



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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SECNAVINST 1730.9
ASN(M&RA) N097
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SECNAV INSTRUCTION 1730.9

From: Secretary of the Navy

Subj: CONFIDENTIAL COMMUNICATIONS TO CHAPLAINS

Ref: (a) Manual for Courts-Martial, United States 2005

1. Purpose. This instruction provides policy on confidential communications to Navy chaplains. The unconstrained ability to discuss personal matters in complete privacy encourages full and complete disclosure by personnel and family members seeking chaplain assistance. Such disclosure establishes a sacred trust, facilitates increased morale and mission readiness, and benefits both the individual and the institution. The Department of the Navy (DON) benefits from having personnel and family members who trust chaplains. The institution profits from the pastoral care given to its people. Pastoral care can only be done properly under the protection of confidential communications.

2. Applicability and Scope. This instruction applies throughout the DON, including the Coast Guard when operating as a service in the Navy under 14 United States Code Section 3.

3. Definitions

a. Confidential Communication

(1) Confidential communication includes acts of religion, matters of conscience, and any other information conveyed to a Navy chaplain in the chaplain's role as a spiritual advisor that is not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the purpose of the communication or to those reasonably necessary for the transmission of the communication. Consistent with reference (a), information conveyed to a Religious Program Specialist (RP) or a Marine Assistant for further communication to a chaplain is also considered confidential.

(2) The confidential relationship extends beyond the end of the counseling relationship and beyond the death of the person making the disclosure.

(3) Confidential communication can be conveyed through oral or written means, including, but not limited to, letters and electronic media.

(4) All Navy chaplains have the professional obligation to keep private all confidential communication disclosed to them.

(5) Confidential communications can be made only to chaplains (either directly or through an RP or Marine Assistant). Communication with lay leaders, directors of religious education, and other support personnel is not confidential and are not included in this policy. Religious Program Specialists (RP) may become aware of confidential communications in the course of their support duties. In that event, RPs are obligated to keep that information confidential and immediately refer the matter to the chaplain. Similarly, lay leaders, directors of religious education, and other support personnel who inadvertently become aware of confidential communications must keep such matters confidential, and immediately refer the matter to a chaplain.

b. Privileged communications. Privileged communications, a subset of confidential communications, is a legal term of art. The scope of the clergy-penitent privilege is defined in reference (a).

4. Policy

a. The term "confidential communications" includes the legal recognition of the clergy-penitent privilege, all communications between Navy chaplains and those who confide in them as an act of religion, a matter of conscience, or in their role as spiritual advisors. Commanders and chaplains are required to honor the confidential relationship between service personnel and chaplains. This protection extends to all authorized personnel and this obligation extends to all Navy chaplains.

b. The unique role of Navy chaplains includes a sacred trust of maintaining absolute confidentiality. Therefore, chaplains are bound by this inviolable trust. Neither the holding of additional professional credentials, nor requirements imposed by state law, relieve the chaplain of this responsibility. Any person authorized to use chaplain services is covered by this policy.

c. In all relationships, including counseling and advising, chaplains will inform all parties, including counsees and commanders, of the ramifications of this policy on confidentiality and privileged communication. Counsees have the right to make decisions pertaining to disclosure free from coercion. If a chaplain recommends a referral to another agency, the chaplain will inform the counselee that he or she may not have the same degree of confidentiality as with the chaplain.

d. Consultation. Consultation with another chaplain when the counselee or the content of his or her communication is identified is permissible only with the consent of the counselee.

e. Multiple counsees. When multiple counsees (e.g., marriage and family counseling situations) are parties to the same counseling session, chaplains will preserve confidentiality unless all parties consent to disclosure.

f. Conscientious objection. Conscientious objection assessment interviews directed by the Commanding Officer are administrative functions, not counseling relationships. Therefore, they are not confidential communications and the interviewee shall be so informed. A chaplain who has a prior existing counseling relationship with a service member requesting designation as a conscientious objector shall not ordinarily be appointed to evaluate that service member.

g. Supervisory role. Chaplains may have responsibilities that involve administrative and disciplinary action with those whom they supervise. To safeguard confidential and privileged communication, chaplains in supervisory roles are to avoid entering into such communications with personnel they supervise. At the onset of the supervisory relationship, supervisors will inform those they supervise of these limitations on pastoral

relationships. Personnel under the supervision of a chaplain are encouraged to make their confidential communication to a chaplain outside their chain of command.

h. Counseling records. Records or notes compiled by a chaplain in his/her counseling duties are "work product" and considered confidential. As such, chaplains must safeguard any such records, in whatever medium or format, containing confidential communication. When no longer needed, these work products will be destroyed. When current or former counsees are referenced in consultation, supervision, or education, their identities must be thoroughly protected.

i. Subpoena of records. If a subpoena or other demand for documents or media containing confidential communication is received, the chaplain or a representative will immediately contact, at a minimum, the servicing legal office, the chain of command, and the Office of the Chief of Chaplains of the Navy/Director of Religious Ministries (CNO (N097)).

5. Responsibilities

a. The Chief of Naval Operations and the Commandant of the Marine Corps shall implement the policies in this instruction.

b. The Chief of Chaplains of the Navy/Director of Religious Ministries shall ensure that training on the policies in this instruction occurs at entry level and periodically thereafter. Such training will enable chaplains to:

(1) Regularly brief commands on the ramifications of this policy.

(2) Train personnel under their supervision (such as volunteers, contractors, etc.), including those not bound by this policy.

(3) Ensure Privacy Act systems of records notice NM01730-1, Navy Chaplain Privileged Counseling Files, is reviewed/updated annually to reflect current business practices for chaplains maintaining confidential records.

c. Commanders are required to honor and support the confidential relationship between service personnel and Navy chaplains. Commanders shall:

(1) Not penalize a chaplain for acting within the parameters of this policy.

(2) Upon the death of a chaplain, appoint only a Navy chaplain to review the decedent's files and destroy any confidential communications.

6. Action. Actions inconsistent with this policy may result in administrative and/or disciplinary action. Consequences may include, but are not limited to, loss of chaplain credentials, and/or action under applicable provisions of the Uniform Code of Military Justice or the Military Personnel Manual.



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