

Ethical Ministry Refresher 2021 Part 2: Confidentiality

While this article refers to clergypastors all people in ministry covered by the Code of Ethics are invited to reflect on how the issues discussed in this article relate to the ethical exercise of their ministry.

Confidentiality in the church: What the pastor knows and tells.

by D. Elizabeth Audette

.....Conflict can occur both within a congregation and in relation to secular laws governing mandated reporting when the clergyperson's practice of confidentiality is significantly different from members' expectations. Such conflict need not always involve dramatic and acute cases such as child abuse. The occasion can be as simple and as chronic as Mrs. Smith's reprimanding me because I failed to mention from the pulpit that her husband was in the hospital, even though she knew her husband had asked me to say nothing about it. She believes that such matters should be disclosed to the congregation that all may pray for the afflicted, and that it is the pastor's responsibility to make such public disclosures. Thus, she didn't say anything during the portion of the service in which people share their joys and concerns; nor did she ask me ahead of time to mention her husband's condition.

How do clergy judge what is confidential and what is not in their day-to-day ministry? Who decides what is confidential? What happens when definitions conflict both in and out of the church? What kind of practice of confidentiality helps build the community of Christ? The obvious place to begin answering these questions is with church regulations (*for the Uniting Church is the Code of Ethics*) *The following factors can also help:* the setting in which the information is disclosed, the type of information disclosed, the purpose of disclosing the information, and to whom the information is disclosed.

Setting: The key question about the setting of a disclosure is whether it is public or private.... For instance, the clergyperson who is told at coffee hour by Mr. White that Mr. White held up a bank could not claim in court that such information was given in confidence. However, were such information conveyed in a conversation in a hospital room, during which no one else entered the room, one could argue that the exchange was intended to be confidential. Similarly, meeting in the pastor's office with the door closed establishes the privacy necessary to claim confidentiality. Leaving the door open may not.

Type: Whether or not information conveyed implies harm to the discloser or another person is the most important issue concerning the type of information disclosed. Moral justifications for confidentiality in the secular world are generally based upon arguments concerning the common good. Because a presumption of confidentiality protects an individual's right to self-government, personal freedom, and autonomy, it is widely judged necessary to the orderly working of society. However, there are limits on personal freedom. Social ethics views intentions to harm the self or another person as detrimental to the common good. Therefore, disclosures involving such possible harm, even if made within confidential settings, don't have to be treated confidentially. Like any professional who must work within bounds set by professional ethics, the clergyperson must determine the limits of his or her confidentiality obligations. Shall I promise confidentiality to all individuals regardless of what the person tells me? Am I obligated to keep confidential information that puts another person in harm's way, such as a threat to kill a person? Shall I keep confidential information that threatens the integrity of the worshipping community or the safety of the gathered

people? Should, for instance, a pastor keep confidential the confession of a colleague who says he lied about his credentials to secure a pastorate? Once such limits are determined and defined, pastors must then decide how best to communicate those limits in confidential settings. Although it can be an awkward way to begin a conversation with a parishioner, I have at times found it necessary to say, "I shall do my best to keep confidential what you tell me. However, if you disclose something to me that is illegal or puts yourself or another person in harm's way, I will be morally obligated to help you or protect another person even if that means telling what you've told me." I do not know how many disclosures I have discouraged through such a disclaimer. I do know that it has not prevented some significant disclosures, including one in which the person confessed to sexually abusing a child. ...

To Whom Disclosures Are Made: Is an ethic of confidentiality an issue only for ordained clergy, or is it also an issue for all members who take a leadership role within the church?

Any discussion of confidentiality can be approached from a number of perspectives: legal, professional, ethical, ecclesiastical, or theological. That these perspectives give different weight and priority to the four factors just discussed further complicates matters. For instance, how does one treat disclosures made in churches that practice public confession in front of the congregation? Is the Protestant doctrine of the priesthood of all believers relevant at all to issues of confidentiality? Within such traditions, are disclosures made privately between laypeople considered confidential, and if so, by whom—clergy, laity, the courts? If a person spontaneously confesses a sensitive matter to a Bible study class, seeking the forgiveness of God through the group, what level of confidentiality does that disclosure warrant?

HOW DOES a clergyperson treat general information received from a parishioner at the grocery store and does it change anything if the discloser is not a parishioner? While the question of what to do with information about harm done to a child or an elderly person is important, it is the myriad of more mundane questions such as these that are more likely to have an effect on the church's day-to-day ministry.

Given the complexity and pervasiveness of confidentiality issues in the church, clarity about clergy practice and a congregation's assumptions—theological and procedural—is important. Such clarity will build the community by fostering trust between parishioners and clergy as well as between the individuals in the worshiping community. It will also allow the church to develop an ethic of confidentiality that is spiritually and ecclesially based. Without such clarity secular models of confidentiality will prevail.

A recent survey I conducted of 300 Congregational clergy and laity uncovered some assumptions about confidentiality. No members of the group articulated ecclesial or theological grounds for their assumptions. Instead, their views were informed by a therapeutic model. Both clergy and laity regarded the clergyperson as a counsellor, along the lines of secular counsellors or psychologists. Confidentiality, then, became a matter of professional (counselling) ethics—with one difference. Unlike secular counsellors or psychologists who see clients in well-defined professional settings, most of those surveyed assumed that anything told to a clergyperson anywhere should be treated confidentially, regardless of the circumstances of the disclosure.

