SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-1000

APR 20 2012

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
COMMANDERS OF THE COMBATANT COMMANDS
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Withholding Initial Disposition Authority Under the Uniform Code of Military Justice in Certain Sexual Assault Cases

Pursuant to my general court-martial convening authority under Article 22 of the Uniform Code of Military Justice (UCMJ) and Rules for Courts-Martial 306, 401, and 601, I hereby withhold initial disposition authority from all commanders within the Department of Defense who do not possess at least special court-martial convening authority and who are not in the grade of 0-6 (i.e., colonel or Navy captain) or higher, with respect to the following alleged offenses: (i) rape, in violation of Article 120; (ii) sexual assault, in violation of Article 120 of the UCMJ; (iii) forcible sodomy, in violation of Article 125 of the UCMJ; and (iv) all attempts to commit such offenses, in violation of Article 80. Additionally, this withholding applies to all other alleged offenses arising from or relating to the same incident(s), whether committed by the alleged perpetrator or the alleged victim of the rape, sexual assault, forcible sodomy, or the attempts thereof.

The effective date of this action will be June 28, 2012. The Services have discretion to further elevate initial disposition authority for these offenses.

The special court-martial convening authority shall be responsible for determining what initial disposition action is appropriate, to include whether further action is warranted and, if so, whether the matter should be resolved by court-martial, nonjudicial punishment, or adverse administrative action. The special court-martial convening authority's initial disposition decision shall be based upon his or her review of the matters transmitted, any independent review and recommendation received (including court-martial charges, if any), and consultation with a judge advocate. Subordinate unit commanders are encouraged to provide their own recommendations regarding initial disposition.

Nothing in this directive removes the responsibility of commanders, at every level, to maintain an environment free of sexual assault, to provide support and assistance to victims, and to maintain good order and discipline within their units.

cc:
Acting USD(P&R)
Director, Sexual Assault Prevention and Response Office

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