



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

SECNAVINST 1730.11
ASN (M&RA)
31 Oct 2022

SECNAV INSTRUCTION 1730.11

From: Secretary of the Navy

Subj: CONFIDENTIAL COMMUNICATIONS TO CHAPLAINS

Encl: (1) References
(2) Authorization for Disclosure of Confidential Communication
(3) Warning Advisement About Statements Made During a Chaplain Interview Concerning a Request for Waiver of Policy to Accommodate a Religious Practice
(4) Warning Advisement About Statements Made During a Conscientious Objector Evaluation
(5) Responsibilities

1. Purpose. This instruction provides comprehensive Department of the Navy (DON) policy on the protection of privileged and confidential information communicated to Navy Chaplains in accordance with references (a) through (j).

2. Cancellation. SECNAVINST 1730.9A.

3. Applicability. This instruction applies to the Office of the Secretary of the Navy; the Chief of Naval Operations (CNO); the Commandant of the Marine Corps (CMC); the Commandant of the United States Coast Guard (COMDT COGARD), when the U.S. Coast Guard operates as a Service in the Navy under reference (a); all U.S. Navy and U.S. Marine Corps installations, commands, activities, and field offices; and all organizational entities within the DON. The protection afforded by this instruction applies to all personnel authorized to receive services, as described in reference (b), from Navy Chaplains wherever they may receive them.

4. Policy. Chaplains, Religious Program Specialists (RP), Chaplain Assistants (CA), and contracted clergy will protect confidential communications as part of their professional duties as outlined in references (b) through (d) and in accordance with this instruction. References used to execute this policy are listed in enclosure (1). Commanders will support chaplains,

RPs, CAs, and contracted clergy in protecting confidential communications.

5. Confidential communication. A confidential communication is any communication made to a chaplain or contracted clergy if the communication is made as a formal act of religion or a matter of conscience. A communication is also "confidential" if made to a chaplain in the chaplain's official capacity as a spiritual advisor. RPs and CAs may become aware of confidential communications in the course of their support duties.

a. Chaplains, RPs, and CAs will not disclose a confidential communication revealed in the course of their duties without the informed consent of the person who made the communication. This consent must be freely given and not compelled and must be specific regarding the information to be disclosed. Chaplains will not obtain a blanket release at the initiation of the communication. Whenever possible, this consent should be in writing using enclosure (2) or given verbally in front of a witness. A release from a confidential communication is inapplicable to cases where a chaplain is bound by the requirements of sacramental confession, equivalent Religious Organization requirement, or personal conviction. All direct communication to chaplains is presumed to be confidential unless excluded by other parts of this instruction.

b. The following communications are exempt from the prohibition on disclosure and do not require a counselee's consent:

(1) RPs and CAs are supervised by a chaplain. Only communication made to an RP or a CA in order to obtain services from a chaplain or contracted clergy shall be considered confidential; however, any disclosure of the confidential communication by an RP or a CA to a chaplain or contracted clergy is deemed reasonably necessary in furtherance of their duties outlined in reference (b).

(2) A chaplain may consult with other chaplains when the identity of the counselee is not revealed.

c. Communications made to a chaplain while a chaplain is conducting an administrative process are not confidential. Waivers of policy to accommodate religious practice interviews

will be conducted in accordance with references (e) and (j); the Service Member will be notified that the communications are not confidential using enclosure (3). Conscientious objection interviews will be conducted in accordance with references (f) and (g) and Service Members will be notified that the communications are not confidential using enclosure (4).

d. If a chaplain refers an individual for services outside the Chaplain Corps, the chaplain will inform the individual that the protections of confidential communication described in this instruction may not apply to communications with that agency. When acting as a liaison pursuant to reference (c) between the individual and an outside agency, the chaplain will instruct the individual to seek information from the outside agency as to their confidentiality standards.

e. Personnel who are supervised by a chaplain should not direct their own confidential communications to that chaplain. At the outset of the supervisory relationship, the supervisory chaplain will inform those personnel under his or her supervision of this limitation. Chaplains, RPs, and CAs who require pastoral counseling, which may include confidential communications, should do so with a chaplain outside of their supervisory chain of command.

6. Privileged communication. In accordance with reference (d), a person has a privilege to refuse to disclose and to prevent others from disclosing a confidential communication made to a chaplain, contracted clergy, RP, or CA as described in paragraph 5, if the communication is made either as a formal act of religion or as a matter of conscience.

a. Privileged and confidential communications distinguished. A privileged communication is not admissible in a court or legal proceeding, while a confidential communication is more broadly protected both in and out of the legal context.

b. Who may claim the privilege. The privilege may be claimed by the person who made the confidential communication to the chaplain, RP, or CA, or by the person's guardian, conservator, or personal representative if the person is deceased or incapacitated. The chaplain, RP, or CA who received the confidential communication may also claim the privilege on behalf of the person who made the communication.

c. Claim of privilege in a court-martial proceeding. Generally, neither commanders nor courts-martial may require a chaplain or individual to disclose a confidential communication when a privilege exists. However, if a military judge or other presiding official in a court-martial proceeding decides that neither confidentiality nor privilege exists, then a chaplain, RP, or CA may have a legal obligation to testify. Chaplains are strongly encouraged to seek legal counsel, counsel from chaplain supervisors, and counsel from Religious Endorsing Agent in all situations where the existence of privilege may be questioned, to include the effect of state law on confidentiality.

7. Honoring Communications. The confidentiality requirements described in this instruction provide assurance to authorized users their private communications with a chaplain, RP, or CA will be honored as private. The decision whether to waive confidentiality rests with the person who made the communication and is not within the discretion of a chaplain, RP, or CA.

