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In Our View / Officials' emails and texts

## Keeping public records public

By The Herald Editorial Board

You would have thought that for something that has been widely used for more than 25 years, we would have figured out how government officials could keep public, political and personal email and other electronic communication separate.

Maybe we're too busy deleting spam.

Yet public officials, from the national level on down to the state and local levels, continue to run afoul of standards intended to make sure public and other government records aren't commingled with personal accounts and possibly lost for the benefit of the public.

We needn't go into great detail about the [investigation over official State Department communications](#), some of them possibly classified, on the personal email server of Democratic presidential candidate Hillary Clinton when she was secretary of state. And it's been less than a year since a Cascade High School teacher and coach, who was running for the Legislature, was [reprimanded for sending campaign emails from a school district computer](#).

The most recent example involved the Pierce County prosecutor, whose job description requires a certain level of understanding of laws and the public trust.

The Washington state Supreme Court ruled unanimously Thursday that any text messages on Prosecutor Mark Lindquist's personal cellphone are considered public records if they pertain to public business. The case goes back more than four years to a Pierce County Sheriff's detective's public records request related to a retaliation complaint, according to reporting [Thursday by The News Tribune](#). Lindquist initially complied, providing a redacted personal phone bill that pointed to text messages the detective believed were related to the case. The detective then sought the complete phone bill, a call log and the messages.

The Supreme Court ruled the phone bill and call log weren't public record but has required Lindquist to turn over the text messages related to the case. He has since deleted them, but Verizon fortunately has copies, so Lindquist must obtain the copies and turn over those related to the case to the county for it to provide to the detective.

Lindquist's attorneys attempted to protect the messages by claiming that using a private phone to create public records created a shield of privacy that overshadowed the public's right of access to government records. The only remedy, his attorneys said, was the Legislature passing a law stating otherwise.

The court, thankfully, wasn't having any of it. The [state Public Records Act](#), the court said, “is explicit that information qualifies as a public record regardless of its physical form or characteristics.”

Ruling otherwise would have opened a huge hole in the state's Freedom of Information Act law and allowed government officials to turn to their private cellphones — and personal email servers — anytime they were dealing with potentially sensitive information that should be considered part of the public record.

As intertwined as our technology is with our public and private lives, it's inevitable that there will be some cross-contamination of public, political and private communication. But until someone invents a “killer app” that does it for us, it's on public officials to make sure all public records are accessible to the public regardless of where they're kept.

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