**Section 400.615 Privilege Concerning Mental Examination of an Accused**

a) General Rule. The accused has a privilege to prevent any statement made by the accused at a mental examination ordered under Code Section 76a and any derivative evidence obtained through use of such a statement from being received into evidence against the accused on the issue of guilt or innocence or during sentencing proceedings. This privilege may be claimed by the accused notwithstanding the fact that the accused may have been warned of the rights provided by Section 400.625 at the examination.

b) Exceptions

1) There is no privilege under this Section when the accused first introduces into evidence such statements or derivative evidence.

2) An expert witness for the prosecution may testify as to the reasons for the expert's conclusions and the reasons therefor as to the mental state of the accused if expert testimony offered by the defense as to the mental condition of the accused has been received in evidence, but that testimony may not extend to statements of the accused except as provided in subsection (b)(1).

c) Release of Evidence. If the defense offers expert testimony concerning the mental condition of the accused, the military judge, upon motion, shall order the release to the prosecution of the full contents, other than any statements made by the accused, of any report prepared pursuant to Code Section 76a. If the defense offers statements made by the accused at that examination, the military judge may, upon motion, order the disclosure of those statements made by the accused and contained in the report as may be necessary in the interests of justice.

d) Noncompliance by the Accused. The military judge may prohibit an accused who refuses to cooperate in a mental examination authorized under Code Section 76a from presenting any expert medical testimony on any issue that would have been the subject of the mental examination.

e) Procedure. The privilege in this Section may be claimed by the accused only under the procedure set forth in Section 400.620(a) through (g) for an objection or a motion to suppress. (Il. Mil. R. Evid. 302)