

Summarizing the Examination of Records



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Executive Summary

On October 21, 2021, citing news reports in the *Helena Independent Record*, the Legislature's Minority Leadership expressed concerns about interactions between the Attorney General's Office and St. Peter's Health personnel in a letter to President of the Senate Mark Blasdel and Speaker of the House Wylie Galt. Minority Leadership asked for a "probe into the incidents at St. Peter's Hospital, the actions of the Attorney General's Office, and the involvement of any other public officials and employees."¹ Specifically, Minority Leadership for this probe under the Special Counsel's authority to "examine and inspect" government records.²

On October 25, 2021, the President and Speaker appointed the Special Counsel to conduct "an examination of records" as authorized in MCA § 5-5-110(2). This examination sought to provide facts related to the issues raised by Minority Leadership.

Determine which public, appointed and/or elected officials were involved in the incident.

On October 18, 2021, Attorney General Austin Knudsen issued a statement confirming interactions with St. Peter's personnel but denying that he threatened or harassed anyone.³ He clarified that he spoke with administrators after receiving reports from a patient's family that the hospital "was violating their relative's rights by refusing to allow her to receive prescribed medications, not delivering legal documents, not allowing [the family] to see their relative, and at one point, even cutting off text message communication between" the family and the patient.⁴

On October 28, 2021, the Attorney General stated that Deputy Attorney General Kristin Hansen also contacted St. Peter's Health in response to these complaints.⁵

Speaking with St. Peter's Counsel, Kathleen Abke, on November 8, 2021, the Special Counsel learned that the third involved public official was Public Service Commissioner Jennifer Fielder.⁶

Determine the extent of the public officials' involvement in alleged harassment of "bedside" "providers and care team members" as alleged in St. Peter's Statement.

Attorney General Austin Knudsen never spoke with a frontline healthcare worker.⁷ The Attorney General spoke with the hospital's CEO, CMO, and a board member, describing the discussion as "cordial."⁸ Through counsel, St. Peter's CEO Wade Johnson told the Special Counsel that he "did not feel threatened" during the conversation with the Attorney General.⁹

Deputy Attorney General Kristin Hansen was the only public official who "spoke with a provider," during a single speaker phone call where multiple providers were in the room.¹⁰ The

¹ Letter from Minority Leadership, dated October 21, 2021

² *Id.* citing MCA § 5-5-110(a)

³ Report Ex. B: the Attorney General's Full Statement as published by KTVH on October 19, 2021

⁴ *Id.*

⁵ Wilson, Sam and Michels, *AG Confirms His Deputy Involved in Hospital Dispute*, Ravalli Republic Oct. 27, 2021, retrieved on November 18, 2021.

⁶ Conversation with Ms. Kathleen Abke, counsel for St. Peter's Hospital conducted on November 8, 2021.

⁷ *Id.*

⁸ Wilson, Sam and Michels, Holly, *AG Confirms His Deputy Involved in Hospital Dispute*, Ravalli Republic Oct. 27, 2021, retrieved on November 18, 2021.

⁹ Report Ex. G: E-mail from St. Peter's counsel Kathleen Abke to Abra Belke dated November 19, 2021.

¹⁰ Conversation with Ms. Kathleen Abke, counsel for St. Peter's Hospital conducted on November 8, 2021.

Attorney General's Office told the Special Counsel that the Deputy was on the phone with the patient advocate when the advocate made an unprompted decision to put the Deputy on speaker phone with providers.¹¹ No government records reference the specific content of this call; however, the hospital's counsel stated that the Deputy discussed the potential "legal ramifications" of withholding legal documents and preferred treatment from the patient.¹² No specific examples of threatening language were provided.¹³

Commissioner Jennifer Fielder informed the Special Counsel that she engaged with St. Peter's Health as a personal matter, on behalf of the patient who she described as a friend.¹⁴ A three-minute voicemail left with the St. Peter's Risk Management Office is summarized later in this report. The voicemail references a potential lawsuit and suggests that the patient's "friends" in the Montana State Senate would not be "too happy" to learn of the care St. Peter's was providing to the patient.¹⁵

Determine the extent to which the Highway Patrol was involved in the incident, and how.

