



Federal Criminal Trial Starts for Mine Security Boss Hughie Elbert Stover in West Virginia Blast

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 4:23 PM October 24, 2011

Hughie Elbert Stover
(Photo by F. Brian Ferbuson/Beckley, W.Va., Register-Herald)
CBS News on October 24, 2011 released the following:

"Trial starts for mine security boss in W.Va. blast

(AP) BECKLEY, W.Va. — Federal prosecutors said Monday the former security chief at Massey Energy's Upper Big Branch mine where 29 miners died in a 2010 explosion lied to investigators and attempted to destroy related documents in defiance of company orders.

Opening statements were given Monday in U.S. District Court in the trial of Hughie Elbert Stover, 60. It is the first criminal proceeding to come from the nation's deadliest coal mine explosion in decades.

Stover is accused of lying to federal investigators looking into the explosion. An indictment alleges he sought to conceal that he instructed the mine's security guards to announce by radio when federal inspectors were on the property.

"Not only did he train his guards to make the announcement, he enforced the policy," Assistant U.S. Attorney Phil Wright told jurors.

Federal law forbids such advance warnings of spot mine safety checks. Stover had told investigators that mine policy barred this illegal practice, and that he would have fired any guard who violated it, the indictment alleges.

Federal prosecutors say Stover also ordered a subordinate to destroy



thousands of security-related documents that were kept in barracks on the Upper Big Branch property. Two orders had been issued to company employees after the explosion not to destroy the documents.

Defense attorney William Wilmoth argued the charges were the government's rush to justice and that Stover is being used as a scapegoat.

Wilmoth said the company had a practice of clearing out old property from the barracks because several years ago the building's contents were contaminated by sewage.

Among the documents tossed were old computer screens and video-cassette records. Throwing out the security-related documents was simply "a stupid mistake," Wilmoth said.

After the documents were thrown out, Wilmoth noted "each and every one of these documents were retrieved and the government didn't lose anything."

Wilmoth also said the area where the documents were discarded into a trash bin was covered by security cameras and that investigators were in the area at the time. "If he was trying to do that, why did he

involve another person?" Wilmoth told jurors. "Why didn't he try to do it himself? Do those sound like the kind of things someone would intentionally do if they were trying to obstruct an investigation?"

Among the early witnesses called to testify by the government were Kevin Stricklin, MSHA's administrator of coal mine safety and health, and Tim Watkins, an MSHA district manager.

Massey is now owned by Abingdon, Va.-based Alpha Natural Resources."

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Attorney General Eric Holder Speaks at the International Association of Chiefs of Police Annual Conference

(USDOJ: Justice News)

Submitted at 11:03 AM October 24, 2011

"As our nation's Attorney General, as a prosecutor and former judge, and as the brother of a retired police officer, I am extremely grateful – for your service, for

your courage, for your commitment to the objectives that we share, and for your contributions to the achievements that we celebrate this week," said Attorney General Holder.

Utah Man Pleads Guilty for His Role in Procurement Fraud Scheme

(USDOJ: Justice News)

Submitted at 5:05 PM October 24, 2011

Jose Mendez, 50, of Farr West, Utah, pleaded guilty to one count of conspiracy to commit bribery and procurement fraud, one count of bribery and one count of procurement fraud.



William Hochul puts death penalty to frequent test

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 3:39 PM October 24, 2011

Derek Gee / Buffalo New
Buffalo News on October 22, 2011
(updated Oct. 23rd) released the following:

By Dan Herbeck

"U.S. attorney uses federal charge often, unsuccessfully and at a significant cost

It's hard to find a federal prosecutor anywhere in the nation who has filed as many potential death penalty cases as William J. Hochul Jr., the U.S. attorney for Western New York.

So far, none of those cases has led to an execution.

But they have cost taxpayers a bundle of money — more than \$661,000 in the past year.

Since taking office in March 2010, Hochul has filed potential death penalty cases against 24 people. That's more than those filed by federal prosecutors in Los Angeles, Chicago, Detroit, Miami or any city in Texas.

In fact, among the 94 federal prosecutors throughout the land, only two others — both from New York City-area districts far more populous than Western New York — have filed as many potential death penalty cases with Washington as Hochul in the past two years.

