**Meeting Date:** 22-Sep-22 13:00

**Locations:** [1] Vermont Department of State’s Attorneys and Sheriff’s, 110 State Street, 2nd Floor, Montpelier, VT 05633-6401. [2] Microsoft Teams Meeting

**Participants**

In Attendance [Meenan, Evan](mailto:Evan.Meenan@vermont.gov) (Meeting Organizer)

In Attendance [Davis, Xusana](mailto:Xusana.Davis@vermont.gov) (Accepted in Outlook)

In Attendance [Anderson, Mark](mailto:manderso@windhamcountyvt.gov) (Accepted in Outlook)

In Attendance [Brian Peete](mailto:bpeete@montpelier-vt.org) (Accepted in Outlook)

In Attendance [Jones, Tucker](mailto:Tucker.Jones@vermont.gov)

In Attendance [Jacobsen, Erin](mailto:Erin.Jacobsen@vermont.gov) (Accepted in Outlook)

In Attendance [Pahl, Marshall](mailto:Marshall.Pahl@vermont.gov)

In Attendance [Simons, Heather](mailto:Heather.Simons@vermont.gov)

In Attendance [Karen N. Dolan](mailto:kndolan@leg.state.vt.us) (Accepted in Outlook)

In Attendance [tburditt@leg.state.vt.us](mailto:tburditt@leg.state.vt.us) (Accepted in Outlook)

In Attendance [Philip Baruth](mailto:pbaruth@leg.state.vt.us)

In Attendance [Corey Parent](mailto:cparent@leg.state.vt.us) (Accepted in Outlook)

In Attendance [Hibbert, S. Lauren](mailto:lauren.hibbert@vermont.gov) (Accepted in Outlook)

In Attendance [Brickell, Christopher](mailto:Christopher.Brickell@vermont.gov) (Accepted in Outlook)

In Attendance [Greene, Jay (they/them)](mailto:jay.greene@vermont.gov) (Declined in Outlook)

In Attendance [Morrison, Jennifer](mailto:Jennifer.Morrison@vermont.gov) (Tentative in Outlook)

In Attendance [Frank, Jennifer](mailto:Jennifer.Frank@vermont.gov)

# Notes

Minutes taken by Xusana Davis.

Meeting called to order at 1:05.

**Agenda**

1. Call to order.
2. Approval of the Minutes from the Committee’s August 24, 2022 meeting.
3. Discussion with Lauren Hibbert from the Secretary of State’s Office re: recommendation to house database in Secretary of State’s Office.
4. Discussion of decision points in Act 161 (2022) Sec. 2(c).
5. Opportunity for Public Comment.
6. Set agenda for next meeting(s).
7. Adjourn.

**Approval of August 24, 2022 Minutes**

* Motion to approve: Erin JACOBSEN
* Second: Mark ANDERSON
* Vote Outcomes
  + Aye: Christopher BRICKELL, Tom BURDITT, Tucker JONES, Karen DOLAN, Jennifer FRANK, Mark ANDERSON, Erin JACOBSEN
  + Nay: [None]
  + Abstain: Evan MEENAN (was not present for the meeting in question)
  + Result: Minutes approved.

**Discussion with Secretary of State's Office**

* At its August meeting, the Committee discussed the possibility of housing a *Giglio* database in the Secretary of State's office (SOS). Lauren Hibbert, Executive Director of the SOS Office of Professional Regulation (OPR), joins the Committee to discuss the implications of placing the database in the Secretary of State's Office.
  + Placement & Resources
    - Understands the desire for having an impartial place to house the database. Asks whether the Attorney General's Office might be a good alternative, but acknowledged they may not be widely viewed as being impartial enough.
    - Notes that SOS does have the physical/technological capacity to maintain the database.
    - Notes that funding is a potential barrier: The Office of Professional Regulation is a "special fund" funded by licensing fees. Would need a General Fund allocation for the work and would need to understand the full scope of the work to know what sort of staffing requests, if any, to make.
      * The SOS also has an office of State Records and Archives (VSRA) that might also be able to take this database. Placement in the SOS would require some potential re-allocation of General Fund dollars to accommodate that placement.
  + Process & Due Process
    - Asks what the protocol would be for handling cases in which the subject officer of the letter has challenges to their *Giglio/Brady* letter, or what rights the subject officer would have in this process.
    - Years ago, there were policy conversations among policymakers in VT about having law enforcement officers be licensed through OPR. That idea did not proceed at the time, but Lauren asks whether that discussion becomes relevant if a *Giglio* database is placed in SOS-OPR. Generally, when a complaint is lodged against a professional licensee, records of discipline are attached to that record held by SOS. Lauren asks if that is the intent with this sort of database as well.
    - Public records: A record can still be a public record even if it is only accessible on demand. What would be the public record demand for hosting these letters? These letters would be of high value to members of the public, so the work of responding to public record requests could be onerous.
  + MEENAN: Part of the question of public access will depend on whether the database is open to the public or only open to named users from specific agencies.

