

to Pub. L. 114-328, §5541(5). See 2016 Amendment note below.

Pub. L. 115-91, div. A, title V, §531(f)(3), Dec. 12, 2017, 131 Stat. 1385, added item 858a and struck out former item 858a “Sentences: reduction in enlisted grade upon approval”.

2016—Pub. L. 114-328, div. E, title LXIII, §5541(5), Dec. 23, 2016, 130 Stat. 2966, as amended by Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, substituted “Sentencing” for “Maximum and minimum limits” in item 856 and struck out items 856a “Art. 56a. Sentence of confinement for life without eligibility for parole” and 857a “Art. 57a. Deferment of sentences”.

2013—Pub. L. 113-66, div. A, title XVII, §1705(a)(2)(B), Dec. 26, 2013, 127 Stat. 959, substituted “Maximum and minimum limits” for “Maximum limits” in item 856.

1997—Pub. L. 105-85, div. A, title V, §581(a)(2), Nov. 18, 1997, 111 Stat. 1760, added item 856a.

1996—Pub. L. 104-106, div. A, title XI, §§1122(a)(2), 1123(b), Feb. 10, 1996, 110 Stat. 463, 464, added items 857a and 858b.

1960—Pub. L. 86-633, §1(2), July 12, 1960, 74 Stat. 468, added item 858a.

§ 855. Art. 55. Cruel and unusual punishments prohibited

Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

(Aug. 10, 1956, ch. 1041, 70A Stat. 56.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
855	50:636.	May 5, 1950, ch. 169, §1 (Art. 55), 64 Stat. 126.

The word “may” is substituted for the word “shall”.

§ 856. Art. 56. Maximum and minimum limits

(a) The punishment which a court-martial may direct for an offense may not exceed such limits as the President may prescribe for that offense.

(b)(1) While a person subject to this chapter who is found guilty of an offense specified in paragraph (2) shall be punished as a general court-martial may direct, such punishment must include, at a minimum, dismissal or dishonorable discharge, except as provided for in section 860 of this title (article 60).

(2) Paragraph (1) applies to the following offenses:

(A) An offense in violation of subsection (a) or (b) of section 920 of this title (article 120(a) or (b)).

(B) Rape and sexual assault of a child under subsection (a) or (b) of section 920b of this title (article 120b).

(C) Forcible sodomy under section 925 of this title (article 125).

(D) An attempt to commit an offense specified in subparagraph (A), (B), or (C) that is punishable under section 880 of this title (article 80).

(Aug. 10, 1956, ch. 1041, 70A Stat. 56; Pub. L. 113-66, div. A, title XVII, §1702(a)(1), (2)(A), Dec. 26, 2013, 127 Stat. 959; Pub. L. 114-328, div. E, title

LVIII, §5301(a), Dec. 23, 2016, 130 Stat. 2919; Pub. L. 115-91, div. A, title V, §531(e), Dec. 12, 2017, 131 Stat. 1385.)

AMENDMENT OF SECTION

Pub. L. 115-91, div. A, title V, §531(e), (p), Dec. 12, 2017, 131 Stat. 1385, 1388, provided that, effective immediately after the amendment made by section 5301(a) of Pub. L. 114-328, set out below, takes effect as provided for in section 5542 of that Act, subsection (d) of this section is amended—

(1) in the matter preceding subparagraph (A), by inserting after “concerned,” the following: “and consistent with standards and procedures set forth in regulations prescribed by the President,”; and

(2) in subparagraph (B), by inserting before the period at the end the following: “, as determined in accordance with standards and procedures prescribed by the President”.

See 2017 Amendment notes below.

Pub. L. 114-328, div. E, title LVIII, §5301(a), title LXIII, §5542, Dec. 23, 2016, 130 Stat. 2919, 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, this section is amended to read as follows:

§ 856. Art. 56. Sentencing

(a) SENTENCE MAXIMUMS.—The punishment which a court-martial may direct for an offense may not exceed such limits as the President may prescribe for that offense.

(b) SENTENCE MINIMUMS FOR CERTAIN OFFENSES.—(1) Except as provided in subsection (d) of section 853a of this title (article 53a), punishment for any offense specified in paragraph (2) shall include dismissal or dishonorable discharge, as applicable.

(2) The offenses referred to in paragraph (1) are as follows:

(A) Rape under subsection (a) of section 920 of this title (article 120).

(B) Sexual assault under subsection (b) of such section (article).

(C) Rape of a child under subsection (a) of section 920b of this title (article 120b).

(D) Sexual assault of a child under subsection (b) of such section (article).

(E) An attempt to commit an offense specified in subparagraph (A), (B), (C), or (D) that is punishable under section 880 of this title (article 80).

(F) Conspiracy to commit an offense specified in subparagraph (A), (B), (C), or (D) that is punishable under section 881 of this title (article 81).

(c) IMPOSITION OF SENTENCE.—

(1) IN GENERAL.—In sentencing an accused under section 853 of this title (article 53), a court-martial shall impose punishment that is sufficient, but not greater than necessary, to promote justice and to maintain good order and discipline in the armed forces, taking into consideration—

(A) the nature and circumstances of the offense and the history and characteristics of the accused;