So far, Washington has not approved any of Hochul's cases for a death penalty prosecution, though a dozen decisions are pending before the U.S. attorney general. But it often takes months from the time a U.S. attorney files a potential death penalty case until the attorney general decides whether to pursue the death penalty. As a result, the Buffalo and Rochester federal courts where Hochul files cases spent more than \$661,000 during his first full year in office on lawyers and other defense costs for defendants in the early stages of death penalty-eligible cases.

The \$661,000 is more than the combined amount spent by the region's four previous U.S. attorneys on death penalty-eligible cases over the previous 11 years. During those 11 years, a total of 12 death penalty-eligible cases were filed. Hochul has filed twice that many in less than two years.

"The numbers in Buffalo are not part of a national trend. It does not appear to be something that is coming out of Washington. It's something that Mr. Hochul does far more often than almost any other federal prosecutor," said James P. Harrington, one of a handful of Buffalo



defense lawyers who are certified to handle death penalty-eligible cases. "It is a colossal waste" of court time, court resources and money, said Harrington, who also opposes the death penalty on moral grounds.

According to death penalty defense lawyer Kevin M. McNally, Hochul is one of a small number of federal prosecutors who file death penalty-eligible charges in cases involving drug gang members who kill other drug gang members. He said juries are rarely willing to pronounce the death penalty in "gangster-on-gangster" cases.

"I seriously doubt whether any of [the Hochul] defendants will actually face the death penalty at trial," said McNally, of Frankfort, Ky., who heads the Federal Death Penalty Resource Counsel Project.

While some defense lawyers say Hochul is overzealous and is wasting taxpayer money, Hochul, 52, defends his record. He said he is enforcing federal law and trying to protect law-abiding people in neighborhoods terrorized by gang violence.

Hochul said his office does elect to file murder and racketeering charges in some gang-murder cases, and it's the murder charge in the context of racketeering that makes the cases death penalty-eligible. But ultimately — after a review process that usually takes months — the final decision on whether to pursue the death penalty is made by Attorney General Eric Holder in Washington. And after a death penalty case goes to trial, a jury decides whether the defendant will face execution. "I often go out and speak to block clubs in the inner city, and people come up to me and tell me they are afraid to go out for a walk in their own neighborhood, or sit in their own backyard," Hochul said. "We will continue to bring these cases against the most violent offenders and leave the ultimate decisions to the attorney general and juries."

Statistically, gang violence in the region has decreased over the past two years, and Hochul contends that prosecutions undertaken by his office with the FBI and other agencies helped. Buffalo Police

Commissioner Daniel Derenda and Niagara Falls Police Superintendent John R. Chella agree.

"I would absolutely not want to see the [federal] death penalty taken off the books," said Chella. While such cases rarely lead to executions, they often lead to guilty pleas that put violent criminals in prison for decades, sometimes life, Chella said.

"[Hochul] has helped us to take some very, very dangerous people off the streets," Derenda said.

Harrington agreed Holder makes the final decision on whether to pursue the death penalty, but he said a case only becomes eligible for the death penalty after a local federal prosecutor — such as Hochul — proposes a case as potentially worthy of the death penalty. "You can file a federal murder charge without seeking the death penalty," he said.

If any of Hochul's cases do result in federal death sentences, it would be the first time that has happened in Western New York. New York is one of 16 states that do not have a state death penalty.

3 federal executions

Nationally, the Justice Department has authorized about 500 death penalty prosecutions — only one in Western New York — since Congress reinstated federal capital punishment in 1988. And since 1988, only three men in the nation have been federally executed. There have been no federal executions in more than eight years.

Timothy J. McVeigh, the Pendleton native and decorated Gulf War veteran who bombed a federal office building in Oklahoma City and killed 168 people, was put to death by a lethal drug injection in June 2001. A few weeks after McVeigh's death, a murderous Texas drug dealer, Juan Raul Garza, was federally executed.

The last federal execution in America was that of Louis Jones Jr., another decorated Gulf War veteran, who kidnapped, raped and murdered a 19-year-old female soldier in Texas. He was executed in March 2003.

