From: Forum on the Military Chaplaincy

To: Chief of Chaplains, United States Army
    Chief of Chaplains, United States Navy
    Chief of Chaplains, United States Air Force
    Executive Director, Armed Forces Chaplain Board

Subject: Honoring and Preserving Chaplain Confidentiality under “Don’t Ask, Don’t Tell”

References:

(a) DoD Directive 1304.19, "Appointment of Chaplains for the Military Services,” July 11, 2004

(b) DoD Instruction 1304.28, "Guidance for the Appointment of Chaplains for the Military Departments," June 11, 2004

(c) SECNAV INSTRUCTION 1730.9, “Confidential Communications to Chaplains”, February 7, 2008

(d) DACH-ZA Department of the Army Memorandum: “Policy for Protection of Confidential Communication Between Unit Ministry Teams and Military Constituents, September 25, 2007


(f) Manual of Courts Martial Rule 503

(g) Code of Ethics, National Conference on Ministry to the Armed Forces (NCMAF)

Executive Summary:

The Uniform Code of Military Justice specifically forbids military chaplains from disclosing privileged and confidential information. Furthermore, military chaplaincy documents agree uniformly that aside from a very few specific and historic public policy exceptions, chaplains must hold privileged communications in absolute and inviolable confidence. Specifically, United States Army and Air Force publications state very
clearly that the protection against chaplain disclosure of confidential information, defined as information revealed in the practice of his or her pastoral ministry, belongs strictly to the service member or counselee. Such information cannot be divulged without the written consent of the member, even into death. Likewise, the United States Navy has adopted a similar policy, but further extends the responsibility to honor and uphold those rights to the base and ship commanders. Yet service members have made multiple reports of chaplains violating their obligations of confidentiality, particularly in the context of the Homosexual Conduct Policy, colloquially known as “Don’t Ask, Don’t Tell” (DADT). This memo recommends specific steps we ask you to take to secure and build upon the existing foundation of confidentiality in order to ensure that these protections are extended to service members impacted by DADT.

Statement of the Problem and Discussion:

Over the past ten years, there appears to have been a noticeable shift in the consciousness and understanding of chaplain confidentiality, resulting in numerous reports of violations of confidentiality, particularly with respect to service members impacted by DADT. Most often, these violations have been rooted in the chaplain’s theological persuasion and personal religious beliefs. In light of the diversity of our armed forces, one’s theology, personal belief, and faith tradition must always be subject to constitutional authority, the rule of law, and military policy. Fundamental to ethical pastoral ministry must always be the supreme duty to first “do no harm.”

Inherent trust and confidence is extended freely to military chaplains by members of the armed forces and their families. It is essential that chaplains function at the highest levels of pastoral and professional competency, within a heritage of spiritual and religious diversity. Military chaplains are unique and essential resources for America’s fighting men and women. No matter their religious backgrounds, or sexual orientation, our troops often turn to the chaplain when faced with major life issues. Chaplains are called on routinely to help service members struggling with family separation, the terrors commensurate with the profession of arms, self-identity and personal growth, the loss of friends, and the refinement of one’s religious beliefs, morals and values. In both times of war and times of peace, it is imperative that all service members and their families have a safe place to openly discuss extremely personal issues without fear of rejection or retaliation. Throughout our distinguished military history, the military chaplain has always been the non-threatening, non-judgmental person who can provide confidential counsel, guidance, affirmation, consolation, spiritual direction and safe space for members of the armed forces and their family members. When chaplains fail to uphold their sacred duty of securing that safe and trusted space, trust is broken, careers may be threatened, lives destroyed, and families devastated.

The harmful consequences of breached confidentiality and trust are best seen in the life stories of military members who have been harmed. Their stories illustrate very
poignantly the results of broken trust and the abuse of confidentiality. The following accounts are but a few of the testimonies collected from service members seeking assistance and guidance from outside organizations in the aftermath of such unethical conduct by military chaplains.

- In 1997, after two years of providing spiritual counseling to a service member, a chaplain divulged incriminating information during an official inquiry about the sexual orientation of a U.S. Naval Officer.
- In 1998, a U.S. Air Force chaplain threatened to have a “friend” report a service member’s sexual orientation unless the service member disclosed her sexual orientation to her commanding officer.
- In 1999, a sailor who was being harassed reached out to a chaplain who then condemned the sailor’s “lifestyle” and advised the service member to ignore the harassment or “get out of the Navy.”
- In 2000, a U.S. Army Private First Class who was being harassed went to his chaplain. During the pastoral conversation that followed, the chaplain told the young man that he was “going to hell” and likened being gay to adultery and pedophilia.
- Also in 2000, a chaplain told a Sergeant that while some Christian chaplains accepted gays, he did not, and that she was “going to hell.” The chaplain then informed her that “homosexuality is a curable disease.”
- In 2003, an Army chaplain distributed anti-gay pamphlets to inmates at a military stockade on behalf of an anti-gay, anti-Semitic, and anti-Catholic religious group.
- More recently, a U.S. Air Force Senior Airman confided in his chaplain that he was gay and sought spiritual guidance as a matter of faith and conscience. His chaplain told him that his lifestyle was “sick and sinful,” that he should “renounce his homosexuality, and live his life honorably and righteously as a heterosexual male.” Subsequently, under the pretext of concern for the health and welfare of the service member, the chaplain voluntarily disclosed the confidential conversation to the commander. Upon review, there was no evidence to indicate that the service member was in distress, nor was there evidence that called for mandatory reporting.

