*DRAFT Minutes*

Giglio Database Study Committee Meeting

**Meeting Date:** 19-Oct-22 14:00

**Location:** Microsoft Teams Meeting

**Invitation Message**

**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)

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

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

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

In Attendance [Lueders-Dumont, Timothy](mailto:Timothy.Lueders-Dumont@vermont.gov)

# Introduction:

* Minutes taken by Xusana Davis.
* Meeting called to order at 2:04 p.m.
* The group will be chaired by Timothy Lueders-Dumont going forward, due to a staffing transition in the Office of the State's Attorneys and Sheriffs. Timothy is present today to lead the meeting and exiting Chair Evan Meenan is present to assist.

* This is the penultimate meeting of the group: per statute, the group is only to meet six times total, and this is meeting number five.

**Agenda**

1. Call to order.
2. Approval of the Minutes from the Committee’s September 22, 2022 meeting.
3. Continued discussion of decision points in Act 161 (2022) Sec. 2(c).
4. Opportunity for Public Comment.
5. Set agenda for next meeting(s).
6. Adjourn.

**Approval of September 22, 2022 Minutes**

* Motion to approve: Erin JACOBSEN
* Second: Marshall PAHL
* Vote Outcomes
  + Aye: Philip BARUTH, Tom BURDITT, Tucker JONES, Karen DOLAN, Jennifer FRANK, Mark ANDERSON, Erin JACOBSEN, Karen DOLAN, Brian PEETE, Marshall PAHL, Xusana DAVIS
  + Nay: [None]
  + Abstain: [None]
  + Result: Minutes approved.

**Decision Points**

* BARUTH: Missed the last meeting. Based on the minutes, it appears this group generated strong support for the database being publicly accessible. Is this accurate?
  + FRANK: Yes, depending on the extent of the information contained in the database.
    - BARUTH: If that's the case, and if people would already be able to access the information through public records requests, then why would we make them go through that extra step instead of just providing the information in the database?
    - DOLAN: Another issue that is presented is the potential need to have to review and redact documents prior to upload, to protect confidential information.
    - PEETE: This can be an opportunity to look to the future of this database so that in the future, it may include judges, prosecutors, and others who are in relevant roles. This would contribute to better transparency across government, not just for law enforcement.
  + MEENAN: This question depends on what we see as the goal of a database. If what we're trying to accomplish is having a tool to help prosecutors satisfy discovery requirements, that's a different goal than having a database to inform the public of alleged officer misconduct. The database could accomplish both, but these different goals require different approaches or considerations. For example, if there are documents included in the database that require review and redaction before being posted, that's fine, but would require appropriate staffing/resources to manage that continuous undertaking. It would basically be like doing an upfront public records review for each instance of alleged misconduct.
  + ANDERSON: Some of the decision points we are expected to answer are already answered for us. For example, there is an existing database that contains much of the information we're contemplating. Therefore, we can just make that existing database available to the public, which answers questions about scope and gatekeeping.
  + Timothy LUEDERS-DUMONT: *Brady* material isn't always a letter. Sometimes it is some other form of documentation. Part of the duty of this committee is to educate the public about what is or is not considered *Brady* material.
  + PAHL: It's concerning that the group is hesitant to include information in a public database that is already publicly accessible through other means. An exception is when there is highly detailed and compromising information about parties, such as the details of a domestic violence case or a juvenile justice case. If we think we need to redact and review documents, then will we have to change statute to modify the kinds of documentation that can be made public? For example, is there revision needed to the juvenile justice code to allow certain court decisions to be disclosable?
    - LUEDERS-DUMONT: Possibly. That is an option.
    - MEENAN: This is why the question about who will be able to access the database is so important. Expungements and sealings are also a potential hurdle: If an officer's misconduct is expunged, then members of the public wouldn't have access to it in a database. Doesn't that compromise the utility and purpose of a database?
      * LUEDERS-DUMONT: Further, *Brady* material isn't always about officers. This is why we need to be able to educate others about what these materials encompass.
* LUEDERS-DUMONT: Let's agree to put our concerns and considerations in writing and send to LUEDERS-DUMONT by November 04 to compile and draft an outline of a report for the group to react to. We can make our last meeting a two-hour meeting instead of a one-hour meeting to accommodate extra discussion on the draft.
  + BARUTH: I won't be able to attend that day because of a scheduling conflict.
    - LUEDERS-DUMONT: I can contact you directly to receive and incorporate your feedback.
  + Lauren HIBBERT: The Secretary of State's Office is concerned about the impact that redaction and gatekeeping would have on the Office's operations and workload. The Office is open to having the conversation, but cannot yet commit to be the keeper of a database unless and until these details are confirmed and proper resourcing is committed.
  + Christopher BRICKELL: The Criminal Justice Council echoes HIBBERT's comment. The Council believes this work falls within its mission and is willing to consider hosting the data in question, but would need to see the details about expectations and support.
* JACOBSEN: In addition to the database being publicly accessible, it must also be easy to use. Part of this process is ensuring the public has an easy way to access information without complicated request forms or complicated technology.
* PEETE: Vermont is part of the Decertification Index. Also, the question about impeachable evidence is broader than just whether it is disclosed; it also begs questions about what will be done about each case. Is State's Attorney's Office going to allow that officer to testify? Second, will there be decertification? Third, what protocols will individual departments undertake when confronted with a candidate who bears a *Giglio* letter.
  + JACOBSEN: Given this, we should also acknowledge the public perception that the existence of a *Giglio* letter means the officer is a "bad cop," which is not necessarily true. After all, there is a difference between not rendering aid on the roadside and lying under oath. At our last meeting, we discussed the kind of information that may be included in the database, and one item was a general description of the misconduct. If this general description of misconduct were public-facing, could that alleviate this problem of automatic assumptions of officers being "bad cops?"
    - PEETE: Perhaps, but any such process should be uniform.
    - LUEDERS-DUMONT: This is where prosecutors have discretion and leeway, and the duty of prosecutors is important to examine.
* ANDERSON: Did this group ever contact Agency of Digital Services to discuss the Open Data Portal? If not, we should, because the tool is centralized, robust, and allows for data analysis.

**Public Comment**

There were no members of the public present to provide comment.

**Adjourn**

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

**Materials Shared/Presented**

* Giglio Database Study Committee enabling statute: <https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT161/ACT161%20As%20Enacted.pdf>
* National Decertification Index: <https://www.iadlest.org/our-services/ndi/about-ndi>
* Office of the Washington County State’s Attorney, Rory Thibault, [2021-03-15\_brady-giglio\_policy\_and\_guidance.pdf (acluvt.org)](https://www.acluvt.org/sites/default/files/2021-03-15_brady-giglio_policy_and_guidance.pdf).