On October 12, Deputy Attorney General Hansen requested that a Montana Highway Patrol Trooper be dispatched to St. Peter's to collect official statements from the patient's family.¹⁶ The Attorney General's Office dispatched the Trooper in accordance with the "community caretaker doctrine" requiring peace officers to promptly "investigate situations in which a citizen may be in peril or need some type of assistance."¹⁷

Dash camera video shows the Trooper arriving at St. Peter's Health at 9:09PM, speaking with the patient's daughter and sister in the hospital parking lot, collecting their statements, and then departing at 9:43PM. Internal documents from the Highway Patrol show that the Trooper never entered the hospital or spoke with a provider.¹⁸ The incident report and statements generated by this interaction are contained in Department of Justice's investigative file.¹⁹ St. Peter's counsel confirmed that the Trooper never spoke with providers.²⁰

Additional Questions

Minority Leadership also asked the Special Counsel to respond to questions regarding the policies and procedures of state law enforcement agencies and the bounds of their jurisdiction to investigate potential patient mistreatment. The Special Counsel believes that these questions are within the purview of the Legislative Services and Legislative Audit Divisions and should be directed to these subject matter experts for their analysis.

¹¹ Conversation with Attorney General's Office on Nov. 8, 2021.

¹² *Id.*

¹³ *Id.*

¹⁴ Ex. H: Letter from Commissioner Jennifer Fielder to the Special Counsel dated Nov. 15, 2021.

¹⁵ Voicemail left for St. Peter's Health by Commissioner Jennifer Fielder on October 11, 2021.

¹⁶ Records examined by the Special Counsel as part of the investigative file on November 8, 2021.

¹⁷ *Est. of Frazier v. Miller*, 404 Mont. 1, (2021) quoting *State v. Spaulding*, 361 Mont. 445 (2011).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Conversation with Ms. Kathleen Abke, counsel for St. Peter's Hospital conducted on November 8, 2021.

Factual Background

The COVID-19 pandemic strained Montana's hospitals and frontline healthcare workers during September and October 2021. Throughout this surge, hospitals across the state saw a record number of COVID-19 hospitalizations and deaths. Shortages of critical care beds, resources, and staff forced St. Peter's Health in Helena to adopt a "crisis standard of care" and employ a refrigerated truck to provide "morgue support."²¹

On October 19, 2021, against the backdrop of this crisis, St. Peter's Health spokesperson Andrea Groom, released a statement alleging that "several of [the hospital's] providers and care team members who are working tirelessly at the bedside were harassed and threatened by three public officials."²²

St. Peter's further alleged that the officials "threatened to use their position[s] of power" to force "doctors and nurses" to provide one of the hospital's COVID-19 patients with treatments that were "not authorized, clinically approved, or within the guidelines established by the FDA and the CDC."²³ St. Peter's claimed that these "deeply troubling" conversations called into question the "clinical judgment" of physicians and providers.²⁴

St. Peter's did not disclose the names of the three 'public officials,' nor did the hospital provide specific examples of threats or harassment levied against its providers and staff.

However, shortly after the media published St. Peter's allegations, Attorney General Austin Knudsen confirmed that he had contacted the hospital regarding a patient's care and released his own statement denying allegations that he threatened or harassed anyone during interactions with St. Peter's personnel.²⁵

His statement clarified that the Attorney General's Office was contacted by the family of a COVID-19 patient who reported that St. Peter's "was violating their relative's rights by refusing to allow her to receive prescribed medications, not delivering legal documents, not allowing [the family] to see their relative, and at one point, even cutting off text message communication between" the family and the patient.²⁶ The statement explained that, following the family's report, the Attorney General spoke with administrators at St. Peter's to ensure "that they would cease preventing communication between the patient and her family and deliver the legal documents she needed."²⁷ The Attorney General further stated that his office had opened an investigation into these "troubling allegations" of patient mistreatment.²⁸

On October 21, the Montana State Legislature's Minority Leadership wrote to Senate President Mark Blasdel and House Speaker Wylie Galt expressing concerns about the reported interactions between public officials and personnel at St. Peter's Hospital. Minority Leadership asked for a

²¹ Lister, Nolan. *St. Peter's moves to crisis care as critical care units, morgue reach capacity*. Helena Independent Record, retrieved on Nov. 18, 2021.

²² Report Ex. A: St. Peter's Full Statement as published by KTVH on October 19, 2021.

