Civil Disobedience and the Law

A chronology of cases, articles, motions, decisions, etc. compiled by Felton Davis. March 2013

1968: The Zinn-Fortas Debate

NYC Judge Richard Weinberg referred to this debate in an off-the-record discussion on June 25, 2003, after a defendant complained about having to make four trips to New York from Boston just to answer a charge of disorderly conduct. Supreme Court Justice Abe Fortas (1910 - 1982) wrote a 55-page booklet called Concerning Dissent and Civil Disobedience, that was published by The New American Library in 1968.

Historian Howard Zinn (1922 - 2010), author of The People's History of the United States, responded with a small book called Disobedience and Democracy: Nine Fallacies on Law and Order, that was published by Vintage Books, also in 1968. He said that Justice Fortas had raised important issues about the relation of law, order and protest, at a time of enormous unease in the country:

> "...exactly at that moment when we have begun to suspect that law is congealed injustice, that the existing order hides an everyday violence against body and spirit, that our political structure is fossilized, and that the noise of change -- however scary -- may be necessary, a cry rises for 'law and order.' Such a moment becomes a crucial test of whether the society will sink back to a spurious safety or leap forward to its own freshening. We seem to have reached such a moment in the United States." (Howard Zinn, p. 4)

United States vs. Eberhardt
417 Fed. 2nd, p. 1009

On October 27, 1967, Philip Berrigan (1923 - 2002), Thomas Lewis (1940 - 2008), David Eberhardt, and Rev. James Mengel were arrested for pouring blood on draft records at the Customs House in Baltimore. By the end of the Vietnam War, over a hundred of these draft board actions had taken place.

From the Court of Appeals Decision:

> The defendants were permitted to present evidence that their actions were taken pursuant to a good faith belief in the immorality and illegality of the Vietnam War, but they were not allowed to present expert testimony as to the reasonableness of these beliefs. They maintained below and in this court that because of these beliefs their actions were justified. The Government does not contest the sincerity of the appellants' belief that the United States involvement in Vietnam is illegal and immoral. However, the trial court refused to treat this belief as a possible negation of criminal intent. We find no error in the trial court's ruling.
> (http://openjurist.org/417/f2d/1009/united-states-v-eberhardt)

United States vs. Berrigan, (April 19, 1968)
283 Fed. Supplement, p. 336-339

> No civilized nation can endure where a citizen can select what law he would obey because of his moral or religious belief. It matters not how worthy his motives may be. It is axiomatic that

chaos would exist if an individual were permitted to impose his beliefs upon others and invoke justification in a court to excuse his transgression of a duly enacted law.
(US vs Berrigan, April 19, 1968, 283 Fed. Supp, p. 339.)

Duncan vs. Louisiana, (May 20, 1968)
391 US, p. 145; 88 S. Ct., p. 1444
(Not a protest case, but established the right to a jury trial.)

United States vs. Spock, (July 11, 1969)
416 Fed. 2nd, p. 165

Dr. Benjamin Spock (1903 - 1998) and several others were charged with providing support to those who resisted the draft during the Vietnam War.

United States vs. Moylan
417 Fed. 2nd, p. 1002, (Oct. 15, 1969)
397 US, p. 910 (1970)

This is the 1968 draft board raid in Maryland that became known as "The Trial of the Catonsville Nine," and was turned into a play by Daniel Berrigan. The case was named after Mary Moylan (1936 - 1995), who went underground until 1979, when she turned herself in and served her time.

From the Court of Appeal's decision:

> We are not called upon in this case to establish guidelines for determining in what extreme circumstances, if any, governmental acts may be resisted....
> ...To encourage individuals to make their own determination as to which laws they will obey and which they will permit themselves as a matter of conscience to disobey is to invite chaos. No legal system could long survive if it gave every individual the option of disregarding with impunity any law which by his personal standard was judged morally untenable. Toleration of such conduct would not be democratic, as appellants claim, but inevitably anarchic. (United States vs Moylan, October 15, 1969, 417 Fed. 2nd, p. 1002.)