Though hundreds of millions of dollars have been spent on such cases since Jones was put to death, no one has been executed under the federal death penalty since. At least 66 federal defendants have been sentenced to death since 1988, but their executions have been held off by legal appeals.

According to court statistics, federal death penalty prosecutions can cost up to



Mark A. Conner Plead Guilty to Charges of Conspiracy to Commit Bank Fraud and to Perjury in Connection with His Personal Bankruptcy Filing in Federal Bankruptcy Court

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:26 AM October 24, 2011

The Federal Bureau of Investigation (FBI) on October 21, 2011 released the following:

“Former Bank President Agrees to Plead Guilty in Multi-Million-Dollar Bank Fraud Conspiracy and Perjury in His Personal Bankruptcy Case

Conner Fleeced Failed Stockbridge Bank and at Least Ten Other Federally Insured Banks

ATLANTA—MARK A. CONNER, 45, formerly of Canton, Georgia, and Tallahassee, Florida, and the former president of FirstCity Bank of Stockbridge, Georgia, pleaded guilty today to charges of conspiracy to commit bank fraud in connection with misconduct at FirstCity Bank in the years before the bank’s seizure by state and federal authorities on March 20, 2009. CONNER also pleaded guilty to perjury in connection with his personal bankruptcy filing in federal bankruptcy court in January 2011.

United States Attorney Sally Quillian Yates said, “Our nation’s bank problems have contributed to the economic distress our citizens continue to experience across the country. We have felt this keenly in Georgia, with more than 70 bank failures since mid-2008, and another failure as recently as October 14, 2011. This defendant treated FirstCity Bank’s commercial real estate lending operations like his own personal piggy bank, siphoning off millions of dollars from fraudulent commercial real estate loans, ultimately running FirstCity into the ground. Along the way, CONNER and others defrauded federal and state regulators and at least ten other federally insured banks in Georgia and Florida that invested in the fraudulent multi-million-dollar loans.”

FDIC Inspector General Jon Rymer said, “The Federal Deposit Insurance Corporation Office of Inspector General is pleased to join our law enforcement colleagues in defending the integrity of the financial services industry by investigating bank fraud perpetrated by senior bank officers. We are especially concerned in situations like this one where the former Chairman and CEO of the bank misused his position of trust to defraud FirstCity Bank of Stockbridge, thus contributing to its failure. When he and his co-conspirators convinced at least 10 other federally insured institutions to

invest in fraudulent loans to further the scheme, they jeopardized the safety and soundness of those institutions as well. We are committed to continuing our efforts to prosecute such criminal misconduct, help maintain the stability of the Nation’s financial institutions, and ensure the viability of the Deposit Insurance Fund.”

Christy Romero, Acting Special Inspector General for the Troubled Asset Relief Program (“SIGTARP”) said, “Despite Conner’s fiduciary duties as president, CEO, and chairman of FirstCity Bank, for years he went to great lengths to lie to bank regulators, cheat the bank, and steal millions of dollars. He then attempted to steal more than \$6 million in TARP funding from U.S. taxpayers and Treasury to cover his tracks. It is precisely this type of deception and greed by key bank insiders that contributed to and exacerbated the financial crisis. Fraud in connection with TARP will be aggressively investigated and prosecuted by SIGTARP and its law enforcement partners.”

According to United States Attorney Yates, the charges, and other information presented in court, CONNER served in a variety of top positions at FirstCity Bank between 2004 and 2009, including as vice chairman of the board of directors, as a member of the bank’s loan committee, as president, and later as acting chairman and chief executive officer. While serving in these positions, CONNER conspired with others to defraud FirstCity Bank’s loan committee and Board of Directors into approving multiple multi-million-dollar commercial loans to borrowers who, unbeknownst to FirstCity Bank, were actually purchasing property owned by CONNER or his co-conspirators.

CONNER and his co-conspirators misrepresented the essential nature, terms, and underlying purpose of the loans and falsified documents and information presented to the loan committee and the Board of Directors. CONNER and his co-conspirators caused at least 10 other federally insured banks to invest in, or “participate in” the fraudulent loans based on these and other fraudulent misrepresentations, shifting all or part of the risk of default to the other banks. CONNER alone reaped almost \$7 million in proceeds from the loans alleged in the indictment.

