



# **NATIONAL GUARD STATUS, ROLES, AND CURRENT ISSUES**

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# Agenda

## **This Briefing Focuses on Title 32 Authorities and Status**



## Current Militia Concept – Federal Level

- 10 U.S.C. 311: “The militia of the United States consists of all able-bodied males....and of female citizens of the United States who are members of the National Guard”
- “Unlike armies and navies, which Congress is given the power to create, the militia is assumed by Article I already to be in existence. Congress is given the power....not to create, but to organize it....although the militia consists of all able-bodied men, the federally organized militia may consist of a subset of them.” *D.C. v. Heller*, 554 U.S. 570, 596 (2008).



# Current Militia Concept – Federal Level

## Classes of Militia:

- Organized (NG and Naval Militia)
  - 10 U.S.C. 101(c)(2): “The term ‘Army National Guard’ means that part of the **organized militia** of the several States...”
- Unorganized (members of the militia who are not NG or NM)



## Current Militia Concept – State Level (Maryland)

- Organized Militia consists of:
  - Nonfederal National Guard
  - Inactive NG
  - Maryland Defense Force
- Unorganized Militia
  - “Able-bodied individuals” who “are not regularly enlisted or commissioned in the organized militia.” MD Public Safety Code secs.13-202, 203



## **In essence there are actually two National Guards.**

- The Army/Air National Guard is that part of the organized militia of the several states that is trained, officers appointed under Section 8, Article I of the Constitution, organized and equipped at federal expense, is federally recognized, and is governed by Title 32
- The Army and Air National Guards of the United States are reserve components of the Army and Air Force, respectively, that consist of federally recognized units and members of the ARNG/ANG who are reserves of the Army/Air Force. They are governed by Title 10.