Excerpts from "A Theory of Justice" (1971)
By Harvard Professor John Rawls (1921 - 2002)

...Obligations arise only if certain background conditions are satisfied. Acquiescence in, or even consent to, clearly unjust institutions does not give rise to obligations. (Chapter VI, Part 52, p. 343)

...Whether noncompliance is justified depends on the extent to which laws and institutions are unjust. (Chapter VI, Part 53, p. 352)

...Our natural duty to uphold just institutions binds us to comply with unjust laws and policies, or at least not to oppose them by illegal means as long as they do not exceed certain limits of injustice. (Chapter VI, Part 53, p. 354)

At what point does the duty to comply with laws enacted by a legislative majority (or with executive acts supported by such a majority) cease to be binding in view of the right to defend one's liberties and the duty to oppose injustice? (Chapter VI, Part 55, p. 363)

In justifying civil disobedience one does not appeal to principles of personal morality or to religious doctrines, though these may coincide with and support one's claims; and it goes without saying that civil disobedience cannot be grounded solely on group or self-interest. Instead one invokes the commonly shared conception of justice that underlies the political order. (Chapter VI, Part 55, p. 365)

...Civil disobedience (and conscientious refusal as well) is one of the stabilizing devices of a constitutional system, although by definition an illegal one. Along with such things as free and regular elections and an independent judiciary empowered to interpret the constitution (not necessarily written), civil disobedience used with due restraint and sound judgment helps to maintain and strengthen just institutions. By resisting injustice within the limits of fidelity to law, it serves to inhibit departures from justice and to correct them when they occur. A general disposition to engage in justified civil disobedience introduces stability into a well-ordered society, or one that is nearly just. (Chapter VI, Part 59, p. 383)

There is no danger of anarchy so long as there is a sufficient working agreement in citizens' conceptions of justice and the conditions for resorting to civil disobedience are respected. That [people] can achieve such an understanding and honor these limits when the basic political liberties are maintained is an assumption implicit in a democratic polity. There is no way to avoid entirely the danger of divisive strife, any more than one can rule out the possibility of profound scientific controversy. Yet if justified civil disobedience seems to threaten civic concord, the responsibility falls not upon those who protest but upon those whose abuse of authority and power justifies such opposition. For to employ the coercive apparatus of the state in order to maintain manifestly unjust institutions is itself a form of illegitimate force that people in due course have a right to resist. (Chapter VI, Part 59, p. 390-391)

United States vs. Kroncke (1972)
459 Fed. 2nd, p. 697-

From the Court of Appeals decision:

> The defendants, Francis X. Kroncke and Michael D. Therriault, were convicted by a jury of willfully and knowingly attempting to hinder and interfere with the administration of the Military Selective Service Act of 1967 by force, violence, and otherwise.
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> The evidence showed that the defendants forcibly entered the Selective Service office in Little Falls, Minnesota, at about 11:30 on the night of July 10, 1970. They had with them various tools, including a screw driver, hammer, pry bar, flashlights, a glass cutter, charcoal lighter fluid and other equipment. The defendants were wearing gloves. Once inside, they forced open file drawers and removed some Selective Service draftee registration cards which they placed in a plastic garbage bag. Therriault testified that he and Kroncke intended to either burn the cards or sink them in the Mississippi River.
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> FBI agents, who had been informed in advance that an entry would be made,1 observed the defendants enter the building. After waiting approximately fifteen minutes, the agents converged on the draft board office where they found the defendants and observed the opened file drawers, the registration cards in the plastic bag, and the tools. Letters addressed to the news media were found in the car used by the defendants. The letters stated in essence that the Minnesota Conspiracy to Save Lives had destroyed all the I-A draft files for that county.2

The defendants admit that they entered the Little Falls draft board office with the express intent to hinder and interfere with the administration of the Selective Service Act. By way of defense, they claim that their actions were justified.

United States vs. Malinowski (1973)
472 Fed. 2nd, p. 850-

From the Court of Appeals decision:

This court must decide whether John Paul Malinowski violated criminal provisions of the Internal Revenue Code when, to protest the Vietnam War, he submitted an Internal Revenue Service form which included fifteen exemptions, when he knew that thirteen of the claimed exemptions were not permitted under Section 152 of the Internal Revenue Code of 1954. Resolving this question adversely to the taxpayer, a jury found him guilty of violating Section 7205 of the Code.1 The district court, 347 F.Supp. 347, denied motions for a new trial and judgment of acquittal, and this appeal followed.

