



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

SECNAVINST 1730.9A
ASN(M&RA)
22 AUG 2018

SECNAV INSTRUCTION 1730.9A

From: Secretary of the Navy

Subj: PRIVILEGED AND CONFIDENTIAL COMMUNICATIONS TO CHAPLAINS

Ref: (a) SECNAVINST 1730.10
(b) Manual for Courts-Martial, United States 2016 ed.,
M.R.E. 503
(c) SECNAVINST 1730.7D
(d) SECNAVINST 5351.1
(e) Privacy Act Systems of Records notice NM01730-1, Navy
Chaplain Privileged Counseling Files
(f) 14 U.S.C. §3

Encl: (1) Definitions
(2) Warning Advisement About Statements Made During A
Religious Accommodation Interview
(3) Warning Advisement About Statements Made During A
Conscientious Objector Evaluation

1. Purpose. This instruction implements policy on the protection of privileged and confidential information communicated to Navy Chaplains. References (a) through (e) provide further guidance. Unconstrained communication of acts of religion or matters of conscience in complete privacy encourages Service Members, their families, and other authorized personnel to seek assistance and disclose the nature of the issue, enhancing the scope and quality of care.

2. Cancellation. SECNAVINST 1730.9.

3. Definitions. See enclosure (1).

4. 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); all U.S. Navy and U.S. Marine Corps installations, commands, activities, and field offices; the U.S. Coast Guard when operating as a service in the Navy under 14 U.S.C. §3; and all other organizational entities

within the Department of the Navy. The protection afforded by this instruction applies to all personnel authorized to receive services from Navy Chaplains wherever they may receive them.

5. Policy. Chaplains, Religious Program Specialists (RPs), or Chaplain Assistants will protect confidential communications as part of their professional duties as described in references (b), (c), and (d), and per this instruction. Contracted clergy will protect confidential communications per reference (b). Commanders will support Chaplains, RPs, and Chaplain Assistants in protecting confidential communications. Policies regarding incarceration, delivery of medical care, and reporting requirements regardless of medium, to include those associated with tone and health of force issues, do not cancel or limit the individual's ability to communicate with a Chaplain, RP, or Chaplain Assistant in confidence, or the Chaplain, RP, or Chaplain Assistant's obligation to keep that communication confidential.

a. Release. Only the counselee may release the Chaplain, RP, or Chaplain Assistant from confidentiality.

(1) All Chaplains, RPs, and Chaplain Assistants are bound to protect confidential communication to the fullest extent permitted by law.

(2) If a subpoena or other demand for documents or media containing confidential communication is received, the Chaplain, RP, Chaplain Assistant, 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.

b. Consultation. A Chaplain may consult with another Chaplain when the counselee of the confidential communication is not identified. The identification of the counselee or the content of the communication is permissible only with the counselee's consent.

c. Multiple Counselees. When multiple counselees (e.g., marriage and family situations) are parties to the same counseling, Chaplains will preserve confidentiality unless all parties knowingly, intelligently, and voluntarily consent to disclosure.

d. Religious Accommodation. Religious accommodation interviews are administrative functions, and do not qualify as

confidential communication. In such cases the Chaplain will so inform the Service Member in writing, using enclosure (2).

e. Conscientious Objection Procedures. Interviews conducted by Chaplains in support of conscientious objection evaluation procedures are not confidential communications. The Chaplain will so inform the Service Member in writing, using enclosure (3).

f. Supervisory Role

(1) Personnel who are supervised by a Chaplain should not direct their own confidential communications to that Chaplain. At the outset of the supervisory relationship, supervisors will inform those they supervise of this limitation. Personnel under the supervision of a Chaplain should direct their personal confidential communications to a Chaplain outside their chain of command, when possible.

(2) RPs and Chaplain Assistants are supervised by a Chaplain. As such, the supervisory Chaplain, in accordance with reference (b), is a person to whom disclosure of confidential communication is in furtherance of the purpose of the communication. In accordance with reference (b), disclosure of the confidential communication to the supervisory Chaplain is deemed reasonably necessary for the transmission of the communication.

(3) RPs and Chaplain Assistants are not supervised by contract clergy. However, confidential communications made to RPs and Chaplain Assistants, in accordance with reference (b), can be disclosed to the contract clergy for the furtherance of the purpose of the confidential communication. In accordance with reference (b), disclosure of the confidential communication to the contract clergy is deemed reasonably necessary for the transmission of the communication.

g. Personal Papers. Records or notes compiled by a Chaplain, RP, or Chaplain Assistant while executing duties protected by confidentiality are "work product" and considered confidential. Chaplains must safeguard any such work product, in whatever medium or format, and when no longer needed, destroy it. Chaplains will not reference, in any capacity or format, individuals currently or formerly receiving counseling, unless required by law.

h. Reports and Analytics Tools. Chaplains, RPs, and Chaplain Assistants 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.