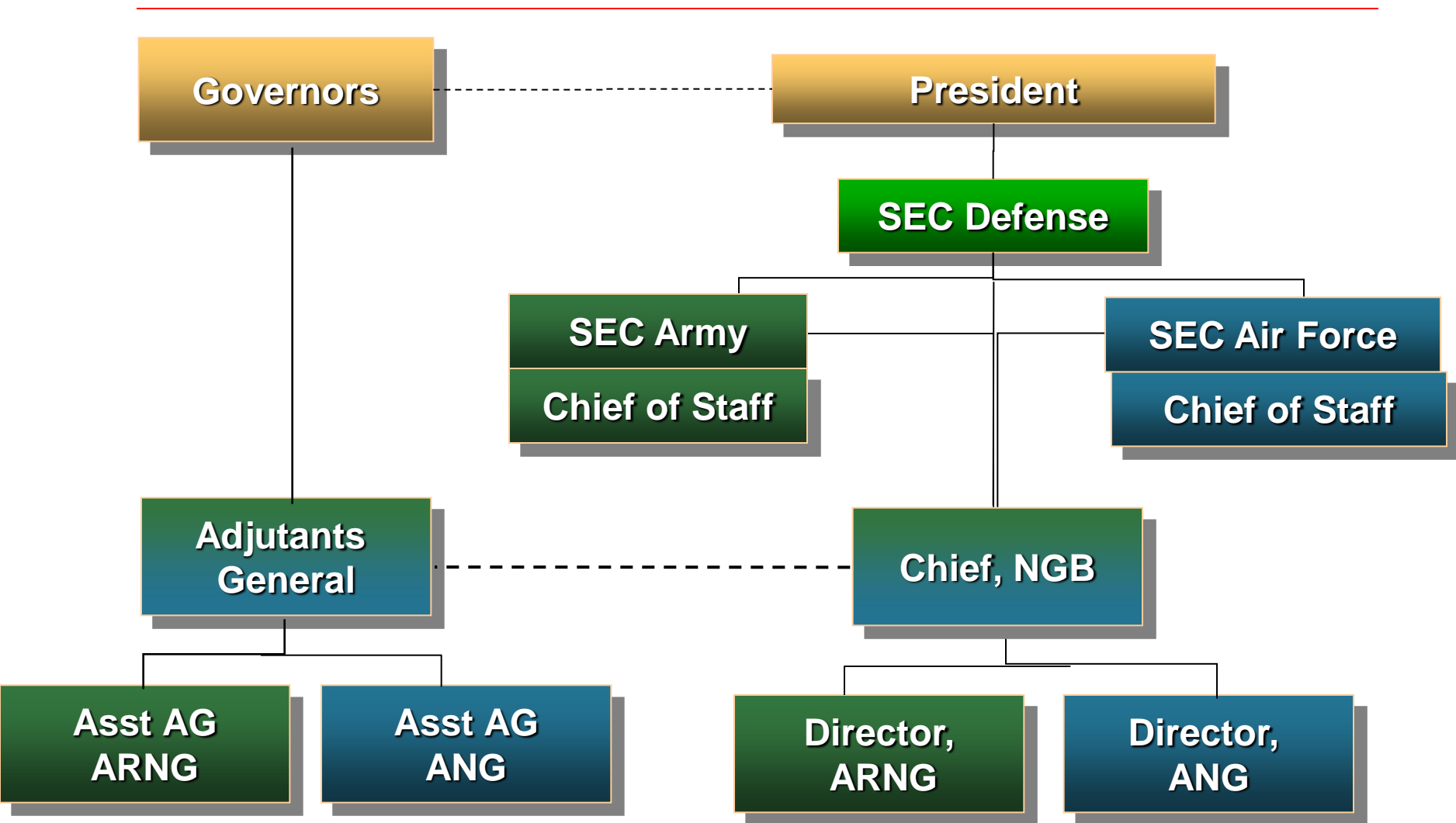


## Perpich v. DoD, 496 U.S. 334 (1990)

- “In a sense, all of them [NG members] now must keep three hats in their closets – a civilian hat, a state militia hat, and an army hat – only one of which is worn at any one time.” Perpich, 496 U.S. at 348.
- HOWEVER, in 2004 Congress amended 32 U.S.C. 325 to allow “dual status” for NG members
- And pre-existing authority (32 U.S.C. 315) allows an active component AR/AF officer to accept a commission in the NG without losing his/her active status



