

1983—Pub. L. 98-209, §§5(a)(2), (b)(2), (c)(2), (h)(2), 6(d)(2), 7(a)(2), Dec. 6, 1983, 97 Stat. 1397, 1398, 1400-1402, substituted “Post-trial Procedure and Review of Courts-Martial” for “Review of Courts-Martial” as subchapter heading, “Action by the convening authority” for “Initial action on the record” in item 860, “Waiver or withdrawal of appeal” for “Same—General court-martial records” in item 861, “Appeal by the United States” for “Reconsideration and revision” in item 862, “Review by a judge advocate” for “Approval by the convening authority” in item 864, and “Disposition of records” for “Disposition of records after review by the convening authority” in item 865.

1981—Pub. L. 97-81, §2(c)(2), Nov. 20, 1981, 95 Stat. 1087, added item 876a.

1968—Pub. L. 90-632, §2(25), Oct. 24, 1968, 82 Stat. 1341, substituted “Court of Military Review” for “board of review” in item 866 (article 66).

§ 859. Art. 59. Error of law; lesser included offense

(a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
859(a)	50:646(a).	May 5, 1950, ch. 169, §1
859(b)	50:646(b).	(Art. 59), 64 Stat. 127.

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

§ 860. Art 60. Post-trial processing in general and special courts-martial

(a) STATEMENT OF TRIAL RESULTS.—(1) The military judge of a general or special court-martial shall enter into the record of trial a document entitled “Statement of Trial Results”, which shall set forth—

- (A) each plea and finding;
- (B) the sentence, if any; and
- (C) such other information as the President may prescribe by regulation.

(2) Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

(b) POST-TRIAL MOTIONS.—In accordance with regulations prescribed by the President, the military judge in a general or special court-martial shall address all post-trial motions and other post-trial matters that—

- (1) may affect a plea, a finding, the sentence, the Statement of Trial Results, the record of trial, or any post-trial action by the convening authority; and
- (2) are subject to resolution by the military judge before entry of judgment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 57; Pub. L. 98-209, §5(a)(1), Dec. 6, 1983, 97 Stat. 1395; Pub. L. 99-661, div. A, title VIII, §806(a)–(c), Nov. 14, 1986, 100 Stat. 3908, 3909; Pub. L. 104-106, div. A, title XI, §1132, Feb. 10, 1996, 110 Stat. 464; Pub. L. 113-66, div. A, title XVII, §§1702(b), (c)(1), 1706,

Dec. 26, 2013, 127 Stat. 955-957, 960; Pub. L. 113-291, div. A, title V, §531(a)(1)–(3), (5), Dec. 19, 2014, 128 Stat. 3362, 3363; Pub. L. 114-328, div. E, title LIX, §5321, Dec. 23, 2016, 130 Stat. 2924.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
860	50:647.	May 5, 1950, ch. 169, §1
		(Art. 60), 64 Stat. 127.

The word “a” is substituted for the word “every”. The word “by” before the words “any officer” is omitted as surplusage. The word “person” is substituted for the word “officer” before the words “who convened”, since, under sections 823 and 824 of this title (articles 23 and 24), noncommissioned officers who are “officers in charge” may convene special and summary courts-martial.

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to action by the convening authority.

2014—Subsec. (c)(3)(A). Pub. L. 113-291, §531(a)(1)(A), inserted “and may be taken only with respect to a qualifying offense” after “is not required”.

Subsec. (c)(3)(B)(i). Pub. L. 113-291, §531(a)(1)(B), struck out “, other than a charge or specification for a qualifying offense,” after “specification” and inserted “, but may take such action with respect to a qualifying offense” before semicolon.

Subsec. (c)(3)(B)(ii). Pub. L. 113-291, §531(a)(1)(C), struck out “, other than a charge or specification for a qualifying offense,” after “to a charge or specification” and inserted “, but may take such action with respect to a qualifying offense” before period.

Subsec. (c)(3)(C). Pub. L. 113-291, §531(a)(2), struck out “(other than a qualifying offense)” after “offense”.

Subsec. (c)(4)(C)(ii). Pub. L. 113-291, §531(a)(5), inserted “pursuant to section 856(b) of this title (article 56(b))” after “applies”.

Subsec. (d)(2)(A)(i). Pub. L. 113-291, §531(a)(3)(A)(i), inserted “, if applicable” before semicolon.

Subsec. (d)(2)(A)(ii). Pub. L. 113-291, §531(a)(3)(A)(ii), struck out “if applicable,” before “the date”.

Subsec. (d)(5). Pub. L. 113-291, §531(a)(3)(B), substituted “harm” for “loss”.

2013—Subsec. (b)(1). Pub. L. 113-66, §1706(c), substituted “subsection (e)” for “subsection (d)”.

Subsec. (b)(2). Pub. L. 113-66, §1702(c)(1)(A), substituted “or another person authorized to act under this section” for “or other person taking action under this section”.

Subsec. (b)(5). Pub. L. 113-66, §1706(b), added par. (5).

Subsec. (c). Pub. L. 113-66, §1702(b), amended subsec. (c) generally. Prior to amendment, text related to the command prerogative of the convening authority to modify the findings and sentence of a court-martial.

Subsec. (d). Pub. L. 113-66, §1706(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 113-66, §1702(c)(1)(B), substituted “or another person authorized to act under this section” for “or other person taking action under this section” in first sentence.

Subsec. (e). Pub. L. 113-66, §1706(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 113-66, §1702(c)(1)(C), substituted “or another person authorized to act under this section” for “or other person taking action under this section, in his sole discretion.”

Subsec. (e)(3). Pub. L. 113-66, §1702(c)(1)(D), substituted “or another person authorized to act under this section” for “or other person taking action under this section”.

Subsec. (f). Pub. L. 113-66, §1706(a)(1), redesignated subsec. (e) as (f).

1996—Subsec. (b)(1). Pub. L. 104-106 inserted after first sentence “Any such submission shall be in writing.”