

Command Authority

A case for conferring SPCM convening authority onto Marine Corps Embassy Security Group Region Commanding Officers

by LtCol Joseph E. Galvin

Command in the Marine Corps bestows upon the selected commanders special trust and confidence to uphold the standards and traditions upon which our ethos is established: the cornerstone of our institution. Gen Clifton B. Cates, the 19th Commandant of the Marine Corps, professed that the “inherent ability to control and direct” is one of the intangible leadership measures.¹ The very essence of control for a commander is the ability to utilize the entire spectrum of authority bestowed upon the position, justifiably in a fair and unbiased manner. To this end, the Marine Corps Embassy Security Group (MCESG) region commanding officers fail to possess the full continuum of disciplinary authority. They do not possess special courts-martial (SPCM) convening authority despite holding a lieutenant colonel-level command position. Currently, the MCESG commanding officer controls this SPCM authority because the regions are not recognized as being on par with battalion-sized commands. Conferring SPCM convening authority upon MCESG region commanding officers empowers them to command with a complete set of leadership tools that they are rightfully entitled to.

The realization that a commander possesses the full range of leadership weapons at his disposal emanates from the first two Marine Corps’ leadership traits highlighted in the iconic acronym: JJDDITIEBUCKLE. “Justice,” as defined by *RP 0103, Principles of Marine Corps Leadership*, involves, “giving reward and punishment according to the merits of the case in question. The ability to administer a system of rewards and punishments impartially and consistently.”² It is crucial for good order and discipline as well as or being

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able to demonstrate justice and equality among those being commanded that a commander exact fairness in the most appropriate venue. Similarly, the second leadership trait, “judgment” is defined as, “The ability to weigh facts and possible courses of action in order to make sound decisions.”³ To exercise disciplined judgment, a commander must possess the appropriate venue to enact a course of action and not be unduly hampered by artificial restraints on rightful command authorities—such as the right to convene a SPCM.

The privilege for an lieutenant colonel-level commander to convene SPCM is found in Rule 504(a)(2) and Article 23(a) of *Manual for Courts-Martial* where it asserts that SPCMs can be convened by the “commanding officer of any Marine brigade, regiment, detached battalion, or corresponding unit.”⁴ This authority is only restricted if specifically limited by a superior competent authority; currently, MCESG region commanding officers are not allowed to convene SPCMs because of this restriction.

Arguing that a “region” is not equivalent to a “detached battalion, or corresponding unit” often falls on deaf ears. Rule 504(a)(2)(A) defines “separate and detached” as, “isolated or removed from the immediate disciplinary control of a superior in such a manner as to make its commander the person held by superior commander primarily responsible for discipline.”⁵ Although not specifically delineated in the *Manual for Courts-Martial* or the *Judge Advocate*

General Instruction 5800.7F (Manual of the Judge Advocate General), regions within MCESG are analogous to “detached battalions” or “corresponding units” because of the similarities they possess.⁶

First, both region- and battalion-level commanding officers are lieutenant colonel-level commands selected by the Command Screening Board (CSB). The CSB examines officers to ensure that each one of those selected for command has the leadership qualities and aptitude to lead Marines and make decisions on difficult matters, including disciplinary issues. There are no limitations placed upon selected commanders by the CSB that regulate how a commander controls his unit and individual Marines. Yet, quite the opposite when selected by the CSB, each commander is given the special trust and confidence based on years of proven experience in judgment to use all of the available “command and control” tools to lead the selected unit. Inhibiting a commander’s ability to enact righteous discipline techniques based on a standardized imposed limitation contradicts the CBS’s basis for selecting the region commanders.

Second, each battalion command and region command possess individualistic monitored command codes (MCC) acknowledging their separate and independent command and control and structure. Recognizing the region as a MCC command demonstrates that the region commanding officer is responsible for administrative and dis-

ciplinary control over the personnel in the unit. With a separate and distinct MCC, commands bear the responsibility to accurately account for every Marine in the unit. Ensuring proper accountability for our Marines encompasses the idea of holding each one the Corps' standards of good order and discipline to safeguard the credibility of the values of which we serve and fight to uphold.