The facts are not in dispute. Appellant is an instructor in theology at St. Joseph's College in Philadelphia. Like so many sincere, well-intentioned Americans, he opposes this nation's participation in the Vietnam War. His beliefs are firm and intense.2 He decided to dramatize his protest by filing a Form W-4 (Employee Withholding Exemption Certificate) in July, 1970, that contained fifteen exemptions. In the previous April, he had claimed only himself and his wife. . .

Among philosophers and religionists throughout the ages there has been an incessant stream of discussion as to when, if at all, civil disobedience, whether by passive refusal to obey a law or by its active breach, is morally justified. However, they have been in general agreement that while in restricted circumstances a morally motivated act contrary to law may be ethically justified, the action must be non-violent and the actor must accept the penalty for his action. In other words, it is commonly conceded that the exercise of a moral judgment based upon individual standards does not carry with it legal justification or immunity from punishment for breach of the law.

The defendants' motivation in the instant case -- the fact that they engaged in a protest in the sincere belief that they were breaking the law in a good cause -- cannot be acceptable legal defense or justification. Their sincerity is beyond question. It implies no disparagement of their idealism to say that society will not tolerate the means they chose to register their opposition to the war. If these defendants were to be absolved from guilt because of their moral certainty that the war in Vietnam is wrong, would not others who might commit breaches of the law to demonstrate their sincere belief that the country is not prosecuting the war vigorously enough be entitled to acquittal? Both must answer for their acts.

Schlesinger versus Reservists Committee to Stop the War (1974)
418 US, p. 208; 94 S. Ct, p. 2925; 41 L. Ed. 2nd, p. 706.

United States vs. Mowat (July 18, 1978)
582 Fed. 2nd, p. 1195

"...the assertion of the necessity defense requires that optional courses of action appear unavailable." (US vs Mowat, 582 Fed. 2nd, p. 1208, July 18, 1978)

United States vs. Cassidy (1979)
616 Fed. 2nd, p. 101

From the Appeals Court decision:

> Defendants (Esther Cassidy, John Schuchardt) were convicted of depredation of government property in violation of 18 U.S.C. § 1361 when they threw or poured blood and ashes on the walls and ceiling of the Pentagon in the course of a demonstration against the design and possession of nuclear weapons. They appeal, contending that the district court erroneously limited their defense and that the district court prejudicially interfered with their trial. We affirm.
>
> Defendants sought to justify the acts for which they were convicted on the ground that they constituted a necessary defense to illegal possession by the United States of nuclear weapons. In order to present this defense, they requested the court to appoint experts to testify concerning the nature of the United States' nuclear arsenal and policies and the legality of these weapons and policies under international law. The district court denied this request and subsequently refused to admit evidence on these points. We find no error in these rulings because, even if possession of nuclear weapons is illegal as defendants contend an issue that we do not address the necessity defense is inapplicable. As sought to be applied here, essential elements of the defense are that defendants must have reasonably believed that their action was necessary to avoid an imminent threatened harm, that there are no other adequate means except those which were employed to avoid the threatened harm, and that a direct causal relationship may be reasonably anticipated between the action taken and the avoidance of the harm. Even if we accept defendants' reasonable belief, we do not think that the elements of lack of other adequate means or direct causal relationship could be satisfied. See United States v. Simpson, 460 F.2d 515 (9 Cir. 1972); United States v. Kroncke, 459 F.2d 697 (8 Cir. 1972); United States v. Moylan, 417 F.2d 1002 (4 Cir. 1969). Thus, the district court did not commit error in limiting the proof.

The Plowshares Eight (September 9, 1980)

Daniel Berrigan, Jesuit priest, author and poet from New York City; Philip Berrigan (1923 - 2002), father and co-founder of Jonah House in Baltimore, MD; Dean Hammer, member of the Covenant Peace Community in New Haven, CT; Elmer Maas (1935 - 2005), musician and former college teacher from New York City; Carl Kabat, Oblate priest and missionary; Anne Montgomery (1926 - 2012), Religious of the Sacred Heart sister and teacher from New York City; Molly Rush, mother and founder of the Thomas Merton Center in Pittsburgh and John Schuchardt, ex-marine, lawyer, father and member of Jonah House, entered the General Electric Nuclear Missile Re-entry Division in King of Prussia, PA where nose cones for the Mark 12A warheads were made.