# Current State/Fed C2



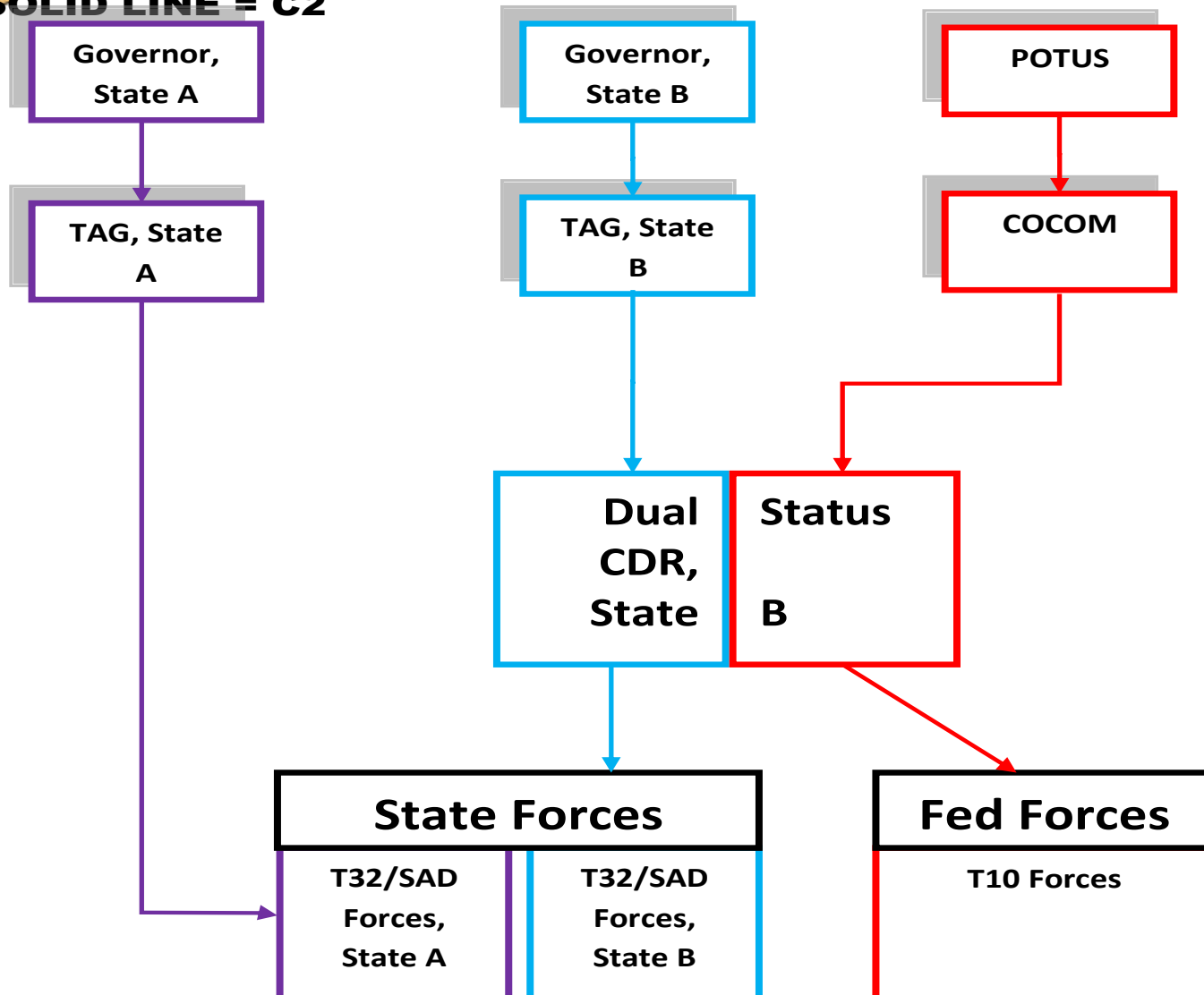
**Dual Status IAW 32 USC 315 & 325 is consistent with this model**





