



Clergy Privacy FAQs

U.S. Virgin Islands



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 U.S. Virgin Islands?** “A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a clergyman in his professional character as a spiritual adviser.” V.I. Code Ann. tit. 5, § 856(b).

2 **Who is “clergy”?** “A ‘clergyman’ is a minister, priest, rabbi, accredited Christian Science practitioner or other similarly [sic] functionary of a religious organization, or an individual reasonably believed so to be by the person consulting him or her.” V.I. Code Ann. tit. 5, § 856(a)(1).

3 **What is a “confidential communication”?** “A communication is ‘confidential’ if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.” V.I. Code Ann. tit. 5, § 856(a)(2).

4 **Who may claim the privilege?** “The privilege may be claimed by the person, by his guardian or conservator, or by his personal representative if he is deceased. The person who was the clergyman at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the communicant.” V.I. Code Ann. tit. 5, § 856(c).

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.

How are clergy excepted from or included in the U.S. Virgin Islands' 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 or neglect</p>	<p>Clergy members are not listed as mandatory reporters of child abuse in the U.S. Virgin Islands. See V.I. Code Ann. tit. 5, § 2533(a).</p> <p>“In addition to those persons and officials specifically required to report suspected child abuse, sexual abuse and neglect, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected or observes the child has been abused or neglected or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.” V.I. Code Ann. tit. 5, § 2533(c).</p> <p>Privileged communications (other than between an attorney and client) are abrogated in situations involving alleged child abuse. See V.I. Code Ann. tit. 5, § 2538 (“The privileged quality of communications between husband and wife and between any professional person and his patient or his client, except that between attorney and client, is hereby abrogated in situations involving alleged child abuse, sexual abuse or neglect. Such privileged communications, excluding those of attorney and client, shall not constitute grounds for failure to report as required or permitted by this subchapter, or to give or accept evidence in any judicial proceedings relating to child abuse, sexual abuse or neglect.”).</p>
<p>Abuse or neglect of elder or dependent adult</p>	<p>“Any mandated reporter who, in the mandated reporter’s professional capacity, or within the scope of the mandated reporter’s employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he has experienced behavior, including an act or omission, constituting abuse, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects such conduct is taking place, shall report the known or suspected instance of abuse . . .” V.I. Code Ann. tit. 34, § 453(a).</p> <p>A “mandated reporter” includes a “clergy member.” V.I. Code Ann. tit. 34, § 452(t).</p> <p>“Elder” means “any person residing in this territory, 60 years of age or older.” V.I. Code Ann. tit. 34, § 452(k).</p> <p>A “dependent adult” means “any person between the ages of 18 to 59 who has physical or mental limitations that restrict the person’s ability to carry out normal activities or protect a person’s rights.” V.I. Code Ann. tit. 34, § 452(j).</p> <p>With regard to evidentiary privileges, the statute provides: “Nothing in this chapter may be construed as requiring an attorney to violate the attorney’s oath and duties.” V.I. Code Ann. tit. 34, § 455. No other evidentiary privileges are mentioned.</p>