Third, MCESG regional headquarters are on par with battalion/squadron commands in being recognized as a unit that rates Type III, class I Command Battle Standards and Organizational Standards in accordance with *MCO 5750.1H, Manual for the Marine Corps Historical Program*, (Washington, DC: 2009).⁷ As of 30 January 2018, HQMC officially recognized MCESG regions' operational mission and military significance by conferring upon them the distinct classification that every other documented battalion/squadron retains. With this affiliation, regions are entitled to certificates of lineage, battle honors and colors (including campaign and service streamers), and unit awards. Acknowledging the parity between the battalions and the regions, HQMC identifies MCESG regions as possessing a level of status and authority to command that demonstrates its ability to handle SPCM convening authority responsibilities.

Finally, battalion commanding officers retain SPCM convening authority when their companies are dispersed for a variety of reasons to include deployments and training. For example, MARSOC battalions continually have companies not co-located with the battalion headquarters, yet still preserve SPCM convening authority. Similarly, while region commanding officers command numerous detachments dispersed throughout the world, they are still able to employ proper SPCM protocol. It is archaic to think that today's command and control is fixated in one location. With the Marine Corps advocating "maneuver warfare," commanders at all levels exact disciplinary tools and venues available throughout the area of responsibility—wherever their Marines are located. Commanders must have



MCESG Marines on the pistol range. (Photo by LCpl Quinn Hurt.)

the authority to administer justice on dispersed detachments and units that operate outside the command headquarters to ensure integrity and cohesion. Without the proper leadership instruments, good order and discipline dissipates and control is lost.

These regular lieutenant colonel-level battalion commanding officers possess SPCM convening authority; thus, to alleviate any disparity in command, the regions should likewise possess the same authority. All commanding officers should be given the same opportunities to succeed and not be repressed by withholding disciplinary tools. Trust in the commander to use all the command and control instruments should be a blanket entitlement of command until that trust is individually broken.

Parallel attributes with MCESG region commands and battalion commands are not the only justification for conferring SPCM convening authority on region commanding officers. A plethora of other reasons provide ample evidence to bestow this right.

Perhaps most important is that the nine MCESG regions are already "separate and detached commands"⁸ in accordance with paragraph 0723 of the *U.S. Navy Regulations*, which by its designation and in conjunction with Article 23 of the *Manual for Courts-Martial* permits the commander to

convene SPCM.⁹ Furthermore, this inherent command authority extends to additional rights that the region commanders already possess and utilize like promotion authority, demotion authority, non-judicial punishment authority, and all the others rights conferred on a commander.

The SPCM process involves a multitude of administrative measures that encompass stringent deadlines as well as the requisite knowledge in a command to accomplish these timely tasks and lies with the administrative MOS. All of the enlisted Marines in every region headquarters are administrative specialists with not only an understanding of the legal process but also a much more intimate knowledge with the specific facts of the case and the personnel with whom to communicate at the lower unit level. Likewise, the region commanding officer has a better understanding of the facts and circumstances of the case than those at the group level and can work with his immediate administrative specialists to ensure justice is served.

Region commanders are profoundly involved in the administrative and disciplinary control of the MSG Marines and should have all the requisite command tools to enforce the standards which they are duty-bound to uphold. Ensuring the Marines are operationally sound to protect Embassy personnel and classi-

fied information includes knowing how to enforce standards and hold Marines accountable. The region commanding officer, just like any other commanding officer, has a better understanding and more intimate knowledge of his Marines than higher headquarters; hence, he can better discern the appropriate steps to take in that particular SPCM process. For example, the commanding officer understands the atmosphere of the detachment where the accused resides and knows how to handle the specific circumstances of the Marine. Knowledge of the case and Marines involved creates a more efficient and effective legal process.