²³ *Id.*

²⁴ *Id.*

²⁵ Report Ex. B: the Attorney General's Full Statement as published by KTVH on October 19, 2021

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

“probe into the incidents at St. Peter’s Hospital, the actions of the Attorney General, and the involvement of any other public officials and employees.”²⁹ Specifically, Minority Leadership asked that this probe be conducted by the Special Counsel under her authority to “examine and inspect” government records.³⁰

No member of the Democratic Minority reached out to the Attorney General’s Office about the hospital’s statement prior to submitting this request for a Special Counsel inquiry.³¹

On October 25, the President, Speaker, Minority Leadership, the Special Counsel, and legislative staff met by video call to discuss the purpose and scope of the requested probe. Minority Leadership was made aware that, while the statute did not permit the Special Counsel to conduct an investigation, it did allow for the examination of relevant government records.

Following that call, the President and Speaker appointed the Special Counsel to conduct an examination of records regarding the reported interactions between public officials and St. Peter’s Health’s providers and staff.

On October 28, 2021, shortly after the commencement of the Special Counsel’s inquiry, the Attorney General’s Office confirmed that Deputy Attorney General, Kristin Hansen, also contacted St. Peter’s Health in response to complaints about potential patient mistreatment.

The attached report is a summary of the relevant documents examined by the Special Counsel during this inquiry. It also contains details learned from communication with involved parties.

²⁹ Letter from Minority Leadership, dated October 21, 2021

³⁰ *Id.* citing MCA § 5-5-110(a)

³¹ Ex. J: E-mails between Kyler Nerison and reporter Seaborn Larson, October 21, 2021.

The Special Counsel Powers

The powers of the special counsel are outlined in MCA § 5-5-110. The investigative power to issue subpoenas, compel production of records, and depose witnesses may only be exercised when the special counsel is assigned to a legislative committee.³² However, at the direction of the President and Speaker, the special counsel may “examine and inspect all records, books, and files of any department, agency, commission, board, or institution of the state of Montana.”³³ Agencies “*shall assist* the special counsel in any activity [...] provided in this section.”³⁴

The statute limits the Special Counsel's power to examine documents to those records created by employees, officers, and agencies of the Montana State government. It does not empower the Special Counsel to compel testimony or documents from third parties.

At the start of the inquiry, the Special Counsel informed Minority Leadership that she did not intend to reach out to the hospital and would limit the inquiry solely to government records. However, following the initial review of documents, the Special Counsel concluded that it was necessary to speak with counsel for St. Peter's Health, Kathleen Abke, while maintaining a balance between a permitted examination of records and an impermissible investigation.

Montana law does not grant the Special Counsel the power to make findings of fact or conclusions of law related to an examination of records. The Special Counsel is not the Montana State government's ethics officer, nor does the statute grant the Special Counsel power to enforce state rule or law. The Special Counsel is summarizing the information gleaned from examined documents and communications with involved parties at the request of the President, Speaker, and Minority Leadership.

Throughout this examination, the Special Counsel kept President Blasdel, Speaker Galt, Minority Leadership, and staff apprised of the inquiry's progress. She also consulted with the attorneys at Legislative Services Division as necessary. The summary is a true and accurate reflection of the documents examined, which are included in the appendix as possible.

³² MCA § 5-5-110(2)(c)

³³ MCA § 5-5-110(2)(a)

³⁴ *Id.* (emphasis added)

The Special Counsel's Examination of Records

Documents obtained from the Attorney General's Office.

To initiate this inquiry, the Special Counsel contacted the Attorney General's Office to request an examination of the relevant government records.³⁵ General Counsel Derek Oestreicher and Communications Director Kyler Nerison were designated as the office's points of contact.

The Special Counsel spoke with and visited the Attorney General's Office on several occasions. Many of the reviewed documents are part of an ongoing investigation by the Department of Justice. The Special Counsel was permitted to review the investigative file in person at the Attorney General's Office.

The investigative file presented to the Special Counsel was complete and unredacted. The file included text messages between the patient advocate and Deputy Attorney General Kristin Hansen, statements filed by the patient's family members, a dash camera video depicting the interaction between a Montana Highway Patrol Trooper and the patient's relatives, the Trooper's resulting incident report, and internal documents from the Department of Justice and Montana Highway Patrol related to the ongoing investigation.

The Attorney General's office has received public records requests from media outlets related to the documents contained in the investigative file. These requests will be filled when a final decision is made regarding potential legal action. Until then, the documents are considered "confidential criminal justice information."³⁶

The Special Counsel requested copies of several documents that did not qualify as confidential criminal justice information. After discussion with the Attorney General's Office, those documents, including text messages sent and received by the Attorney General and e-mails between Communication Director Kyler Nerison and media outlets were provided. These documents are contained in the appendix.³⁷

The only redactions made to provided documents were the removal of the patient's name, as well as any unofficial e-mail addresses and phone numbers. These redactions were made by the Special Counsel following consultation with Minority Leadership.