None of the above examples fall within the prevailing standard of mandatory reporting, such as imminent danger to the service member or others, or admission of child sexual abuse. All of these breaches of confidentiality were either voluntarily offered by the chaplain, or voluntarily disclosed after coercion by the commander. It is also worth noting that in three of these cases, chaplains condemned, admonished and humiliated service members during pastoral counseling sessions. On one occasion, the chaplain acknowledged that some chaplains are more accepting of gays. Yet, rather than refer the counselee to someone who could provide appropriate support, the chaplain opted to treat the service member with reparative therapy techniques.

These examples appear to be representative and relevant, and perhaps illegal, breaches of trust. The United States Military is a values based organization. Military
history confirms that organizations which are built within a command climate of trust and mutual respect are more effective and efficient. Indeed, trust is one of the most vital elements of unit cohesion, which is the responsibility of the commander and his/her officer and NCO leadership. Without the absolute assurance that all members of the command and their families have ready access to safe, competent and confidential pastoral counseling, the command will be adversely affected. The moral and spiritual well being of the entire command, and the accomplishment of its military mission, will be compromised. All too often, unbecoming and unprofessional behavior re-victimizes the very ones who have turned to the chaplain for help. When the chaplain betrays one member of his or her unit, he/she betrays all members of the unit, and violates, irreparably, the trust of the entire chain of command. Clearly, every level of military leadership has ultimate responsibility to set uncompromising ethical standards, and uphold the inviolate requirement of chaplain confidentiality.

In fact, the National Conference on Ministry to the Armed Forces (NCMAF) directs all members to ensure that clergy seeking its endorsement for the military chaplaincy understand and promise to conduct ministry in accordance with its Code of Ethics. This Code of Ethics requires that all military chaplains maintain a strict and inviolable principle of confidentiality. To that end, we make the following recommendations.

Recommendations:

a. DOD and the Armed Forces Chaplains Board should write and incorporate a standard policy that while recognizing the historic and established public policy exceptions, mandates absolute, inviolable confidentiality in all pastoral communications between military chaplains and service members, and which firmly secures the right of disclosure solely to the service member or counselee.

b. In order to assure uniformity and clarity, all branches of the armed services should utilize similar language in their respective instructions and publications regarding chaplain confidentiality.

c. Military chaplaincy programs within each branch of the armed services should fully embrace, implement, and teach the National Conference on Ministry to the Armed Forces (NCMAF) Code of Ethics in all accessions processes and professional development courses.

d. Narrative comments should be required in officer evaluation reports for all military chaplains, documenting their professional practice of pastoral counseling, their commitment to religious diversity, and their record of trust in maintaining confidentiality.

e. Chaplains and commanders must be held accountable for their professional and ethical behaviors. Full disclosure of violations, along with corrective actions, should be documented in official personnel records at every level of the command.

f. Safe and readily accessible reporting mechanisms should be available for chaplains who experience coercion and undue influence from commanders and
other senior military personnel, and service-wide training should be standardized for the prevention of such problems.
g. Chaplain schools should provide a minimum of forty classroom hours of ethical training, with inclusion of intense and specialized training on issues of confidentiality, sexual harassment, and sexual orientation. Similar instruction should be mandatory for all pre-command and senior enlisted leadership schools.

Conclusion:

The late Admiral Chester W. Nimitz wrote about chaplains, saying: “By his patient, sympathetic labors with the men [sic], day in, day out, and through many a night, every chaplain I know contributed immeasurably to the moral courage of our fighting men. None of this effort appears in the statistics. Most of it was necessarily secret between the pastor and his confidant. It is for that toil in the cause of both God and country that I honor the chaplain most.”

A sympathetic and confidential ear is an extremely important, obligatory gift that all chaplains are called to give in service to their country. For those who have reached out to them in faith and trust, the failure of a chaplain to provide this gift to his/her constituents is a breach of trust that has enormous spiritual and professional consequences for those who serve in our armed forces.

We ask for your leadership in adopting these recommendations. Your actions will make a very real difference in the lives of the thousands of service members currently serving under and impacted by DADT. Adopting these recommendations, however, will benefit all members of the military who look to chaplains for confidential spiritual guidance and counseling. Adopting these recommendations will strengthen the chaplaincy. It will ensure the chaplaincy has a solid, ethics-based foundation on which to do its job. And a more effective chaplaincy means we will have a more effective military.

Respectfully Submitted by:

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