

Chaplain confidentiality: “Go tell it to the chaplain”

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March 15, 2024, heralds the 80th anniversary of Army chaplain confidentiality, which safeguards the sacred bond between chaplains and soldiers by protecting their conversations from disclosure. With the founding of the Army Chaplain Corps in 1775, Army chaplains were available to provide soldiers with a safe place to communicate their innermost thoughts, struggles, and fears; but chaplain confidentiality was not codified in military regulations and law until the 1940s. Today’s military service members, their family members, and authorized Defense Department civilians can now speak with military chaplains and those who assist them in their capacity as spiritual advisors, confident in the sanctity of 100% absolute confidentiality for all communications to clergy made either as a formal act of religion or as a matter of conscience. This was established by the Supreme Court in *U.S. v. Trammel*, 445 U.S. 40 (1980) and is stipulated by Rule 503 of the current Uniform Code of Military Justice. This means that Army chaplains and religious affairs specialists can both provide 100% confidentiality for privileged communication.

The phrase, “Go tell it to the chaplain,” is sometimes used sarcastically, as a way of suggesting that a soldier’s concerns are not significant, but chaplains are available and ready to assist soldiers and others with all of their concerns. Chaplain confidentiality makes that even more impactful by helping members of the Army family to navigate matters of personal conscience. The power of chaplain confidentiality has been shown to foster increased help-seeking behavior¹ with documented decreases in domestic violence.²

The situation that led to the development of the legal foundation for absolute chaplain confidentiality occurred in the South Pacific during World War II. In May 1943, a soldier made a poor decision and acquired \$1,000 unlawfully. Feeling guilty about what he had done, the soldier gave the money to Chaplain (Captain) Gerald M. Scanlon, a Roman Catholic priest assigned to port duties in Australia. This interaction was not a part of the Roman Catholic sacrament of reconciliation, commonly known as confession.

Chaplain Scanlon handed the money over to a military investigator. With the perpetrator’s name held in confidence by the chaplain, a military prosecutor preferred charges against Scanlon for insubordination and for refusing to answer a legitimate question posed by a duly appointed board of officers. The Commanding General for Services and Supply in the Pacific saw the difficult situation the chaplain was in, and understood that requiring the chaplain to divulge the name of the soldier involved would destroy trust in chaplains. As a result, the commander permitted Scanlon to maintain the soldier’s confidentiality.

The Commanding General subsequently issued a General Order that all communications with chaplains in the performance of their duties, whether in the confessional or not, would be treated as privileged communications.³ On March 15, 1944, the War Department issued Circular 108 with further clarification:

Chaplain. A communication from a person subject to military law, to any army chaplain, of any denomination, made in the relationship of priest or clergymen, and penitent either as a formal act of religion as in the confessional or one made as a matter of conscience to a chaplain in his capacity as such or as clergymen, is as a matter of policy privileged against disclosure, unless expressly waived by the individual concerned, before an investigating officer, court-martial, court of inquiry, or board of officers, or in any other proceedings wherein the testimony of the chaplain is otherwise competent and admissible.

These restrictions also protected communication between chaplains and prisoners of war (POWs). Chaplains objected to supporting the World War II intelligence operation to gain information from POWs run by the Special Projects Division of the Office of the Provost Marshall General. Instead, they provided confidential pastoral care and counsel to POWs, as they would to anyone else subject to military law.⁴

Since World War II, the Chaplain Corps and the Judge Advocate General Corps have worked together to protect privileged communication with chaplains.⁵ In December 1946, the privilege against disclosure was updated in Army Regulation 60-5, under Chaplains: General Provisions, using the same language as the 1944 War Department Circular. In 1949, the Manual for Courts-Martial U.S. Army included the same language, with the addition that interpreters could not disclose privileged communication.

With the regulatory support that had developed, the Army Chaplain School developed training materials for “The Chaplain as Personal Counselor” in 1948, highlighting the importance of safeguarding all soldiers’ confidential communication with chaplains.⁶ Chaplain Corps training on confidentiality has continued ever since, and the Corps continues to evaluate how best to support privileged communication. As a part of its 2023 Capabilities-Based Assessment approved by the Army Futures Command Futures and Concepts Center to help design the future Army of 2040, the Chaplain Corps identified the requirement to provide absolute confidentiality in cyberspace as an essential component of attending to the human dimension within the context of multidomain operations.

Today’s Army chaplains and religious affairs specialists provide 100% confidentiality for privileged communication which occurs as a formal act of religion or as a matter of conscience. As an integral part of the continuation of the Chaplain Corps’ 250-year legacy of sacred service, this confidentiality builds Army spiritual readiness by giving today’s soldiers, their family members, and authorized civilians a safe place to communicate their innermost thoughts, struggles, and fears and to receive spiritual counsel. The Chaplain Corps’ emphasis on hope, restoration, and wholeness supports

individual well-being while contributing to the overall resilience and unity of all Army organizations and communities.

“Go tell it to the chaplain”: words to live by.

¹ Gary R. Rhodes, Jr., *Increasing Soldier help-seeking behavior by raising awareness of Chaplain absolute confidentiality*, D.Min. dissertation, Midwestern Baptist Theological Seminary, May 2020.

² Lutgendorf, M. A., M. A. Snipes, Terre Rau, J. M. Busch, C. M. Zelig, and E. F. Magann. “Reports to the Navy’s Family Advocacy Program: Impact of Removal of Mandatory Reporting for Domestic Violence.” *Military Medicine* 177, Number 6, 2012, 702–709.

³ John Patrick Crehan “Privileged Communications” *Infantry Journal*, Vol. LXV, Number 1, July 1969, 13-15. Roy J. Honeywell, *Chaplains of the United States Army*, Washington, DC: Office of the Chief of Chaplains, 1958, 296-297.

⁴ Melissa Weldon. *Restoring the light: ministry to German prisoners of war in America during the Second World War*, University of Richmond, 2003.

⁵ For legal discussion, see *Privileged Communications of Military Chaplains and Mental Health Professionals: Case Law of Military Rules of Evidence 503 and 513*, Tarik Abdel-Monem, Mark Dekraai, Denise Bulling, University of Nebraska, January 2017. For Chaplain Corps impact, see Gary R. Rhodes, Jr., *Increasing Soldier help-seeking behavior by raising awareness of Chaplain absolute confidentiality*, D.Min. dissertation, Midwestern Baptist Theological Seminary, May 2020.

⁶ United States Army Chaplain School. *The Chaplain as Personal Counselor*. The Chaplain School, Carlisle Barracks, PA, 1948. The Chaplain School updated this to ST 16-167, *The Chaplain as Personal Counselor*. U.S. Army Chaplain School, Fort Slocum, NY, 1950.