Official documents reviewed by the Special Counsel and resulting conversations with involved parties are summarized below. News reports and statements issued to the media are referenced when the information was corroborated by involved parties.

During the weekend of October 9, 2021, an 82-year-old woman was admitted to St. Peter's Health in Helena, Montana following a diagnosis of COVID-19. Shortly after her admission, a family friend serving as the patient's advocate reached out to Deputy Attorney General Kristin

³⁵ Ex. C: Special Counsel letter to Attorney General Austin Knudsen, Oct. 28, 2021.

³⁶ MCA § 44-5-103

³⁷ Report Ex. J: E-mails of Kyler Nerison provided to the Special Counsel on November 9, 2021.

Hansen regarding concerns about the patient's care.³⁸ Over dozens of text messages, the advocate relayed the concerns of the patient and her family.³⁹

The advocate explained that a legal document, a power of attorney naming the patient's daughter as medical decision-maker, was delivered to the hospital for the patient's signature. However, the document was not provided to the patient and remained unsigned and invalid for three days as the patient's condition deteriorated.⁴⁰

The hospital's counsel confirmed a delay in the document's delivery.⁴¹ However, she asserted that the document was provided to the patient as the care team was able, that the patient was awake, talking, and directing her care during the delay-period, and that the hospital's internal investigation will likely reveal more details explaining the delay.⁴²

The patient advocate also expressed concerns to Deputy Attorney General Hansen that St. Peter's had cut off text message communication between the patient and her family, wasn't providing the patient with alternative medication prescribed by outside medical providers, and that family members who attempted to visit the patient during visiting hours were prevented from seeing her through the glass of the critical care ward as allowed by hospital policy.⁴³

Following this report from the patient's advocate, on October 12, the Deputy Attorney General requested that a Montana Highway Patrol Trooper be dispatched to St. Peter's to collect official statements from the patient's family. Dash camera video shows the Trooper arriving at the parking lot of St. Peter's Health at 9:09PM. The Trooper and a training officer remained in the parking lot to speak with two women identified as the patient's sister and daughter.

During the conversation, the patient's daughter details her concerns: 1) that the power of attorney document has not been delivered and the patient is concerned about her care if she loses consciousness, 2) that the patient is not being given a "right to try" "alternative" medications prescribed by outside providers, and 3) that the hospital may prevent the patient from checking out of the hospital despite her expressed desire to leave. At the end of their conversation, the Trooper asks the daughter and sister to memorialize their concerns in official statements.

After speaking with the family, the Trooper calls the Deputy Attorney General to relay the statements made by the patient's family. Both sides of the conversation are recorded by the dash camera's audio. The Deputy Attorney General acknowledges the Trooper's report and asks the Trooper how she intends to proceed. The Trooper states that she will memorialize the report and speak with the county attorney. The Trooper then ends the call.

The Trooper leaves the parking lot at 9:43PM, at no time is she seen entering the hospital. Internal Highway Patrol documents show that the Trooper never spoke to hospital personnel.

The Department of Justice told the Special Counsel that their office and the Highway Patrol are duty bound to investigate claims of patient mistreatment, as are all peace officers, in their role

³⁸ Text messages sent to Deputy Attorney General Kristin Hansen by the patient advocate.

³⁹ *Id.*

⁴⁰ Text messages sent to Deputy Attorney General Kristin Hansen by the patient's advocate.

⁴¹ Conversation with Ms. Kathleen Abke, counsel for St. Peter's Hospital conducted on November 8, 2021.

⁴² *Id.*

⁴³ Text messages sent to Deputy Attorney General Kristin Hansen by the patient's advocate.

as “community caretakers.”⁴⁴ Case law explains the “underlying rationale” of the community caretaker doctrine is “that a peace officer has a duty [to promptly] investigate situations in which a citizen may be in peril or need some type of assistance.”⁴⁵

The Attorney General stated that the Deputy Attorney General was the person who made him aware of the family's statements regarding the patient's care.⁴⁶ The Attorney General subsequently contacted a lobbyist for the Montana Hospital Association to obtain contact information for St. Peter's Health administrators.⁴⁷ During this conversation, the lobbyist informed the Attorney General that he was also a St. Peter's Health board member.⁴⁸

