

fense in capital cases or cases extending to the dismissal of a commissioned officer.

(c) **USE IN COURTS OF INQUIRY AND MILITARY BOARDS.**—Such testimony may also be read in evidence before a court of inquiry or a military board.

(d) **AUDIOTAPE OR VIDEOTAPE.**—Sworn testimony that—

(1) is recorded by audiotape, videotape, or similar method; and

(2) is contained in the duly authenticated record of proceedings of a court of inquiry;

is admissible before a court-martial, military commission, court of inquiry, or military board, to the same extent as sworn testimony may be read in evidence before any such body under subsection (a), (b), or (c).

See 2016 Amendment notes below.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
850(a)	50:625(a).	May 5, 1950, ch. 169, §1
850(b)	50:625(b).	(Art. 50), 64 Stat. 124.
850(c)	50:625(c).	

In subsections (a) and (b), the word “commissioned” is inserted for clarity.

AMENDMENTS

2016—Pub. L. 114-328, § 5232(b), amended section catchline generally, substituting “Admissibility of sworn testimony from records of courts of inquiry” for “Admissibility of records of courts of inquiry”.

Subsec. (a). Pub. L. 114-328, § 5232(c)(1), inserted heading.

Subsec. (b). Pub. L. 114-328, § 5232(c)(2), inserted heading.

Subsec. (c). Pub. L. 114-328, § 5232(c)(3), inserted heading.

Subsec. (d). Pub. L. 114-328, § 5232(a), added subsec. (d).

2006—Subsec. (a). Pub. L. 109-366 inserted last sentence.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328, set out as a note under section 801 of this title.

§ 850a. Art. 50a. Defense of lack of mental responsibility

(a) It is an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

(b) The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

(c) Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge, or the president of a court-martial without a military judge, shall instruct the members of the court as to the defense of lack of mental responsibility

under this section and charge them to find the accused—

(1) guilty;

(2) not guilty; or

(3) not guilty only by reason of lack of mental responsibility.

(d) Subsection (c) does not apply to a court-martial composed of a military judge only. In the case of a court-martial composed of a military judge only, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall find the accused—

(1) guilty;

(2) not guilty; or

(3) not guilty only by reason of lack of mental responsibility.

(e) Notwithstanding the provisions of section 852 of this title (article 52), the accused shall be found not guilty only by reason of lack of mental responsibility if—

(1) a majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or

(2) in the case of a court-martial composed of a military judge only, the military judge determines that the defense of lack of mental responsibility has been established.

(Added Pub. L. 99-661, div. A, title VIII, § 802(a)(1), Nov. 14, 1986, 100 Stat. 3905; Pub. L. 114-328, div. E, title LVII, § 5233, Dec. 23, 2016, 130 Stat. 2915.)

AMENDMENT OF SUBSECTION (c)

Pub. L. 114-328, div. E, title LVII, § 5233, title LXIII, § 5542, Dec. 23, 2016, 130 Stat. 2915, 2967, provided that, effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, subsection (c) is amended by striking “, or the president of a court-martial without a military judge,”. See 2016 Amendment note below.

AMENDMENTS

2016—Subsec. (c). Pub. L. 114-328, in introductory provisions, struck out “, or the president of a court-martial without a military judge.” after “the military judge”.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328, set out as a note under section 801 of this title.

EFFECTIVE DATE

Pub. L. 99-661, div. A, title VIII, § 802(b), Nov. 14, 1986, 100 Stat. 3906, provided that: “Section 850a of title 10, United States Code, as added by subsection (a)(1), shall apply only to offenses committed on or after the date of the enactment of this Act [Nov. 14, 1986].”

§ 851. Art. 51. Voting and rulings

(a) Voting by members of a general or special court-martial on the findings and on the sen-