**Decision Points**

* The Committee expresses concerns about timing: This committee was given six meetings to answer a complex list of questions. Some of these questions may not be answerable in that timeframe, so the Legislature may need to answer the question about whether the database should be public and determine how to allocate resources depending on the answer to that question.
* Question F: Appropriate access
  + FRANK: We should decide for whom this database is intended first. If it is for attorneys only, that tells us what kind of content to include and where to house it.
  + PAHL: The database should be public. This is easier and more transparent, which is what the public wants.
  + MEENAN: If it is public, the work involved with scrutinizing the information and cross-checking its accuracy will be high.
    - PAHL: That would be the same regardless of public access. Due process for named officers is important, so that high standard of accuracy will need to be met regardless.
      * MEENAN: Agree, but some of the work might be different depending on kinds of cases. For example, in cases related to abuse of juveniles, there needs to be redaction of supporting documents to protect the juvenile's identity before upload to database.
    - JACOBSEN: The database should be public.
    - BURDITT: Questions F and B are linked. Question B (type and scope of information in database) might dictate who has access to the database or to the record. Some details should not be in public databases, but perhaps in private ones. I worry this system could end up collecting too much information and micromanaging law enforcement agencies instead of allowing certain details to be handled internally.
  + DOLAN: Can we start with making sure prosecutors around the state have access? Perhaps start with the database being presumptively private, and then add access layers/categories of users as needed and see what level of publicity that leads us to.
    - MEENAN: Currently, all prosecutors working for the States Attorneys Department have access to a shared folder with all the Department's *Brady/Giglio* letters. This database is more current than the ACLU's database because new letters issued have been added since the ACLU's last public records request for letters. This folder is part of the computer's standard file browser and the contents of each file are not word searchable.
  + PAHL: Do we need to add supporting documentation to letters? Can we just include the letters in the database and let interested parties seek further detail on their own from there?
    - MEENAN: That would be less helpful to prosecutors to fulfill their discovery disclosure obligations. For example, an accused officer engaged in misconduct and the prosecutor does not know about it, then the agency would be required to report the misconduct to all prosecutors in the first instance. Perhaps DOLAN's suggestion might work to correct this, if we make access to the supporting documents limited to certain entities and access to the letters themselves more broad. Whether something is in the database or not does not impact prosecutors' discovery disclosure obligations.
  + DAVIS: The database should be public. As HIBBERT said, the information is "high-value" for the public, and for good reason. Lives depend on it. To DOLAN and BURDITT's points, the content of the information might help us determine access levels in a layered approach, but there should be very strong justification for why some entities have access to more detailed information and others do not, especially if those details can be gained publicly through other means/agencies anyway.
  + ANDERSON: The enabling statute for this Committee discusses the purpose of the database being to facilitate disclosure of impeachable information in cases. This suggests the intended audience is prosecutors. For that reason, several of our decision points/questions are already answered: The letters are already public if they are offered as evidence in cases that are publicly adjudicated. The content of the database is directed by the constitutional mandate already established. Security and confidentiality are not major questions if the information is already public.
  + JACOBSEN: Given the last several comments, it appears there is *already* a Giglio database in a sense, but it just needs to be made more public/central.
  + JONES: Can the States Attorneys Department just add a page on its website and upload its letters?
  + MEENAN: Perhaps we can have a database with two levels of access:
    - One level of access open to the public with details like
      * Officer name
      * Department they were working for at the time of the alleged misconduct
      * General description of the alleged misconduct
      * Date of the alleged misconduct
      * *Giglio/Brady* letter
    - Second level of access for attorneys/prosecutors with supporting documents like case files, police reports.
    - At that point, the supporting documents that are part of the second level of access would still be publicly accessible through a public record request to the appropriate agency that generated the records.
* The Committee will consider this suggestion and discuss it at the next meeting.

**Adjourn**

* Motion to adjourn: MEENAN
* Second: ANDERSON
* Vote Outcomes: All vote aye.
* Meeting adjourned at 2:03 p.m.
* Next Meeting Dates: October 19, 2022 (2:00-3:00 p.m.); and November 17, 2022 (1:00-2:00 p.m.)

**Materials Shared/Discussed**

* Vermont Open Data Portal: <https://data.vermont.gov/>
* Screenshot of part of States Attorneys folder of letters (not all letters fit on the screen at once):

*Next page*

Table

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