

the victim of an offense committed by the accused and evidence of significant adverse impact on the mission, discipline, or efficiency of the command directly and immediately resulting from the accused's offense. In addition, evidence in aggravation may include evidence that the accused intentionally selected any victim or any property as the object of the offense because of the actual or perceived race, color, religion, national origin, ethnicity, sex (including pregnancy), gender (including gender identity), disability, or sexual orientation of any person. Except in capital cases, a written or oral deposition taken in accordance with R.C.M. 702 is admissible in aggravation."

(i) R.C.M. 1001(c) is amended to read as follows:

“(c) Crime victim’s right to be reasonably heard.

(1) *In general.* After presentation by the trial counsel, a crime victim of an offense of which the accused has been found guilty has the right to be reasonably heard at the presentencing proceeding relating to that offense. A crime victim who makes an unsworn statement under R.C.M. 1001(c)(5) is not considered a witness for the purposes of Article 42(b). If the crime victim exercises the right to be reasonably heard, the crime victim shall be called by the court-martial. The exercise of the right is independent of whether the crime victim testified during findings or is called to testify by the Government or defense under this rule.

(2) Definitions.

(A) *Crime victim.* For purposes of R.C.M. 1001(c), a crime victim is an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense of which the accused was found guilty or the individual's lawful representative or designee appointed by the military judge under these rules.

(B) *Victim impact.* For purposes of R.C.M. 1001(c), victim impact includes any financial, social, psychological, or medical impact on the crime victim relating to or arising from the offense of which the accused has been found guilty.

(C) *Mitigation.* For the purposes of R.C.M. 1001(c), mitigation includes any matter that may lessen the punishment to be adjudged by the court-martial or furnish grounds for a recommendation of clemency.

(D) *Right to be reasonably heard.*

(i) *Capital cases.* In capital cases, for purposes of R.C.M. 1001(c), the “right to be reasonably heard” means the right to make a sworn statement. The statement may not recommend a specific sentence.

(ii) *Noncapital cases.* In noncapital cases, for purposes of R.C.M. 1001(c), the “right to be reasonably heard” means the right to make a sworn statement, an unsworn statement, or both. This right includes the right to be heard on any objection to any unsworn statement.

(3) *Contents of statement.* The content of statements made under R.C.M. 1001(c)(4) or (5) may only include victim impact and matters in mitigation, except that, in a noncapital case, the victim may recommend a specific sentence.

(4) *Sworn statement.* The crime victim may make a sworn statement and shall be subject to cross-examination concerning it by the trial counsel and the defense counsel or examination on it by the court-martial.

(5) *Unsworn statement.* The crime victim may make an unsworn statement and may not be cross-examined by the trial counsel or the defense counsel or examined upon it by the court-martial. The Government or defense may, however, rebut any statements of fact therein. The