# Dual Status C2 Concept

**SOLID LINE = C2**



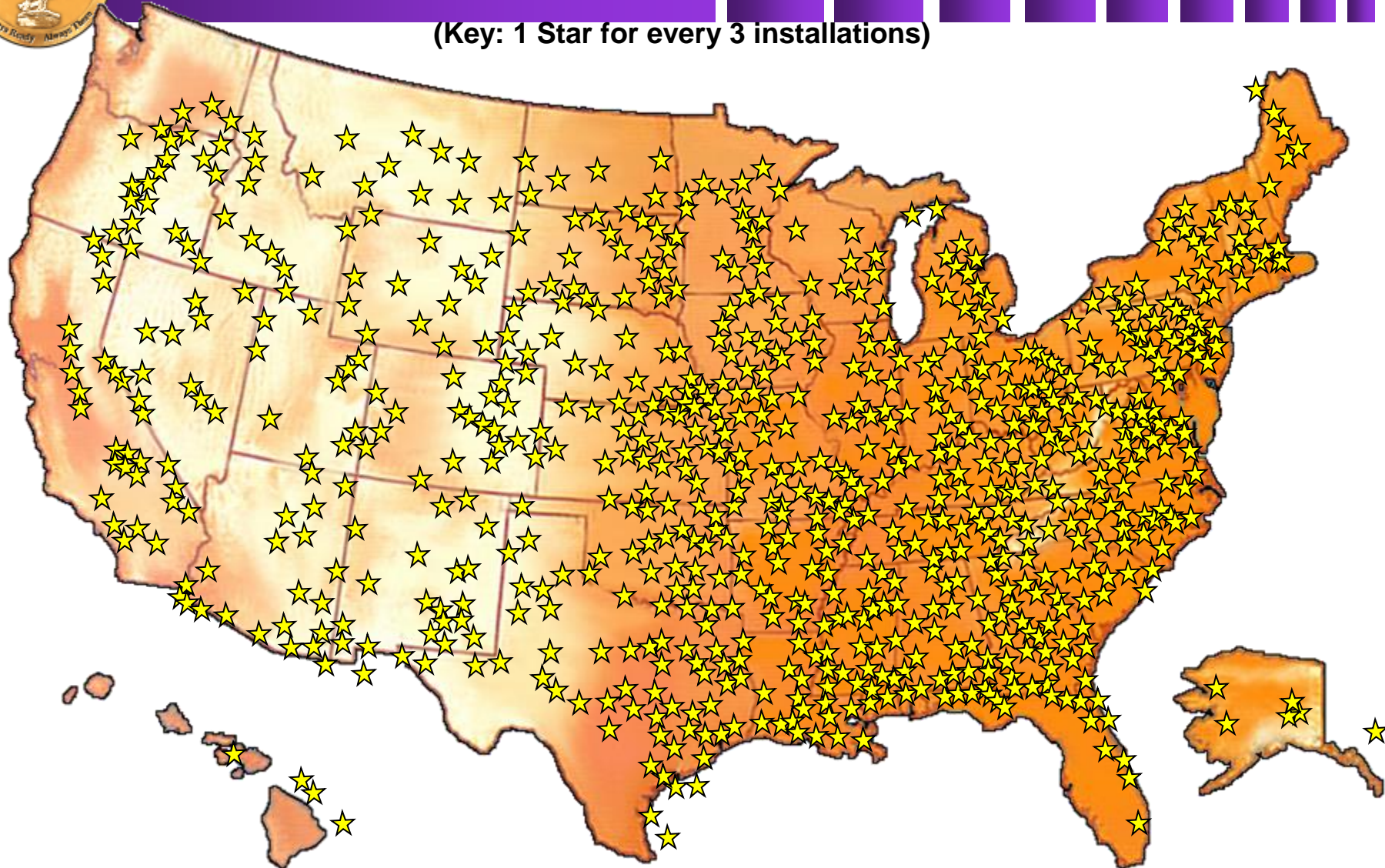


# NG DOMOPS Overview



# Community Based Force

(Key: 1 Star for every 3 installations)



**3200 ARNG Facilities, 88 ANG Bases, 2700 Communities**  
**54 States and Territories**



# **United States Army and Air National Guard FY13 Domestic Response**

**Last Updated:**

**30 October 2013**



# Current NG Authorities

- **The NG can provide assistance in the following ways:**
- **In T32, as an operational mission whose primary purpose is DSCA**
  - Either by statute or by SECDEF authorization
- **In T32, as an incidental benefit to military training or operations**
  - Primary purpose is NOT DSCA
- **In State Active Duty, per State law**
  - Use of DoD equipment subject to DoD policy (ex: UAS)