Via text message, the Attorney General relayed the family's claims that the patient was being denied her preferred “informed medical treatment,” access to legal documents, family visitation and the ability to leave.⁴⁹ The Attorney General stated that he was “about to send law enforcement in and file unlawful restraint charges.”⁵⁰ The lobbyist/board member offered to “make some inquiries” into the matter.⁵¹

At 9:10AM on October 13, St. Peter's Health CEO Wade Johnson sent a meeting request to the Attorney General, the lobbyist/board member, and the hospital's Chief Medical Officer to schedule a video call for later that morning.⁵² The Attorney General's Office stated that the purpose of this meeting was to ensure “that [St Peter's] would cease preventing communication between the patient and her family and deliver the legal documents she needed.”⁵³ The Attorney General later described the meeting as “cordial.”⁵⁴

When asked by the Special Counsel if he felt harassed or threatened by the Attorney General, St. Peter's CEO responded that he “did not feel threatened” during his conversation with the Attorney General.⁵⁵

On the evening of October 13, St. Peter's CEO sent the Attorney General an unsolicited text message to “close the loop” and let the Attorney General know he “followed through.”⁵⁶ The CEO explains that he “[e]nsured the appropriate legal documents were indeed in place” and that the patient's “family was aware of the methods by which to communicate with the patient and

⁴⁴ The Attorney General's Office referenced the “community caretaker” doctrine established in *State v. Lovegren*, 310 Mont. 358, 361 (2002) and reaffirmed in subsequent decisions.

⁴⁵ *Est. of Frazier v. Miller*, 404 Mont. 1, (2021) quoting *State v. Spaulding*, 361 Mont. 445 (2011).

⁴⁶ Wilson, Sam and Michels, Holly, *AG Confirms His Deputy Involved in Hospital Dispute*, Ravalli Republic Oct. 27, 2021, retrieved on November 18, 2021.

⁴⁷ Report Ex. D: Text messages between Attorney General Austin Knudsen and Mark Taylor.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Report Ex. E: Scheduling request from St. Peter's Health CEO Wade Johnson sent via Microsoft Teams.

⁵³ Report Ex. B: the Attorney General's Full Statement as published by KTVH on October 19, 2021.

⁵⁴ Wilson, Sam and Michels, *AG Confirms His Deputy Involved in Hospital Dispute*, Ravalli Republic Oct. 27, 2021, retrieved on November 18, 2021.

⁵⁵ Report Ex. G: E-mail from St. Peter's counsel Kathleen Abke to Abra Belke dated November 19, 2021.

⁵⁶ Report Ex. F: Text message from St. Peter's CEO Wade Johnson to Attorney General Austin Knudsen, dated Oct. 13, 2021.

providers, and understand how the family can provide alternative medications to the patient that are not clinically approved.”⁵⁷

Conversations with St. Peter's Health's Counsel

Following an initial, in-person review of the investigative file, the Special Counsel contacted the counsel for St. Peter's Health, Kathleen Abke.

Ms. Abke stated that she was aware of the Legislature's inquiry and asked if the Special Counsel intended to ask the hospital to produce its records or make providers available for interview.⁵⁸ The Special Counsel informed Ms. Abke that the Legislature could not compel the hospital to participate, and that the inquiry was limited to examination of government records. Ms. Abke told the Special Counsel that the hospital was engaged in an internal investigation of the incident that might limit her responses, but that she would assist as able.

The Special Counsel requested that St. Peter's voluntarily confirm or deny whether the Deputy Attorney General and the Attorney General were two of the public officials referenced in the hospital's original statement. She stated that they were.⁵⁹

Ms. Abke voluntarily clarified that Deputy Attorney General Hansen was the only official who spoke directly with a healthcare provider. Ms. Abke stated that this conversation included multiple providers on a single phone call facilitated by the patient's advocate.⁶⁰ She did not indicate when the call occurred but added that the Deputy Attorney General discussed potential “legal ramifications” of the conduct the family found concerning. Ms. Abke provided no specific examples of threatening language.⁶¹

When asked about the conversation with providers, the Attorney General's Office explained that Deputy Attorney General Hansen was on a phone call with the patient advocate when the advocate placed the Deputy on speaker phone unprompted.⁶² The Office further explained that Deputy General Hansen did not initiate the conversation with providers herself.

Ms. Abke corroborated the Attorney General's previous statement that he only spoke with St. Peter's administrators, including the Chief Executive Officer, Chief Medical Officer, and a lobbyist/board member who facilitated the meeting. During a follow-up e-mail, Ms. Abke relayed the CEO's statement that “[n]o, [he] did not feel threatened in [his] conversation with Mr. Knudsen.”