8. Files containing confidential information. Chaplains may keep notes on confidential communications to assist them in providing pastoral care and counseling in accordance with references (h) and (i). RPs and CAs will not keep notes on any confidential communications.

a. Chaplain notes will be marked as Confidential or Privileged Communication and distinguished in the chaplain's personal files from professional information and sensitive information. Protected information will be properly secured and safeguarded from inadvertent disclosure. When confidential information is stored in digital form, the chaplain must take steps to ensure the confidentiality or privilege cannot be breached.

b. Confidential communications, professional communications, and sensitive information files are the confidential work product of individual chaplains. Chaplains must safeguard any such records and ensure their destruction through a secure means when no longer needed. When current or former counselees are referenced in consultation, supervision, or education, their identities must be thoroughly protected.

c. Chaplains, RPs, and CAs entering data in reports and analytics tools will exercise caution so as not to inadvertently breach confidentiality through the accumulation of identifying data and will withhold information when necessary to protect confidentiality.

d. In the event a serving Chaplain Corps member dies, the chaplain's commanding officer will appoint a chaplain to review the deceased's files and destroy confidential or privileged communications. The chaplain conducting the review and the destruction of such files will maintain the confidentiality and privilege held by the deceased chaplain.

9. Responsibilities. See enclosure (5).

10. Action. Actions inconsistent with this instruction may result in administrative and disciplinary action.

11. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page:
<https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx>.

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local Records Manager or the DRMD program office.



ERIK K. RAVEN
Under Secretary of the Navy

Distribution:
Electronic only, via Department of the Navy Issuances website:
<https://www.secnav.navy.mil/doni/default.aspx>

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REFERENCES

- (a) 14 U.S.C. §3
- (b) SECNAVINST 1730.7E
- (c) SECNAVINST 1730.10A
- (d) Manual for Courts-Martial 2019 ed., Military Rules of Evidence 503
- (e) BUPERSINST 1730.11A
- (f) MILPERSMAN 1900-020
- (g) MCO 1306.16F
- (h) Privacy Act Systems of Records Notice NM01730-1
- (i) 5 U.S.C. §552a
- (j) MCO 1730.9

AUTHORIZATION FOR DISCLOSURE OF CONFIDENTIAL COMMUNICATION

(Date)

I, _____, authorize
(Name of counselee(s))

_____ to disclose to
(Name of chaplain or civilian worship provider)

(Name of person, organization, or command to which disclosure is to be made)

the following information:

(Nature and amount of information to be disclosed, as limited as possible)

The purpose of the disclosure in this consent is to:

(Purpose of disclosure, as specific as possible)

I understand that pursuant to SECNAVINST 1730.11 confidential communication is any communication made to a chaplain or civilian worship provider if the communication is made as a formal act of religion or a matter of conscience; chaplains and civilian worship providers are obligated to protect confidential communications as part of their professional duties; chaplains and civilian worship providers will not disclose a confidential communication revealed in the course of their duties without the informed consent of the person who made the communication; and

when possible this form will be used to authorize disclosure unless otherwise authorized by SECNAVINST 1730.11. I further understand the decision whether to waive confidentiality rests with myself and is not within the discretion of the chaplain or civilian worship provider.

I authorize the above disclosure freely and understand I may revoke this consent at anytime.

Signature of Counselee(s)

Signature of Chaplain/
Civilian Worship Provider

I hereby revoke this consent.

(Date)

Signature of Counselee(s)

Signature of Chaplain/
Civilian Worship Provider

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**WARNING ADVISEMENT ABOUT STATEMENTS MADE DURING A CHAPLAIN
INTERVIEW CONCERNING A REQUEST FOR WAIVER OF POLICY TO
ACCOMMODATE A RELIGIOUS PRACTICE**

I, _____, have
been advised that, in accordance with SECNAVINST 1730.11,
BUPERSINST 1730.11A, and MCO 1730.9, statements made during the
course of this interview are not confidential and may be
disclosed by Chaplain _____ to
further my request for a waiver of policy to accommodate a
religious practice.

Date

Counselor

Date

Chaplain

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**WARNING ADVISEMENT ABOUT STATEMENTS MADE DURING A CONSCIENTIOUS
OBJECTION EVALUATION**

I, _____, have
been advised that, in accordance with MILPERSMAN 1900-020 and/or
MCO 1306.16F, statements made during the course of my
conscientious objection evaluation are not confidential and may
be disclosed by Chaplain _____ to
further my conscientious objection request.

Date

Counselor

Date

Chaplain

RESPONSIBILITIES

1. The CNO, CMC, and the COMDT COGARD. The CNO, CMC, and the COMDT COGARD, when the Coast Guard is operating as a Service in the Navy in accordance with reference (a), will implement the policies in this instruction.
2. The Chief of Chaplains/Director of Religious Ministry. The Chief of Chaplains/Director of Religious Ministry will ensure that training on the policies in this instruction occurs at entry-level schools for chaplains and RPs and periodically thereafter. Such training will enable chaplains and RPs to explain confidentiality and privilege to those they serve and train personnel under their supervision on the requirements of this instruction.
3. Commanders, Commanding Officers, and Officers in Charge. Commanders, commanding officers, and officers in charge must enable and promote the confidential relationship between authorized personnel and Navy chaplains. A chaplain, RP, or CA shall not be penalized for acting within the parameters of this instruction and in accordance with other applicable laws.
4. Chaplains, RPs, and CAs. The chaplain shall inform each counselee of the nature of confidential protections. Chaplains, RPs, and CAs must maintain confidentiality unless released by the counselee, in accordance with this instruction. Contract clergy are not authorized to advise commanders, and will not divulge confidential or privileged communication, unless authorized by the counselee.