



## Clergy Privacy FAQs

# Guam



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.<sup>1</sup> 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](mailto:TA@victimrights.org).

1

**What is the clergy-penitent privilege in Guam?** “Except as otherwise required by the Constitution of the United States, by the Organic Act of Guam, by these rules, or by the laws of Guam or in rules prescribed by the Supreme Court pursuant to statutory authority, the privilege of a witness, person, government, state, territory, commonwealth or political subdivision thereof, shall be governed by the principles of the common law as they may be interpreted by the courts of Guam in the light of reason and experience.” Guam R. Evid. 501.

Guam recognizes a clergy-penitent privilege. Guam R. Evid. 504(h).

<sup>1</sup> 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.

**How are clergy excepted from, or included in, Guam’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
<b>Child abuse</b>	<p>Any person who, in the course of their employment, occupation, or practice comes in to contact with children must report if they have “reason to suspect . . . that a child is an abused or neglected child.” 19 Guam Code Ann. § 13201(a).</p> <p>The list of mandatory reporters includes “Christian Science practitioner, clergy member of any religious faith, or other similar functionary or employee of any church, place of worship, or other religious organization whose primary duties consist of teaching, spreading the faith, church governance, supervision of a religious order or supervision or participation in religious ritual and worship.” 19 Guam Code Ann. § 13201(b).</p> <p>The clergy-penitent privilege “shall not be available to exclude evidence of harm or threatened harm in any proceeding” relating to child protective services. 19 Guam Code Ann. § 13313.</p>
<b>Abuse of elders and adults with disabilities</b>	<p>“Any person who, in the course of his or her employment, occupation or professional capacity comes into contact with elderly or adults with disabilities, has actual knowledge or reasonable cause to believe that an elderly or adult with a disability is suffering from or has died as a result of abuse” must report. 10 Guam Code Ann. § 21003(a).</p> <p>Clergy are not specifically enumerated as persons required to report. However, the list of mandated reporters is not limited to those specifically enumerated. 10 Guam Code Ann. § 21003(b).</p> <p>An elder is someone age sixty or older. 10 Guam Code Ann. § 21002(h).</p> <p>An adult with a disability is “any person eighteen (18) years or older who: (1) has a physical impairment which substantially limits one (1) or more major life activities; or (2) has a history of, or has been classified as having, an impairment which substantially limits one (1) or more major life activities.” 10 Guam Code Ann. § 21002(b).</p> <p>“In addition to persons required to report under Subsections (a) and (b), any other person may make such report . . .” 10 Guam Code Ann. § 21003(c).</p>