When asked about assertions that St. Peter's failed to provide the patient with legal documents in a timely manner, Ms. Abke provided no firm reason for the delay, asserting that the documents were provided as staff was able and that there could be several explanations for the delay.⁶³ She stated that the patient was awake, talking, and advocating for herself during this

⁵⁷ *Id.*

⁵⁸ Conversation with Ms. Kathleen Abke, counsel for St. Peter's Hospital conducted on November 8, 2021.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Conversation with Attorney General's Office on Nov. 8, 2021.

⁶³ *Id.*

period.⁶⁴ She believed further details regarding the delay in delivery would be available when St. Peter’s internal investigation was complete.

Following this discussion, the Special Counsel asked Ms. Abke if she was able and willing to provide the name of the third, then-unnamed public official referenced in St. Peter’s statement. Ms. Abke informed the Special Counsel that Public Service Commissioner Jennifer Fielder was the third official. She provided a voicemail left by Commissioner Fielder to confirm Commissioner Fielder’s involvement.

Involvement by Public Service Commissioner Jennifer Fielder

On October 11, 2021, Public Service Commissioner Jennifer Fielder contacted St. Peter’s Health regarding the care the patient was receiving. “St. Peter’s Administration Department” transferred her to the Risk Management Office, where she left a three-minute voicemail for a hospital employee who was out of the office “for another week.”⁶⁵

Following consultation with the Senate President, the House Speaker, and Minority Leadership, the Special Counsel made the decisions not to release the voicemail because it contains the patient’s name and significant personal details about her life, her family, and her health. Instead, the voicemail was played for Minority Leadership and staff during a video call; they agreed that the following summary accurately reflected the relevant content.

In the message, Commissioner Fielder introduces herself as “State Senator Jennifer Fielder.”⁶⁶ She later clarifies that she is a “former State Senator.”⁶⁷ She also identifies the patient as a Senate staffer.⁶⁸ (While the patient had worked for the Montana Legislature in previous sessions, employment during the legislative session is a temporary position and she was not employed by the Legislature at the time of her hospitalization.)

In the message, Commissioner Fielder states that the patient is of “sound mind” and has requested “Ivermectin and hydroxychloroquine” but the hospital’s providers have refused to prescribe them.⁶⁹ She states that contact has been made “with a doctor in Havre” who will prescribe these “medications to the patient.”⁷⁰ Commissioner Fielder argues that “under Montana law” the patient has “a right to try” these “alternative medications” in search of “life-saving care.”⁷¹

Commissioner Fielder then advises the recipient that her voicemail is “a record” that she suggests the hospital employee not “erase” because “if this doesn’t turn out well there will be a suit.”⁷² Commissioner Fielder concludes the message stating that the patient has an “awful lot of friends who care about her” and that the Commissioner doesn’t “think the Senators will be too happy to hear about what’s going on with [the patient’s] case at St. Pete’s right now.”⁷³

⁶⁴ *Id.*

⁶⁵ Voicemail left for St. Peter’s Health administrators by Commissioner Jennifer Fielder on Oct. 11, 2021.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Voicemail left for St. Peter’s Health administrators by Commissioner Jennifer Fielder on Oct. 11, 2021.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

On November 9, 2021, the Special Counsel contacted Commissioner Fielder to initiate an examination of records related to her interactions with the hospital.⁷⁴ The Special Counsel supplied a deadline of November 16.

On November 15, the Commissioner supplied the Special Counsel with a letter stating that her interactions with St. Peter's were "not an agency matter" and that "no such government records" were available to examine.⁷⁵ She further clarified that the "matter in question," specifically the conduct of "corporate hospital" "does not fall within the [Public Service Commission's] jurisdiction" and that aside from her response to the Special Counsel, her involvement "did not involve agency resources."⁷⁶ She stated that she contacted St. Peter's as a personal matter on behalf of the patient, who was a friend.

The Special Counsel has no power to investigate this matter further and takes Commissioner Fielder at her word that this was a personal matter about which no government records exist.

⁷⁴ Ex. H: Letter from the Special Counsel to Commissioner Jennifer Fielder dated Nov. 9, 2021.

⁷⁵ Ex. I: Letter from Commissioner Jennifer Fielder to the Special Counsel dated Nov. 15, 2021.

⁷⁶ Ex. I: Letter from Commissioner Jennifer Fielder to the Special Counsel dated Nov. 15, 2021.