLonde@leg.state.vt.us>
Subject: 5/8 testimony

Good morning,

I understand you provided testimony in house judiciary expressing that the senate judiciary committee distrusts law enforcement. It appears this is based on the fact that we created a petition requirement for law enforcement to access sealed records, except for exigent circumstances. I would put forward that having checks and balances for judicial proceedings is not unusual or indicative of distrust; police must have affidavits sworn to by a notary public, they must have their search warrants authorized by a court, they must swear to the truthfulness of their testimony, and so on. This does not imply distrust.

Additionally, I noticed you stated that there is no definition for reasonable suspicion. This is incorrect; reasonable suspicion is the first building block of every criminal case. There is a long history of cases which establish reasonable suspicion, beginning with *Terry v. Ohio*. Additionally, this language was expressly supported by Chief Superior Judge Zonay. While I am not representing his views in this email, I strongly suspect he would have mentioned to us if there is no definition for reasonable suspicion because, while he historically does not provide policy suggestions, he is diligent about pointing out errors or issues in legislative language.

Sen. Nader Hashim
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Chair of Senate Judiciary
Member of Senate Education