

**From:** McDougall, Robert  
**Sent:** Thursday, December 21, 2023 4:50 PM  
**To:** DiSabito, Doug <[Doug.DiSabito@vermont.gov](mailto:Doug.DiSabito@vermont.gov)>  
**Subject:** 12/11/23 and 12/12/23 Public Records Act Requests

Mr. DiSabito:

This is a determination, pursuant to 1 V.S.A. § 318(c), on the appeal of a withholding determination related to your December 11, 2023 and December 12, 2023 public records requests.

Your records requests sought the following: “[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.”

On December 14, 2023, Assistant Attorney General Jacob Humbert responded by e-mail identifying six responsive records that were withheld pursuant to 1 V.S.A. § 317(c)(1), (3), and (14).

On December 15, 2023, you submitted an appeal, or alternatively a request for reconsideration. I have deemed that communication an appeal and am denying the bulk of it as explained further below. Nonetheless, I have determined that one responsive record may be produced to you, as it is sufficiently distinct so as to not amount to a record of the Adult Court Diversion Program itself, implicates only a remote potential ethical concern, is only peripherally related to pending litigation, and ultimately links to publicly reported media materials. *See attached* (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).

For the remainder of the responsive records, I concur with the withholding determinations made by Assistant Attorney General Humbert.

These remaining withheld documents all amount to “information gathered in the course of the adult diversion process” and therefore must 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.” 3 V.S.A. § 164(e)(5); *see also* 1 V.S.A. § 317(c)(1) (“Records that by law are designated confidential or by a similar term” are exempt from public inspection or copying). Moreover, neither the Odyssey notations as to the underlying criminal case status nor the parties’ agreement to keep the court record open in such case constitute a Diversion participant’s waiver of this confidentiality statute, which encompasses information gathered in the Adult Court Diversion Program process.

The above alone requires withholding of the remaining responsive records. That said, I have also concluded that the Adult Court Diversion Program records remain records relevant to pending criminal litigation in which the State is a party, *see id.* § 317(c)(14), as they relate to a Diversion participant who is the Defendant in *State v. Fink*, Docket No. 124 -1-19 Bncr and, if disclosed, could undermine the interests of that individual in any subsequent trial should the Diversion process prove unsuccessful, *see id.* § 317(c)(3), which in turn may implicate ethical concerns addressed by Vt. R. Prof. Cond. 3.6 (Trial Publicity) and Vt. R. Prof. Cond. 3.8 (Special Responsibilities of a Prosecutor) as our Criminal Division and Community Justice Unit are both constituent parts of the Office of the Attorney General.

Please be advised that any person aggrieved by the denial of a request for public records may appeal to the Civil Division of the Superior Court pursuant to 1 V.S.A. § 319.

Thank you,

Robert F. McDougall  
Deputy Attorney General  
Office of the Attorney General

**From:** [Leitha Cipriano](#)  
**To:** [Farrell, Willa](#)  
**Subject:** FW: "I do not want him to do that again to anyone else." Victim in sexual assault speaks out  
**Date:** Thursday, November 9, 2023 9:02:25 AM  
**Attachments:** [image001.png](#)

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**EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.**

FYI, and to keep you in the loop...

This was on the front page of the Bennington Banner today.

***Leitha Cipriano, Executive Director***

Center for Restorative Justice  
439 Main Street, Suite 2  
Bennington, VT 05201

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(802)447-1595



[www.bcry.org](http://www.bcry.org)

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**From:** Bennington Banner <[news+benningtonbanner.com@ccsend.com](mailto:news+benningtonbanner.com@ccsend.com)>  
**Sent:** Thursday, November 9, 2023 8:06 AM  
**To:** Leitha Cipriano <[leitha@bcry.org](mailto:leitha@bcry.org)>  
**Subject:** 'I do not want him to do that again to anyone else.' Victim in sexual assault speaks out

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## **'I do not want him to do that again to anyone else.' Victim in sexual assault speaks out**

The victim of a 2017 sexual assault in Peru, Vermont, involving well-known Vermont attorney Melvin Fink, wanted to set the record straight as to what happened to her over six years ago, and why she accepted a deal that could erase Fink's lewd and lascivious conduct from the record.

**[FULL STORY](#)**

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**[Bennington man, Joseph Hewson, held without bail after warrant arrest](#)**

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**[This time, the Bennington Burger King really is open](#)**

**From:** [Leitha Cipriano](#)  
**To:** [Farrell, Willa](#)  
**Subject:** FW: Bennington Banner E-Edition Article  
**Date:** Wednesday, November 8, 2023 11:55:34 AM

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Hi Willa,  
FYI- front page of today's Bennington Banner  
Leitha

[https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fbenningtonbanner-vt.newsmemory.com%2F%3Fpublink%3D22aafaa29\\_134ade8&data=05%7C01%7C%7C8c781fd1c4794de8af0908dbe05e9f10%7C84df9e7fe9f640afb435aaaaaaaaaaaa%7C1%7C0%7C638350469215705744%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikl1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=6vQkqlsTlBfypz76UJG4jA8%2FOlbZnr7eGZ3gjRuI3Lg%3D&reserved=0](https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fbenningtonbanner-vt.newsmemory.com%2F%3Fpublink%3D22aafaa29_134ade8&data=05%7C01%7C%7C8c781fd1c4794de8af0908dbe05e9f10%7C84df9e7fe9f640afb435aaaaaaaaaaaa%7C1%7C0%7C638350469215705744%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikl1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=6vQkqlsTlBfypz76UJG4jA8%2FOlbZnr7eGZ3gjRuI3Lg%3D&reserved=0)

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