

ANNEX

Section 1. Part III of the Manual for Courts-Martial, United States, is amended as follows:

(a) M.R.E. 504 (c)(2)(D) is added to read as follows:

“(D) Where both parties have been substantial participants in illegal activity, those communications between the spouses during the marriage regarding the illegal activity in which they have jointly participated are not marital communications for purposes of the privilege in subdivision (b) and are not entitled to protection under the privilege in subdivision (b).”.

(b) M.R.E. 513(d)(2) is amended--

(1) to delete “spouse abuse, child abuse, or” and insert “child abuse or of”;

and

(2) to delete “the person of the other spouse or”.

(c) M.R.E. 514 is added to read as follows:

“Rule 514. Victim advocate - victim privilege

(a) *General rule of privilege.* A victim has a privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication made between the victim and a victim advocate, in a case arising under the UCMJ, if such communication was made for the purpose of facilitating advice or supportive assistance to the victim.

(b) *Definitions.* As used in this rule of evidence:

(1) A “victim” is any person who suffered direct physical or emotional harm as the result of a sexual or violent offense.

(2) A “victim advocate” is a person who is:

(A) designated in writing as a victim advocate;

(B) authorized to perform victim advocate duties in accordance with service regulations, and is acting in the performance of those duties;
or

(C) certified as a victim advocate pursuant to Federal or State requirements.

(3) A communication is “confidential” if made to a victim advocate acting in the capacity of a victim advocate and if not intended to be disclosed to third persons other than:

(A) those to whom disclosure is made in furtherance of the rendition of advice or assistance to the victim or

(B) an assistant to a victim advocate reasonably necessary for such transmission of the communication.

(4) An “assistant to a victim advocate” is a person directed by or assigned to assist a victim advocate in providing victim advocate services, or is reasonably believed by the victim to be such.

(5) “Evidence of a victim’s records or communications” is testimony of a victim advocate, or records that pertain to communications by a victim to a victim advocate, for the purposes of advising or providing supportive assistance to the victim.