In the process of defrauding FirstCity Bank and the “participating” banks, to conceal their unlawful scheme, CONNER

and his co-conspirators routinely misled federal and state bank regulators and examiners. They also unsuccessfully sought federal government assistance through the U.S. Treasury Department’s Troubled Asset Relief Program (“TARP”) and engaged in other misconduct in an attempt to avoid seizure by regulators and prevent the discovery of their fraud. In an effort to make FirstCity Bank’s financial position look much better than it really was, they made loans to buyers to purchase property that FirstCity Bank held as a result of foreclosure or similar actions without requiring that such buyers make the required down payments.

With respect to the perjury charge, on January 5, 2011, knowing that he was under federal criminal investigation for his conduct at FirstCity bank, CONNER filed a Chapter 7 bankruptcy petition in the United States Bankruptcy Court for the Northern District of Georgia. Among other misrepresentations and omissions, CONNER’s bankruptcy petition stated that he had a little over \$3,000 in cash and financial accounts and essentially no unencumbered interests in real estate. On February 3, 2011, CONNER falsely testified under oath at a bankruptcy hearing in federal court that, among other things, his bankruptcy petition was true and accurate in all respects and that he was “down to less than nothing” despite having a large liquid reserve several years ago. The investigation showed that in truth, CONNER had and controlled off-shore accounts containing over \$545,000 when he swore under oath that he was broke. In addition, CONNER had \$4 million in real estate investments from his off-shore accounts (that is, assets of his bankruptcy estate) that were not disclosed in his bankruptcy petition or in his sworn testimony in open court on February 3, 2011.

Today, CONNER tendered a guilty plea to one count of conspiracy to commit bank fraud. He was originally indicted in March 2011, along with FirstCity bank’s former chief loan officer, CLAYTON A. COE, on 12 counts of conspiracy to commit bank fraud, bank fraud, and operating a continuing financial crimes enterprise. The grand jury charged CONNER and COE with additional crimes in a superseding indictment returned in June 2011, which also added FirstCity Bank’s former inside attorney, ROBERT E. MALONEY, Jr., as a new

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eight times as much as a non-death penalty prosecution.

Death penalty experts estimate the Justice Department and the courts spend at least \$86 million a year on federal death penalty cases. They can only estimate because the Justice Department declines to say how much of its \$28 billion annual budget goes toward death penalty prosecutions.

Hochul said he doesn't worry about how his death penalty numbers stack up against other cities or how much the prosecutions cost. He said enforcing federal laws and protecting the public are his top considerations.

Hochul is filing these cases because "I believe he is an overzealous prosecutor," said Terry Granger, a Buffalo defense lawyer whose clients have included convicted murderer and gang-leader Donald "Sly" Green.

"I do not see how even the staunchest supporter of the death penalty could argue that these prosecutions are an efficient use of taxpayer money," added David Kaczynski, with New Yorkers for Alternatives to the Death Penalty.

Supporters of the death penalty say it is the kind of tough law enforcement measure that has helped deter violent crime in recent years, and they point to local, state and national crime statistics as proof.

Officials said crime in the state was down 4.4 percent in the first six months of 2011, as compared with 2010. The rates of murder, rape, robbery and assault were all down.

The FBI reported Sept. 19 that the nation's violent crime rate dropped 6 percent in 2010, the fourth straight year in which violent crime went down.

In Buffalo, homicides were down 23 percent, shootings were down 25 percent and violent crime in general was down 18 percent in the first half of this year, Derenda said. Niagara Falls' crime rate is also down.

But Harrington argues that the federal death penalty has nothing to do with those declines. No one has been federally executed since 1954 for a crime committed in New York State, he said. "There are plenty of other federal charges — including drug conspiracy charges and operating a continuing criminal conspiracy — that can be used, and are used, to lock up gang suspects for a very long time," Harrington said. "You don't need to tie up the courts and go through all the expense of using the death penalty laws."

According to federal court records, 24 people in the region have been targeted in potential death penalty cases since Hochul

began serving as U.S. attorney. Most were suspected drug gang members charged with murdering people in Buffalo or Rochester.