This administrative and disciplinary control at stake is more evident than ever with the recent updated publication of the *Marine Corps Separation and Retirement Manual* (MARCORSEPMAN). The edited paragraph 1002 redefines “commanding officer” to now include one that “exercises *special court-martial convening authority* and primary command authority over a military organization.”¹⁰ This drastic change effectively denies the region commanders the ability to issue and sign formal counselings via paragraph 6105, MARCORSEPMAN. Without the authority to conduct the 6105 counselings, the region commander will not have a formal venue to give notice to a Marine concerning his deficiencies and provide him a reasonable opportunity to correct those deficiencies. Rather, this process would have to be completed by the MCESEG Commander who is unfamiliar with the specifics of the Marine’s shortcomings and detached in distance and time from the Marine, not to mention this process would be required for over 1,900 Marines within MCESEG.

Even though the region headquarters are not located near military legal offices, modern communications allow for ease of the disciplinary procedures to unfold, to include the entire SPCM process, less the actual courts-martial where personal presence for the accused is a fundamental right. Notification of charges, preferral and referral of charges and specifications, and command communications with government counsel is almost entirely executed through

telecommunication mediums and is usually the preferred method by all parties. Regions have the resources and communication mediums to fulfill the obligations necessary to ensure justice is achieved, including safeguarding the rights of the accused.

In assessing the scale of activity appropriate for regiment- and battalion-level commands, the size of the unit is often the basis for determining where some authorities are placed. In this context, the MSG regions and its associated detachments underwent a massive growth and transformation in 2007, and again post-Bengazi, by adding over 1,000 congressionally-mandated MSGs within the entire MCESEG. MCESEG grew to a regimental-level size while the regions inflated to battalion-level units. All of this growth is captured in the Total Force Structure and has Commandant-approved command slated billets. Currently, there are over 1,900 MSGs operationally deployed at 181 posts throughout the world in embassies and consulates in countries, some situated in combat zones and other hazardous areas. In this vein, the MCESEG command is equivalent to a regimental command. Both colonel-level commands have subordinate lieutenant colonel-level commands within their structure. The regimental commander currently has battalion commanders to handle SPCM-level disciplinary matters, which allows for the regimental commander to handle appropriate-level SPCMs within his command and not be consumed with battalion-level matters.

As demonstrated, MCESEG region commanders already share the same leadership selection process, numerous command requirements, and responsibilities to instill good order and discipline on those Marines they lead. HQMC has fully recognized the status of region commands and has bestowed upon them the level of entitlement of infantry battalions and squadrons. Confering this authority upon regions is unequivocally the next logical step. Modern communications, administrative expertise, command-specific knowledge of the circumstances, and command appropriate level of involvement provide amplifying justifications

for region commands to possess SPCM convening authority. SPCM convening authority empowers region commanding officers to command with a complete set of leadership tools to aid in instilling good order and discipline within the unit. Region commanding officers should not be encumbered with discriminatory command practices but rather allowed to possess full command authority.

Note

1. Headquarters Marine Corps, *RP 0103, Principles of Marine Corps Leadership*, (Washington DC: 2008).
2. Ibid.
3. Ibid.
4. Department of Defense, *Manual for Courts-Martial*, (Washington, DC: 2018).
5. Ibid.
6. *Manual for Courts-Martial*; and Department of Defense, *Judge Advocate General Instruction 5800.7F*, (Washington, DC: 2012)
7. Headquarters Marine Corps, *Unit Recognition for Elements of Marine Corps Embassy Security Group*, (Washington, DC: 2017).
8. Department of the Navy, *U.S. Navy Regulations*, (Washington, DC: 1990)
9. *Manual for Courts-Martial*.
10. Headquarters Marine Corps, *Marine Corps Separation and Retirement Manual*, (Washington DC: 2019)

>Author’s note: The views expressed in this commentary are those of the author and do not necessarily reflect the position or policy of the Department of Defense or the United States Government.

