



Clergy Privacy FAQs

District of Columbia



Chaplains and campus ministers can often provide confidential support for people in campus communities who have experienced sexual and domestic violence. Because of mandatory reporting laws and Title IX reporting requirements on campus, privileged communications may provide the most privacy protection for these survivors. Privileged communications may be possible with victim advocates and medical staff on campuses in certain jurisdictions, but sometimes chaplains and campus ministers are the only privileged professionals on campus who are not required to report a disclosed sexual assault.¹ Office on Violence Against Women (OVW)-funded victim service providers (VSPs) who work on campuses need to be able to explain to the people they serve how private any communication with chaplains or campus ministers will be and when these clergy may be required to report abuse, neglect, or sexual assault. These FAQs are meant to help VSPs understand the legal parameters for these communications.

These FAQs describe the clergy-penitent privilege and the mandatory reporting laws in the identified jurisdiction. We include legal citations so that you can read more about the laws and make sure they are current. None of the information in these FAQs is legal advice and you should always check with an attorney about how these laws work in your jurisdiction. The FAQs are a part of our Campus Privacy Toolkit. To receive an electronic copy of the Toolkit, or to ask privacy questions related to your OVW-funded work, please email us at TA@victimrights.org.

1

What is the clergy-penitent privilege in the District of Columbia? “A priest, clergyman, rabbi, or other duly licensed, ordained, or consecrated minister of a religion authorized to perform a marriage ceremony in the District of Columbia or duly accredited practitioner of Christian Science may not be examined in any civil or criminal proceedings in the Federal courts in the District of Columbia and District of Columbia courts with respect to any – (1) confession, or communication, made to him, in his professional capacity in the course of discipline enjoined by the church or other religious body to which he belongs, without the consent of the person making the confession or communication; or (2) communication made to him, in his professional capacity in the course of giving religious or spiritual advice, without the consent of the person seeking the advice; or (3)(A) communication made to him, in his professional capacity, by either spouse or domestic partner, in connection with an effort to reconcile estranged spouses or domestic partners, without the consent of the spouse or domestic partner making the communication.” D.C. Code § 14-309.

¹ Even if a communication is protected from campus reporting by clergy privilege, jurisdictions may require clergy to report abuse of minors, elders, and persons with disabilities.

2

How are clergy excepted from, or included in, the District of Columbia’s mandatory reporting laws? (This is not necessarily an exhaustive list of the abuse, neglect, or injuries that must be reported in this jurisdiction.)

Type of abuse or neglect	Rule and exceptions
<p>Child abuse</p>	<p>With regard to child sexual abuse:</p> <p>“Any person who knows, or has reasonable cause to believe, that a child is a victim of sexual abuse shall immediately report such knowledge or belief to the police.” D.C. Code § 22-3020.52(a).</p> <p>“No legally recognized privilege” applies to this rule, except the attorney-client privilege and clergy privilege. D.C. Code § 22-3020.52(c). In particular, “[t]he notification requirement of subsection (a) of this subsection do not apply to a priest, clergyman, rabbi, or other duly appointed, licensed, ordained, or consecrated minister of a given religion in the District of Columbia, or a duly accredited practitioner of Christian Science in the District of Columbia, if the basis for the knowledge or belief is the result of a confession or penitential communication made by a penitent directly to the minister if: (i) The penitent made the confession or penitential communication in confidence; (ii) The confession or penitential communication was made expressly for a spiritual or religious purpose; (iii) The penitent made the confession or penitential communication to the minister in the minister’s professional capacity; and (iv) The confession or penitential communication was made in the course of discipline enjoined by the church or other religious body to which the minister belongs.” The confession or communication made under any other circumstances does not fall under this exemption. D.C. Code § 22-3020.52(b)(2)(A).</p> <p>With regard to child abuse and neglect:</p> <p>Under D.C. Code § 4-1321.02, any person listed who knows or has reasonable cause to suspect that a child known to them in their professional capacity has been or is in immediate danger of being a mentally or physically abused or neglected child or has been or is in immediate danger of being a victim of sexual abuse or attempted sexual abuse or prostitution shall immediately report.</p> <p>The list of reporters includes over twenty categories of professionals, but it does not specifically include clergy. D.C. Code § 4-1321.02(b).</p> <p>“In addition to those persons who are required to make a report, any other person may make a report . . .” D.C. Code § 4-1321.02(c).</p>
<p>Adult in need of protective services because of abuse</p>	<p>Whenever certain identified professionals or employees have cause to believe that an adult needs protective services because of abuse, neglect, or exploitation by another, they must immediately report this belief to Adult Protective Services. Clergy are not on the list of mandatory reporters. D.C. Code § 7-1903(a)(1).</p> <p>In addition, “[a]ny person may voluntarily report an alleged case of abuse, neglect, self-neglect, or exploitation when he or she has reason to believe that an adult is in need of protective services.” D.C. Code § 7-1903(a)(2).</p>