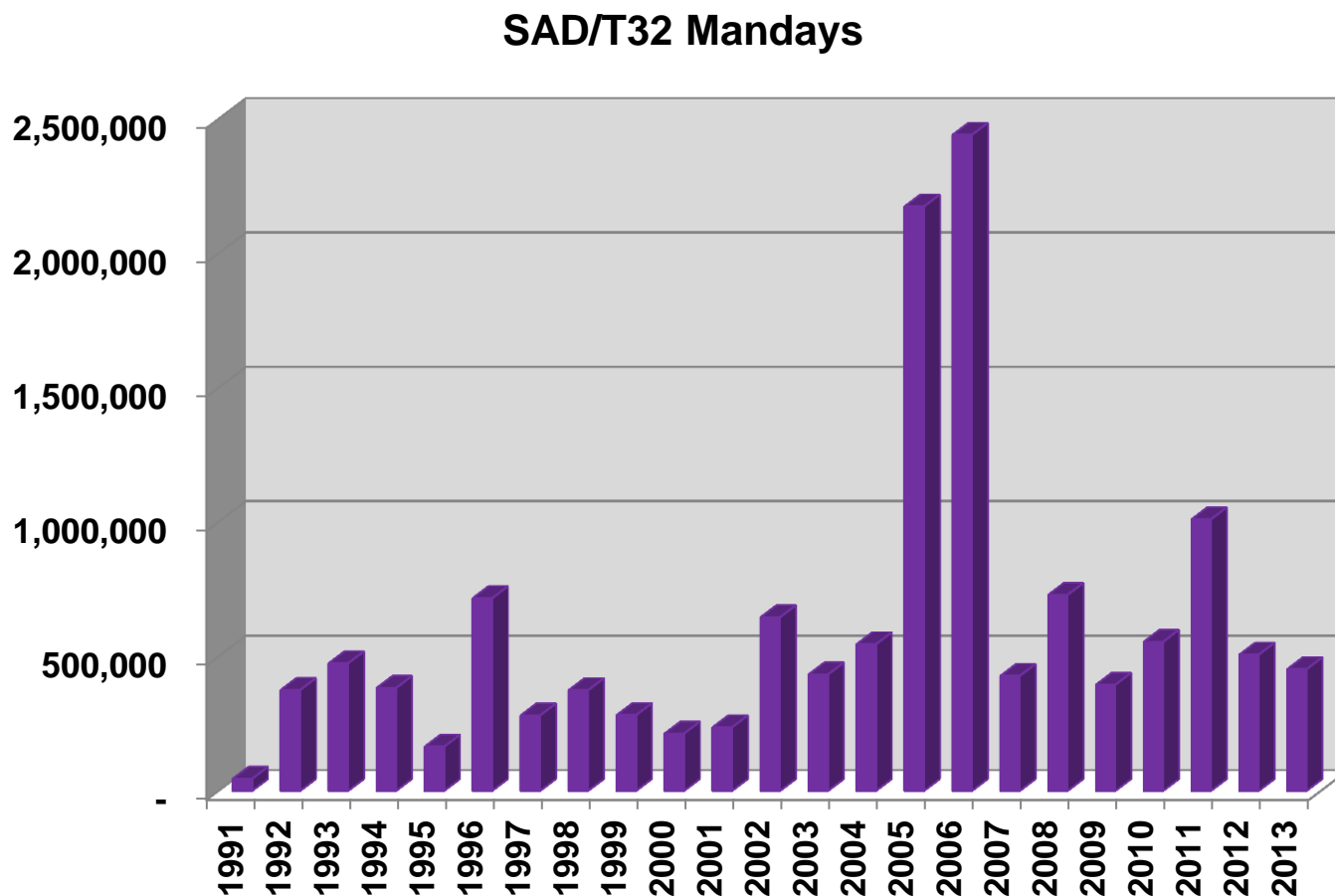
# Current NG Authorities

**The following slide depicts ARNG and ANG SAD/T32 man days in response to natural disasters and excludes ongoing missions such as Civil Support Team standby/response missions, Counter Drug (CD), Youth Challenge, and Air Sovereignty missions.**



# Domestic Ops Army and Air NG Mandays

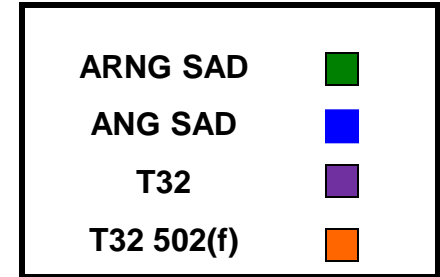