Half of those people no longer face death penalty-eligible charges, because the Justice Department — after examining all the circumstances of the crimes for months — decided not to push for execution. In the other cases, Justice Department officials have not decided yet. Among those who still face potential death penalty prosecutions are:

- Three men accused of ambushing and murdering Quincy Turner, a race car driver who was a federal witness in a Jamestown drug probe.
- Six people accused of torturing and murdering Francisco Santos, whose body was found on the Seneca Nation's Cattaraugus Territory, and other violence.
- Three alleged members of the Seventh Street gang who are accused of murders, assaults and drug trafficking on Buffalo's West Side.

"We take these decisions very seriously," Hochul said. "We only file capital charges against those defendants who appear to be the worst of the worst."

Once a potential death penalty case is filed, each defendant is assigned two top defense attorneys, who are each paid \$178 an hour by the federal courts. The usual rate for a court-appointed federal defense attorney is \$125 an hour, and — aside from death penalty-eligible cases — defendants rarely get more than one.

Because only a few local lawyers are qualified to handle death penalty-eligible cases, lawyers sometimes are brought in from other cities or states to help with the defense. The travel costs are paid by taxpayers.

Other support personnel for the defense attorneys are also hired, including "mitigation experts," who dig into the defendants' backgrounds seeking information that might convince the Justice Department not to pursue the death penalty. Mitigation experts get up to \$100 an hour, plus travel expenses. In several local cases, mitigation experts traveled to Puerto Rico to interview friends and families of defendants.

Costly N.Y. City case

"The federal system is good in that it usually guarantees that each defendant will get highly qualified representation," said Richard C. Dieter, executive director of the Death Penalty Information Center in Washington. "But it adds a whole new layer of costs that taxpayers have to pay."

How expensive can a single federal death penalty case become?

According to the Death Penalty

Information Center, the Justice Department's recent unsuccessful effort to execute New York City mobster and killer Vincent "Vinnie Gorgeous" Basciano cost taxpayers between \$4 million and \$10 million.

Basciano was already serving a prison term of life without parole when federal prosecutors from Brooklyn took him to trial earlier this year. A jury convicted him of murder and racketeering, but on May 31 declined to impose the death penalty, deciding instead to again sentence him to life in prison.

Western New York has never had a death penalty case as expensive as Basciano's, but according to District Court Clerk Michael J. Roemer, death penalty cases were by far the most costly in the region last year.

Over the past year, more than \$661,000 was spent by the court system on defense-related expenses for 24 death penalty-eligible defendants in the district, said Lisa G. Ball, chief financial officer for the district.

On average, that's more than \$25,800 per case, and all half of those cases are still pending. During the same time period, about \$2.47 million was spent defending at least 230 other defendants who received legal aid. That's about \$10,700 per case, and many of those cases have been completed.

Those death penalty expenses are for defense and court costs only. They do not include the costs of investigating, jailing and prosecuting death penalty-eligible defendants, which are kept secret by the government. Dieter said he believes those other costs are at least as high as those spent on defense.

The last time the Justice Department approved a local death penalty case for trial was the 1993 case of Darryl "Reese" Johnson, an enforcer for the LA Boys gang. Johnson was accused of multiple killings, assaults and kidnappings. Hochul handled the case as an assistant U.S. attorney.

Rather than face such a trial, Johnson decided to plead guilty to murder and racketeering. He was sentenced to eight terms of life imprisonment — believed to be the longest sentence ever handed down in a Buffalo courtroom — in 1995.

Hochul said that case took one of most violent criminals in Buffalo's history off the streets forever.

"Under Justice Department regulations, my duty is to file the highest provable federal charge against a defendant, and that is what we do," Hochul said.

Defense lawyer Harrington sees it



Manssor Arbabsiar Pleads Not Guilty in Federal Court to Allegedly Plotting to Kill Saudi Ambassador

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 4:50 PM October 24, 2011

Manssor Arbabsiar

Fox News on October 24, 2011 released the following:

"Man Charged With Plotting to Kill Saudi Ambassador Pleads Not Guilty"

A man charged in a plot to assassinate the Saudi ambassador to the United States has pleaded not guilty in a New York City courtroom.

