

NEWS

County, Lindquist prevail on constitutional rights | Pierce County Prosecutor

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Today the [Washington State Supreme Court](#) affirmed the constitutional privacy and speech rights of all public employees. The Court ruled that a public employee's good-faith search for public records on his or her personal phone satisfies a government agency's obligations under the Public Records Act.

"We won on the principles we stood for," said Prosecutor Mark Lindquist. "This case has always been about the constitutional privacy and speech rights that all citizens have in our personal phones. The Court agreed with us that requestors should not be able to fish through the private phones of public employees."



Court news — Image Credit: Stock Photo

In its ruling, the Court found the County and Prosecutor Lindquist responded in good faith to a request for phone records, producing them in a timely manner and in accordance with its good-faith interpretation of the Public Records Act.

The Court wrote that "individuals do not sacrifice all constitutional protection by accepting public employment." The Court balanced the public's right to access government records with an employee's privacy rights. It did so by requiring the employee to search his or her own phone for text messages that "relate to the conduct of government," and to forward those texts to the government.

Further, records that a public employee maintains in a personal capacity do not qualify as public records, even if they refer to, comment on, or mention the employee's public duties. For example, the Court suggested that an employee texting their spouse about working late or discussing their job on social media would not be considered a public record.

"This is a win for teachers, fire fighters, police officers and all of us who serve the public," said Lindquist. "Further, it's a win for all of us who care about constitutional rights and open government."

The Court adopted a new protocol for the handling of public records requests regarding personal phone records. Requestors are not allowed to fish through private phones in search of possible public records. If a request is made for an employee's personal phone records, he or she can be required to provide an affidavit to the employer attesting to the personal character of those records.

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