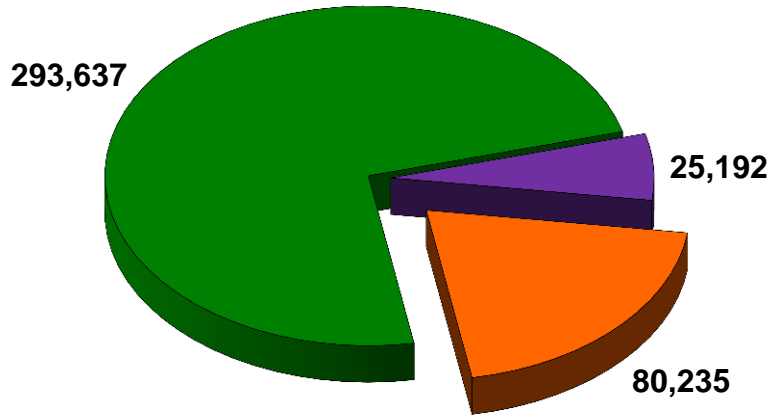
TOTALS	
FY	MDAYS
<b>13</b>	<b>452,082</b>
12	506,208
11	1,009,853
10	554,274
09	394,547
08	728,593
07	427,379
06	2,440,606
05	2,173,980
04	545,202
03	432,663
02	645,419
01	236,179
00	212,896
99	281,275
98	374,115
97	280,265
96	716,237
95	163,996
94	382,596
93	474,218
92	374,966



