

From: Humbert, Jacob
Sent: Thursday, December 14, 2023 4:11 PM
To: DiSabito, Doug <Doug.DiSabito@vermont.gov>
Subject: 12/11 and 12/12 records requests

Mr. DiSabito:

I am reaching out related to your two recent records requests dated December 11, 2023 and December 12, 2023 seeking, respectively:

- “[a]ny and all written communications, whether in hard copy or electronic form, received by and sent by Willa Farrell, AG Diversion Coordinator, and anyone and everyone employed by or associated with (1) the Center for Restorative Justice in Bennington, VT; and/or (2) the Rutland County Restorative Justice Center, with respect to Docket No. 124 -1-19 Bncr, in the Vermont Superior Court, Bennington Unit, Criminal Division. The Date range is from January 28, 2019 to December 11, 2023” and
- “any contemporaneous notes taken by Willa Farrell, whether in hard copy or electronic form, as to conversations she had with anyone and everyone employed by or associated with (1) the Center for Restorative Justice in Bennington, VT; and/or (2) the Rutland County Restorative Justice Center, with respect to Docket No. 124 -1-19 Bncr, in the Vermont Superior Court, Bennington Unit, Criminal Division. The Date range is from January 28, 2019 to December 11, 2023.”

After a review of our files, we have identified the following responsive records: (1) November 6, 2023 e-mail string between Willa Farrell, Erin Jacobsen and Leitha Cipriano, Subject: FW: 116/23 1:00 p.m. hearing - St v. Melvin Fink 124-1-19 Bncr; (2) November 7, 2023 e-mail string between Willa Farrell and Leitha Cipriano, Subject: MF Case - my thoughts; (3) Notes of verbal conversations created on or about November 7, 2023 by Willa Farrell; (4) November 8, 2023 e-mail string between Willa Farrell and Leitha Cipriano, Subject: Re: victim letter; (5) November 8, 2023 e-mail string between Willa Farrell and Leitha Cipriano, Subject: RE: 116/23 1:00 p.m. hearing - St v. Melvin Fink 124-1-19 Bncr; and (6) November 9, 2023 e-mail string between Willa Farrell and Leitha Cipriano, Subject: FW: "I do not want him to do that again to anyone else." Victim in sexual assault speaks out.

As the designated custodian of such records, I certify that such records are exempt from public inspection or copying, and are being withheld, pursuant the Vermont Public Records Act. *See* 1 V.S.A. § 317(c)(1) (exempts “[r]ecords that by law are designated confidential or by a similar term”); *id.* § 317(c)(3) (exempts “[r]ecords that, if made public pursuant to this subchapter, would cause the custodian to violate duly adopted standards of ethics or conduct for any profession regulated by the State”); *id.* § 317(c)(14) (exempts “[r]ecords that are relevant to litigation to which the public agency is a party of record, provided all such matters shall be available to the public after ruled discoverable by the court before which the litigation is pending, but in any event upon final termination of the litigation”).

Indeed, your requests seek Vermont Adult Court Diversion Program records, which are designated confidential by law. *See* 1 V.S.A. § 164(e)(5) (“All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant’s prior consent (except that research and reports that do not establish the identity of individual participants are allowed”). Further, your requests seek production of records the disclosure of which

could reasonably be calculated to cause members of the Office of the Attorney General to violate ethical obligations set forth in the Vermont Rules of Professional Conduct. See Vt. R. Prof. Cond. 3.6 (Trial Publicity) and Vt. R. Prof. Cond. 3.8 (Special Responsibilities of a Prosecutor). Lastly, please note that your requests seek records related to pending criminal litigation (Docket No. 124 -1-19 Bncr) to which the State, by and through the Office of the Attorney General, is a party.

Pursuant to 1 V.S.A. § 318(c), and to the extent you feel any records have been withheld in error, you may appeal to the Deputy Attorney General, Robert McDougall at:
ago.publicrecordsrequests@vermont.gov.

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