Manssor Arbabsiar, who did not speak during the proceeding, entered a not guilty plea on each of the five counts charged against him, which include conspiracy to murder a foreign official and conspiracy to use a weapon of mass destruction.

According to the Department of Justice, Arbabsiar — a naturalized US citizen who holds both Iranian and US passports — allegedly confessed to planning the assassination when he was arrested by federal agents at JFK International Airport in New York City on Sept. 29.

In court Monday, Arbabsiar, 56, was dressed in blue prison clothing and his gray beard had noticeably grown since his last court appearance earlier this month, the New York Post reports. At least one Saudi diplomat attended the hearing, but he declined to comment to the newspaper.

The arraignment lasted just five minutes. Arbabsiar's next court appearance was scheduled for Dec. 31.

The other suspect in the case, Gholam Shakuri, remains at large, presumably in Iran. Shakuri is allegedly an Iran-based member of Iran's Quds Force special

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differently.

"If nobody ever gets convicted of capital crimes in this district," he said, "how can you call it the highest provable charge?"

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operations unit.

Arbabsiar and Shakuri were each indicted last Thursday in connection with the \$1.5 million assassination plot allegedly directed by elements of the Iranian government.

Arbabsiar allegedly contracted with men he believed were Mexican drug cartel associates to set off explosives at a public restaurant in Washington, D.C., where Adel al-Jubeir, the Saudi Arabian ambassador to the US, was to be dining. The men turned out to be paid informants of the U.S. government.

A paid confidential informant told federal investigators that Arbabsiar said that it was "no big deal" when he was informed there could be as many as 150 casualties,

To find additional federal criminal news, please read [Federal Crimes Watch Daily](#).

Douglas McNabb and other members of the U.S. law firm practice and write and/or report extensively on matters involving Federal Criminal Defense, INTERPOL Red Notice Removal, International Extradition and OFAC SDN Sanctions Removal.

The author of this blog is Douglas McNabb. Please feel free to contact him directly at mcnabb@mcnabbassociates.com or at one of the offices listed above.

including U.S. Senators known to frequent the establishment, as a result of the restaurant bombing.

Earlier this month, authorities in the U.S. and UK froze the assets of Iranian-based Quds Force members Qasem Soleimani, Hamed Abdollahi and Abdul Reza Shahlaei for their alleged roles in the plot.

The Iranian Foreign Ministry has called the assassination-for-hire accusations "baseless."

Douglas McNabb – McNabb Associates, P.C.'s

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General Services Administration Employee Sentenced to Prison for Role in Bribery Scheme as Part of Multi-Year Corruption Investigation

(USDOJ: Justice News)

Submitted at 1:52 PM October 24, 2011

A General Services Administration (GSA) customer service manager was sentenced today to 30 months in prison for his role in a bribery scheme related to payments he received for awarding GSA contracts to various government contractors.



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defendant in the case.

United States District Judge Steve C. Jones will determine whether to accept CONNER's guilty pleas after the preparation of a presentencing report. If Judge Jones accepts CONNER's guilty pleas, CONNER will be sentenced to 12 years in federal prison on all of the charges, be banned from the banking industry for life, forfeit \$7 million and pay significant restitution to the FDIC and victim banks. Sentencing is set for January 31, 2011, at 10 a.m.

CONNER has been in federal custody since March 20, 2011—the two-year anniversary of FirstCity Bank's failure—when he was arrested by federal agents at Miami International Airport upon his arrival from the Turks and Caicos Islands in the West Indies.

This case is being investigated by special agents of the FDIC, Office of Inspector General; the Office of the Special Inspector General for the Troubled Asset Relief Program ("SIGTARP"), the Federal Bureau of Investigation, and Internal Revenue Service-Criminal Investigation.

Assistant United States Attorneys Douglas W. Gilfillan and David M. Chaiken are prosecuting the case."

Douglas McNabb – McNabb Associates, P.C.'s

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FBI Releases 2010 Statistics on Law Enforcement Officers Killed and Assaulted

fbi (Current)

Submitted at 6:00 AM October 24, 2011

— Washington, D.C.