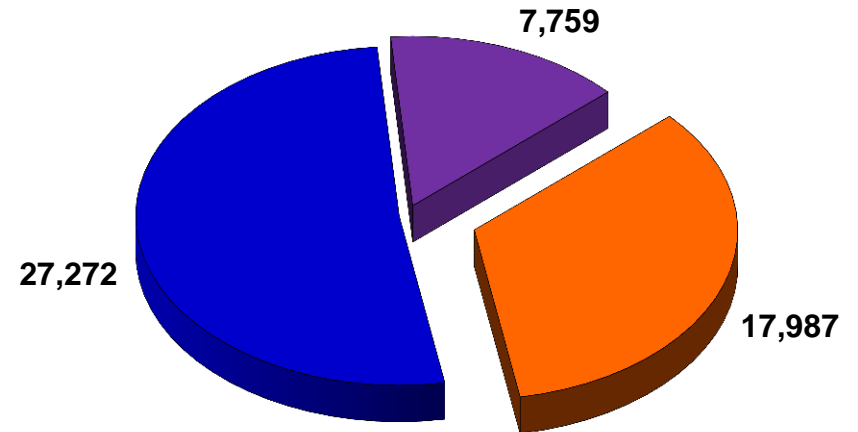


# Domestic Ops Army and Air NG Pay Status Breakout

## ARNG



## ANG

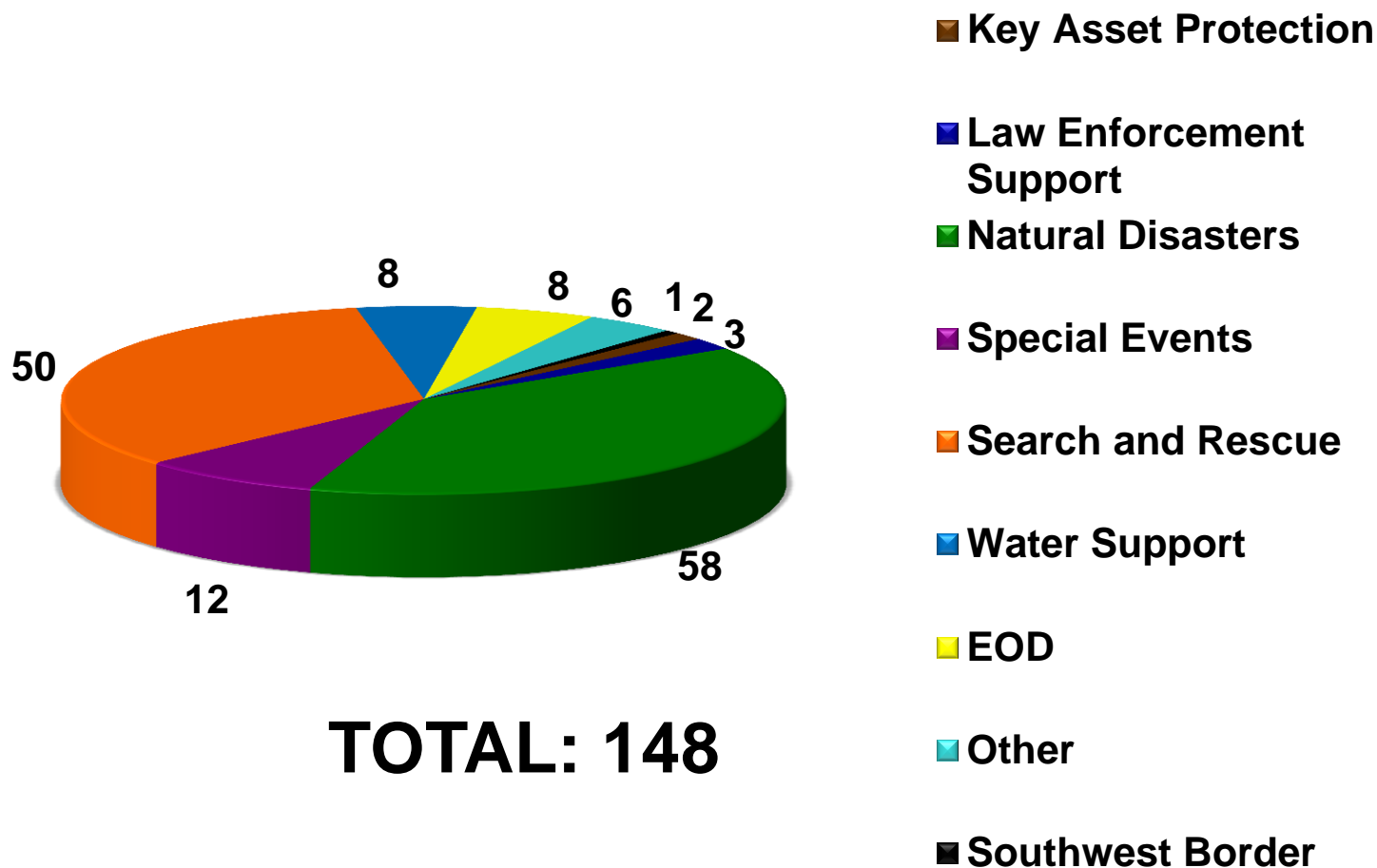






# FY13 Domestic Ops Missions by Category

Mission Total	
FY	CALL UPS
13	148
12	184
11	193
10	404
09	334
08	351
07	432
06	263
05	312
04	269
03	247
02	263
01	312
00	288
99	257
98	308
97	308
96	419
95	450
94	402
93	373
92	322