6. Responsibilities

a. The CNO, CMC, and the COMDT COGARD, when the Coast Guard is operating as a Service in the Navy per reference (f), will implement the policies in this instruction.

b. The Chief of Chaplains of the Navy/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:

(1) Explain confidentiality and privilege to those they serve, and brief commands on the ramifications of this instruction;

(2) Train personnel under their supervision (such as RPs, volunteers, contractors, etc.); and

(3) Annually review and, when necessary, update reference (e).

c. Commanders, commanding officers, and officers in charge must enable and promote the confidential relationship between authorized personnel and Navy Chaplains. Commanders, commanding officers, and officers in charge will:

(1) Not penalize a Chaplain, RP, or Chaplain Assistant for acting within the parameters of this instruction and per applicable laws;

(2) Prohibit confidential conversations from being recorded or monitored or improperly disclosed; and

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

d. Chaplains, RPs, and Chaplain Assistants. It is the Chaplain, RP, or Chaplain Assistant's responsibility to inform the counselee of the nature of confidentiality protections. The Chaplain, RP, or Chaplain Assistant must maintain confidentiality until released by the counselee, per this instruction, or as required by law.

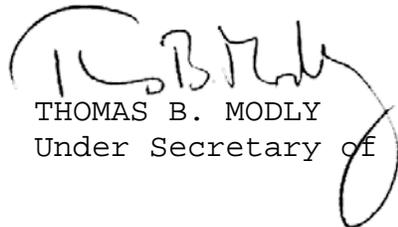
(1) RPs or Chaplain Assistants can preserve confidential communications only when acting in their official capacity on behalf of a Chaplain or contract clergy. Such communication must subsequently be disclosed to the Chaplain or contract clergy.

(2) If a Chaplain refers the counselee for services outside the Chaplain Corps, the Chaplain will explain to the counselee that the protections of confidential communication described in this instruction may not apply to information shared with that agency. When acting as a liaison pursuant to reference (a) between the counselee and an outside agency, the Chaplain will inform the counselee of potential differences in protection standards of confidential communication.

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

8. Records Management. 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 portal page:

<https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx>.


THOMAS B. MODLY
Under Secretary of the Navy

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<https://doni.documentservices.dla.mil>.

DEFINITIONS

1. Privileged Communication. Privileged communication is a legal term. Pursuant to reference (b), a counselee has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication made by the person to a Chaplain, contracted clergy, RP, or Chaplain Assistant, if such communication is made either as a formal act of religion or as a matter of conscience. A Chaplain, contracted clergy, RP, or Chaplain Assistant who received the communication may claim the privilege on behalf of the counselee. The authority of the Chaplain, contracted clergy, RP, or Chaplain Assistant to do so is presumed in the absence of evidence to the contrary.

2. Confidential Communication. Pursuant to reference (b), a communication made either as a formal act of religion or as a matter of conscience is confidential if made to a Chaplain or contracted clergy, or to a Chaplain Assistant or a RP, in his or her official capacity, and is not intended to be disclosed to third persons, excluding those to whom disclosure is necessary for the furtherance of the purpose of the communication pursuant to this instruction.

a. Communications made in accordance with reference (b) by a counselee to a RP or Chaplain Assistant will be conveyed to the Chaplain or contract clergy.

b. Communications with religious lay leaders, directors of religious education, contractors, volunteers, and other support personnel are not confidential under this instruction, though such persons are encouraged to keep those communications private, and immediately refer the matter to a Chaplain.

3. Religious Program Specialists and Chaplain Assistants. For purposes of this instruction, RPs and Chaplain Assistants are considered clergyman's assistants in accordance with reference (b). RPs and Chaplain Assistants can receive confidential communication only when employed by, or assigned to assist, a Chaplain or contract clergy in his or her capacity as a spiritual advisor.

**WARNING ADVISEMENT ABOUT STATEMENTS MADE DURING A RELIGIOUS
ACCOMODATION INTERVIEW**

I, _____, have been advised that statements that are made during the course of my religious accommodation interview are not confidential and may be disclosed by Chaplain _____ to further my religious accommodation request.

Date

Counselee

Date

Chaplain

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

I, _____, have been advised that statements that are 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

Counselee

Date

Chaplain