

## § 884.1

## 32 CFR Ch. VII (7–1–10 Edition)

### § 884.1 Authority.

A general court martial convening authority (GCMCA) may authorize delivery of a member of that command to Federal or state civil authorities. The GCMCA may delegate this authority to an installation or equivalent commander. See AFPD 51–10, Making Military Personnel, Employees, and Dependents Available to Civilian authorities,<sup>1</sup> paragraphs 8 and 9 for sources of authority.

### § 884.2 Assigned responsibilities.

(a) The Under Secretary of Defense (USD), Personnel & Readiness (P&R), is the denial authority for all requests for return of members to the United States for delivery to civilian authorities when the request falls under § 884.9(e).

(b) The Air Force Judge Advocate General (TJAG) may approve requests that fall under § 884.9(e) or recommend denial of such requests. TJAG or a designee may approve or deny:

(1) Requests for return of members to the United States for delivery to civilian authorities when the request falls under § 884.9(f).

(2) Requests for delays of up to 90 days completing action on requests for return of members to the United States for delivery to civilian authorities.

(c) The Air Force Legal Services Agency's Military Justice Division (HQ AFLSA/JAJM), 172 Luke Avenue, Suite 343, Bolling AFB, DC 20332–5113, processes requests for return of members to the United States for delivery to civilian authorities and notifies requesting authorities of decisions on requests. HQ AFLSA/JAJM completes action on requests within 30 days after receipt of the request, unless a delay is granted; they send all reports and notifications to USD/P&R and to the DoD General Counsel (DoD/GC), as required by this part; and they handle all communications with requesters.

### § 884.3 Placing member under restraint pending delivery.

Continue restraint only as long as is reasonably necessary to deliver the

<sup>1</sup>Air Force publications may be obtained through NTIS, 5285 Port Royal Road, Springfield, VA 22161, if not available online at <http://afpubs.hq.af.mil>.

member to civilian authorities. See AFPD 51–10, paragraph 5. To determine whether probable cause exists and whether a reasonable belief exists that restraint is necessary, the commander should refer to the Manual for Courts-Martial (MCM), 1984, specifically, Rules for Courts-Martial (RCM) 305(h)(2)(B), and the discussion following it. The requirement for the formal review of restraint found in MCM 1984, RCM 305, and AFI 51–201, Military Justice Guide,<sup>2</sup> does not apply.

### § 884.4 Release on bail or recognition.

(a) Before delivering an Air Force member to a civilian authority, the commander or designee directs the member in writing to report to a designated Air Force unit, activity, or recruiting office for further instructions in the event the civilian authority releases the member (see § 884.17). The commander designates the member's unit, if the civilian authority is in the immediate vicinity of the member's base. The commander advises the designated Air Force unit, activity, or recruiting office of the situation. Once the member has been released and has reported to the designated authority, it immediately sends the member's name, rank, Social Security number (SSN), organization, and other pertinent information to the member's commander, who then provides further instructions.

(b) The member's commander notifies the military personnel flight (MPF) of the situation. In turn, the MPF provides an information copy to the Air Force Personnel Center (AFPC) assignment office responsible for the member's Air Force specialty code (AFSC), as listed in AFMAN 36–2105, Officer Classification,<sup>3</sup> or AFMAN 36–2108, Airman Classification.<sup>3</sup> If contact cannot be made with the member's commander, the Air Force unit, activity, or recruiting office previously designated by the commander obtains instructions from HQ AFPC/DPMARS or DPMRPP2.

<sup>2</sup>See footnote in § 884.1.

<sup>3</sup>See footnote in § 884.1.