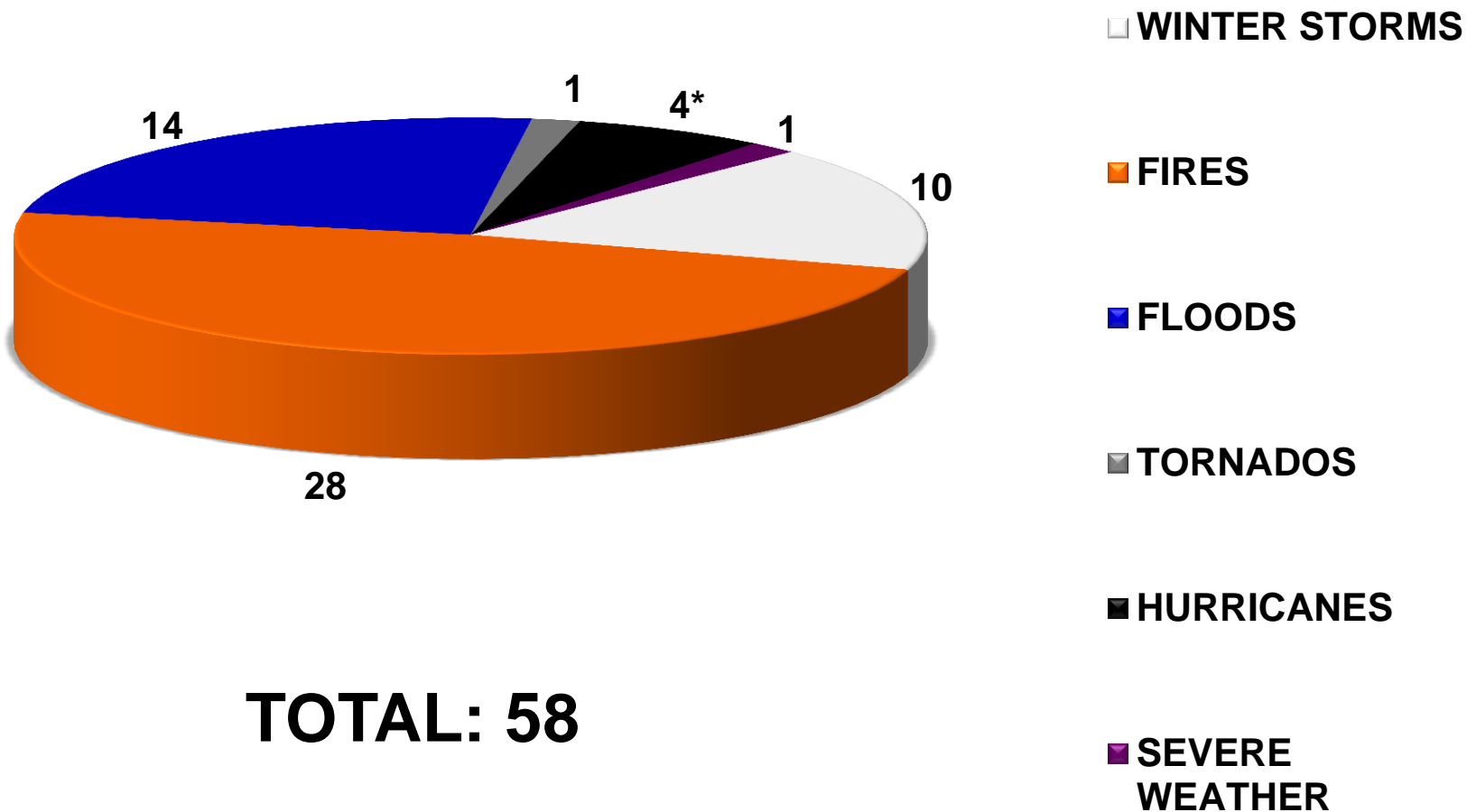


\*Other missions refer to armory support, generator support, structure fires, aviation incident support etc.

Special Events refer to Presidential Inauguration support, National Boy Scout Jamboree, Boston Marathon etc.



# FY13 NG Supported Natural Disasters Breakout



**TOTAL: 58**

\* The named storms supported in FY13 were Hurricane Sandy, Tropical Storms Isaac, Flossie and Andrea.



# FY13 CST Missions Tally

Operational Categories					
Year	Exercise	Response	Stand By	Assist	Total Events
<b>FY13 (57 Teams)</b>	<b>669</b>	<b>126</b>	<b>615</b>	<b>1,054</b>	<b>2,464</b>
FY12 (57 Teams)	676	101	583	1,511	2,871
FY11 (57 Teams)	704	130	504	1,108	2,446
FY10 (57 Teams)	520	144	352	450	1,466
FY09 (55 Teams)	679	100	223	221	1,223
FY08 (53 Teams)	763	70	211	152	1,196
FY07 (49 Teams)	612	47	161	193	1,013
FY06 (42 Teams)	1,027	56	139	292	1,514
FY05 (32 Teams)	747	49	103	211	1,110
FY04 (32 Teams)	-	122	215	931	1,268
FY03 (27 Teams)	-	74	173	690	937
FY02 (27 Teams)	-	189	80	504	773
FY02 (9 Teams)	-	57	37	44	138

\* These totals reflect reports sent to the NGB NGCC. If a team did not report, their mission numbers will not be in this rollup.



## “State Defense Forces”

- **32 U.S.C. 109(c)**
  - Pure state organization – no federal status
  - SDF personnel are prohibited from belonging to the Reserve Component
  - However, SDF members are **NOT** exempt from service in the armed forces



# Questions?

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