

“(1) For purposes of this subsection (R.C.M. 306(e)), a “sex-related offense” means any allegation of a violation of Article 120, 120b, 120c, or 130, or any attempt thereof under Article 80, occurring on or before December 27, 2023.”

**(r) A new R.C.M. 306A is inserted immediately after R.C.M. 306 to read as follows:**

**“Rule 306A. Initial disposition of offenses over which a special trial counsel exercises authority**

(a) *Disposition of offenses that are not the subject of preferred charges.* Once a special trial counsel has exercised authority over an offense, only a special trial counsel may dispose of that offense, unless a special trial counsel defers the offense. For each offense over which a special trial counsel has exercised authority that is not the subject of a preferred charge, a special trial counsel shall:

(1) Prefer, or cause to be preferred, a charge; or

(2) Defer the offense by electing not to prefer a charge. If a special trial counsel defers the offense, the special trial counsel shall promptly forward the offense to a commander or convening authority for disposition, and the commander or convening authority shall dispose of the offense pursuant to R.C.M. 306.

(b) *Disposition of a preferred specification.* A special trial counsel shall dispose of each preferred specification in accordance with R.C.M. 401A.

(c) *National security matters.* If a commander believes trial would be detrimental to the prosecution of a war or harmful to national security, the matter shall be forwarded to the Secretary concerned for action.

(d) *Sex-related offenses.*

(1) For purposes of this subsection (R.C.M. 306A(d)), “sex-related offense” means any allegation of a violation of Article 120, 120b, 120c, or 130, or any attempt thereof under Article 80.

(2) Under such regulations as the Secretary concerned may prescribe, for alleged sex-related offenses committed in the United States, the victim of the sex-related offense shall be provided an opportunity to express views as to whether the offense should be prosecuted by court-martial or in a civilian court with jurisdiction over the offense. A special trial counsel shall consider the victim’s preference for jurisdiction, if available, prior to making an initial disposition decision. For purposes of this rule, “victim” is defined as an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an alleged sex-related offense as defined in R.C.M. 306A(d)(1).

(3) Under such regulations as the Secretary concerned may prescribe, if the victim of an alleged sex-related offense expresses a preference for prosecution of the offense in a civilian court, a special trial counsel shall ensure that the civilian authority with jurisdiction over the offense is notified of the victim’s preference for civilian prosecution. If a special trial counsel learns of any decision by the civilian authority to prosecute or not prosecute the offense in civilian court, the special trial counsel shall ensure the victim, or victim’s counsel, if any, is notified.”

**(s) R.C.M. 307(a) is amended to read as follows:**

“(a) *In general.* In accordance with R.C.M. 307(b), preferral is the act by which a person subject to the UCMJ formally accuses another person subject to the UCMJ of an offense. Any person subject to the UCMJ may prefer charges.”

**(t) R.C.M. 308 is revised to read as follows:**