Assumptions about confidentiality held by a clergyperson or a worshiping community have significant implications for community life. When therapeutic norms borrowed from professional ethics (as serviceable as they might be) become dominant in the church, the unique character of the church as a gathered people covenanted in Christ is compromised. The therapeutic ethic relies

largely on a contract model of a professional-client relationship: confidentiality is based on the dual needs of respecting the individual and preserving the character of relationships. This approach does not encourage the appropriate sharing of information within the community by which the gathered people might be responsible to and for each other. While clergy at times counsel individuals, they also bear responsibility for the welfare of the worshipping community as a whole. In their teaching, preaching and administrative roles, clergy recognize that the church is more than a group of individuals. The church is a community with its own culture and beliefs, transcending the individuals within it and creating a common good. An ethic of confidentiality grounded in ecclesiology will care for the good of the community as well as the good of the individuals within it. It will provide a congregational basis for building trust between individuals—crucial to building up the community—and will help determine the kind of community a congregation becomes?

What would an adequate ecclesial ethic of confidentiality look like? Not all observers agree with my survey group which believes that all things told to the pastor should be held as confidential. William H. Willimon has argued for a re-examination of privacy and confidentiality in the ministry and has asked whether confidentiality doesn't often undermine the church's ability to provide pastoral care and flourish as a community (CHRISTIAN CENTURY, October 31, 1990). While some assurance of confidentiality is needed to build trust in a community, people like Jim Kok wonder how others can "support, challenge, pray for, weep with, give help to, advise, and confront with an aim toward healing if they do not know what is happening" (Christianity Today, July 17, 1981). In other words, how does one build and live in the intimacy of community if nothing is disclosable?

IN THE END, each religious tradition must develop its own ethic of confidentiality rooted in its own doctrines and practice. However, all traditions may find that the idea of covenantal relationships can help to frame the issues for both individuals and communities. Within a covenantal community called into being through God's word and spirit, relationships between believers and God and between individual believers are based upon faithful promises made to each other which promote God's spiritual and temporal purposes for humanity. Theories and practices of confidentiality based only on secular professional ethics or legal norms are not adequate for covenantal understandings of the church in which the community's relationship to God is primary.

Unlike professional counsellors, clergy have a wide range of contacts with people through which they gain much information and knowledge about persons. Such pervasive contact, formal and informal, direct, and indirect, can make the boundaries of confidentiality unclear for both clergy and laity. Additionally, clergy often find themselves in a bind: disclosure of information could be helpful to the welfare of the community but may also be contrary to the wishes of the individual who gave the information.

Consider: A parishioner who lost his job comes to the pastor to express his anger at the company for terminating him and at God for abandoning him. Already his lack of income threatens the security and stability of his family, which includes a wife and two children. He's behind in mortgage payments, the children have outgrown last year's winter clothing and need more, and there is barely enough money for groceries. In the process of dealing with the man's fear, anger and shame, the pastor suggests that the deacons can help ease the economic burden while he looks for work. The man refuses and insists that the pastor tell no one about his situation. "I've never accepted charity from anyone. No one is responsible for my family but me," he declares.

Several covenantal questions assert themselves. Does the protection of the man's individualistic sense of self-reliance take priority over the community's belief that God calls them to care for people in need? Does it take priority over the corporate welfare of the rest of his family? Does

respect for the individual's wish for confidentiality impede the church's pastoral function of embodying God's love? Where is God located in this dilemma? If the pastor chooses to honor the man's request for confidentiality, at what point is the pastor released from that obligation as the information inevitably makes its way through the grapevine? And when someone inevitably comes up to the pastor and asks, "Have you heard? What can we do to help?" at what point does the pastor finally say "Yes, I know" and what advice can he or she faithfully dispense? Perhaps the church should have its own understanding of what is private and what is public knowledge.

More fundamentally, what covenantal obligations do community members share as participants in a particular community? As members of the body of Christ, should parishioners expect that many circumstances now widely viewed as private are actually the community's concern and are not to be held confidential? Should their covenantal obligations include not only assisting those in need but disclosing needs?

How pastors practice confidentiality will depend upon how each perceives the ministerial role at a given time in a given encounter. Clear role definition is critical in deciding what is confidential and what is not. Additionally, a clear, theological foundation, which takes into account the pastoral needs and spiritual purposes of both the individual and the community, is critical in deciding what is confidential and what is not. Whatever ethic of confidentiality is embraced, either publicly or in private assumptions, it should have at its heart the concern of faithful integrity for the community, the individuals within it (including the minister) and the gospel message. It should reflect the covenant relationships which have brought the community into being for the glory of God.

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Questions for reflection and discussion

'Unlike professional counsellors, clergy have a wide range of contacts with people through which they gain much information and knowledge about persons. Such pervasive contact, formal and informal, direct and indirect, can make the boundaries of confidentiality unclear for both clergy and laity'.

Do you agree with this statement? Why, why not?

How do you think the location of placement (e.g., rural/suburban/city) or the type of placement (e.g., congregation/chaplaincy/Presbytery/Synod) would affect your understanding of this?

How do you pay attention to boundaries to ensure you are as clear as possible about confidentiality?

The author's survey of clergy and congregations in America showed that most people's view of confidentiality has been primarily informed by a therapeutic understanding of confidentiality. What has shaped your understanding of confidentiality? What do you think has shaped the views of those you minister with?

The author argues that the relationship between and individual member of the church and the covenant relationship between the individual and the congregation should be considered when thinking about confidentiality. How well do you think this view fits with the Code of Ethic's statement that confidentiality shall not be breached except in particular circumstances (Code of Ethics 3.7 (d))? How do you navigate this?