

Summary Report for Individual Task
805D-100-7503
Apply Principles of Confidential Communication
Status: Approved

Distribution Restriction: Approved for public release; distribution is unlimited.

Destruction Notice: None

Foreign Disclosure: FD5 - This product/publication has been reviewed by the product developers in coordination with the Chaplain School foreign disclosure authority. This product is releasable to students from all requesting foreign countries without restrictions.

Condition: Given a tactical or non-tactical environment, handouts of Military Rules of Evidence (MRE)503 and AR 165-1, Chapter 16-2. This task should not be trained in MOPP 4.

Standard: Apply the principles of confidential communication in accordance with MRE 503 and AR 165-1, Chapter 16-2, ensuring the rights of the individual in regards to sensitive information and privileged communication.

Special Condition: None

Safety Risk: Low

MOPP 4: Never

Task Statements

Cue: None

DANGER

None

WARNING

None

CAUTION

None

Remarks: None

Notes: None

Performance Steps

1. Identify the three legal and regulatory foundations of Confidential Communication, described below.

a. Supreme Court – Supreme Court decisions sets precedence in Trammel v. U.S, 445 U.S. 40 (1980) The U.S. Supreme Court recognized “the human need to disclose to a spiritual counsel, in total and absolute confidence, what are believed to be flawed acts or thoughts and to receive priestly consolation and guidance in return.

b. Military Rules of Evidence 503 – Rules that govern admissibility of evidence in trials by courts-martial.

c. Army Regulation 165-1 Chapter 16-2 – Defines confidential communication and the role of the chaplain and chaplain assistant with regards to safeguarding confidential communication.

2. Identify three types of communication, described below.

a. Confidential communication – According to AR 165-1 Chap 16-2, confidential communication is any communication to a chaplain acting as a spiritual advisor or chaplain assistant acting in official capacity given as a formal act or religion or as a matter of conscience. It is a communication not intended to be disclosed to third party persons in any context, legal or otherwise.

b. Privileged and confidential communication are often considered to be synonymous. However, when they are differentiated, privileged communications refer to information that is not admissible in a court or legal action while confidential communication is a more general concept, referring to information that is protected both in and out of the legal context. Generally, a privileged communication is also confidential.

c. Sensitive Information – any information that is not confidential that would be inappropriate subject for general dissemination to a third party (such as attendance at substance abuse clinics, treatment by counselors, prior arrests).

3. Identify requirements for release from privilege, listed below.

a. Counselee must freely give permission to disclose confidential or privileged information.

b. Information to be disclosed must be specifically identified.

c. Whenever possible consent will be given in writing.

d. When consent is granted, it must be after the chaplain receives the communication.

e. Release from confidentiality is inapplicable when chaplain is bound by requirements of sacramental confession.

4. Describe when personal communication between a chaplain and chaplain assistant does not qualify as confidential, described below.

a. Privilege does not extend between chaplains and their supervisors when discussing personal or professional issues.

b. Chaplains and Chaplain Assistants who require pastoral counseling or sacraments must do so with a Chaplain outside their supervisory chain to claim privilege and avoid conflicting responsibilities.

5. Notify all UMT and chaplain section members that US Army National Guard chaplains and chaplain assistants mobilized under Title 32 or state active duty orders that they should refer to the Joint Force Headquarters State Chaplain and the state Judge Advocate General for information regarding state-by-state rules on privileged communication.

6. Identify storage and disposition requirements for files containing confidential information listed below.

a. Files are to be clearly marked “Confidential: Privileged Communication.”

b. Protected information files will be properly secured and safeguarded to ensure confidentiality or privilege cannot be breached.

c. Chaplains will personally dispose of these files and ensure their destruction through a secure means.

(Asterisks indicates a leader performance step.)

Evaluation Guidance: Score the Soldier a GO if all performance steps are conducted. Score the Soldier a NO GO if any step is failed. If the Soldier fails any step, retrain by showing and telling them what was done wrong and how to do it correctly.

Evaluation Preparation: Set-up: Tell the Soldier: Demonstrate all performance steps.

PERFORMANCE MEASURES	GO	NO-GO	N/A
1. Identified the three legal and regulatory foundations of Confidential Communication.			
2. Identified three types of communication.			
3. Identified requirements for release from privilege.			
4. Described when personal communication between a chaplain and a chaplain assistant does not qualify as confidential.			
5. Notified all UMT and chaplain section members that US Army National Guard chaplains and chaplain assistants mobilized under Title 32 or state active duty orders that they should refer to the Joint Force Headquarters State Chaplain and the state Judge Advocate General for information regarding state-by-state rules on privileged communication.			
6. Identified storage and disposition requirements for files containing confidential information.			

Supporting Reference(s):

Step Number	Reference ID	Reference Name	Required	Primary
	AR 165-1	Army Chaplain Corps Activities	Yes	No
	FM 1-05	Religious Support	Yes	No
	JP 1-05	Religious Affairs in Joint Operations	Yes	No

Environment: Environmental protection is not just the law but the right thing to do. It is a continual process and starts with deliberate planning. Always be alert to ways to protect our environment during training and missions. In doing so, you will contribute to the sustainment of our training resources while protecting people and the environment from harmful effects. Refer to FM 3-34.5 Environmental Considerations and GTA 05-08-002 ENVIRONMENTAL-RELATED RISK ASSESSMENT. Environmental protection is a continual process. Always be alert to ways to protect our environment and reduce waste.

Safety: In a training environment, leaders must perform a risk assessment in accordance with ATP 5-19, Risk Management. Leaders will complete the current Deliberate Risk Assessment Worksheet in accordance with the TRADOC Safety Officer during the planning and completion of each task and sub-task by assessing mission, enemy, terrain and weather, troops and support available-time available and civil considerations, (METT-TC). Note: During MOPP training, leaders must ensure personnel are monitored for potential heat injury. Local policies and procedures must be followed during times of increased heat category in order to avoid heat related injury. Consider the MOPP work/rest cycles and water replacement guidelines IAW FM 3-11.4, Multiservice Tactics, Techniques, and Procedures for Nuclear, Biological, and Chemical (NBC) Protection, FM 3-11.5, Multiservice Tactics, Techniques, and Procedures for Chemical, Biological, Radiological, and Nuclear Decontamination. Everyone is responsible for safety. A thorough risk assessment must be completed prior to every mission or operation.

Prerequisite Individual Tasks : None

Supporting Individual Tasks : None

Supported Individual Tasks : None

Supported Collective Tasks : None