They hammered on two nose cones, poured blood on documents and offered prayers for peace. They were arrested and initially charged with over ten different felony and misdemeanor counts. In February 1981, they underwent a jury trial in Norristown, Pennsylvania. During their trial they were denied a "justification defense" and could not present expert testimony. Due to the Court's suppression of individual testimony about the Mark 12A and U.S. nuclear war-fighting policies, four left the trial and returned to witness at G.E. They were re-arrested and returned to court. They were convicted by a jury of burglary, conspiracy and criminal mischief and sentenced to prison terms of five to ten years. They appealed and the Pennsylvania Superior Court reversed their s. conviction in February 1984. The State of Pennsylvania then appealed that decision. Following a ruling in the fall of 1985 by the Pennsylvania Supreme Court in favor of the State on certain issues (including the exclusion of the justification defense), the case was returned to the Superior Court Appeals Panel. In December of 1987, the Superior Court of Pennsylvania refused their appeal, but ordered a re-sentencing. This ruling, however, was appealed to the Pennsylvania Supreme Court. In February 1989 the Pennsylvania Supreme Court denied a hearing of any further issues in the case, and on October 2, 1989 the U.S. Supreme Court announced it would not hear the Plowshares Eight Appeal.

Final Sentencing: the Plowshares 8 appealed the conviction by arguing that they were not allowed to present the "necessity defense" or call witnesses on their behalf. The Pennsylvania Supreme Court reversed the conviction in 1984, but the state set in motion more appeals that lasted for nearly a decade. Finally, in April of 1990, the eight were brought to court for resentencing. The presiding judge, James Buckingham, allowed the activists to call their expert witnesses. After listening to their testimonies, he announced his decision: all eight were sentenced to time served, plus twenty-three months of probation. He briefly added a personal comment, acknowledging that the defendants were acting on moral convictions and that he shared their concern about nuclear war. (From Religion and War Resistance in the Plowshares Movement, by Sharon Erickson Nepstad, Cambridge University Press (2008), p. 81)

[I have a recording of an inspiring talk that Fr. Dan gave in September of 1981, in which he explained that neither Robert J. Lifton nor Richard Falk was allowed to testify during the original trial of the Plowshares Eight.]

United States vs. May (1980)
622 Fed 2nd, p. 1009

United States vs. Lowe (1981)
654 Fed. 2nd, p. 562

These cases resulted from civil disobedience at the Trident Submarine Base in Bangor, Washington.

United States vs. Seward (1982)
687 Fed. 2nd, p. 1270

From the Appeals Court decision:

> On April 29, 1979, about 283 people were arrested at three different locations at Rocky Flats Nuclear Plant Site (Rocky Flats) in Jefferson County, Colorado. Rocky Flats is a Department of Energy (DOE) facility located sixteen miles northwest of Denver, and used for the production of nuclear components. Formerly under the jurisdiction and control of the Atomic Energy Commission (AEC) and the Energy Research and Development Administration (ERDA), the plant has been subject to DOE administration since 1977. . .
>
> The government filed a motion in limine seeking to prohibit defendants from presenting at trial the common-law defenses of duress or justification, encompassing defenses of necessity, self-defense, defense of others and defense of property. At the May 31 omnibus hearing, the trial court directed defense counsel to submit written offers of proof in advance of trial with regard to these types of defenses. Several such offers were filed by both trial groups and individual (occasionally pro se) defendants. The arguments are similar and show that various witnesses would have testified to the effects of radiation, risks of accidental leakage, soil contamination in the land surrounding Rocky Flats, and lack of viable political alternatives. . .
>
> 25) 7. Unless the offer of proof meets the very narrow limits of justification defenses, evidence in support of those defenses will not be received. Whether the offers meet this standard is something which will be decided by the court and not by the jury. Among other things, the proffered evidence will have to show:

26) 1) A direct causal relationship between the defendant's actions and the avoidance of the perceived harm. This includes a showing that a reasonable man would think that blocking entry to Rocky Flats for one day would terminate the official policy of the United States government as to nuclear weapons or nuclear power.

27) 2) The act to be prevented by defendant's conduct was criminal under the law of the United States. A defendant's belief that the government approved conduct violated some religious or moral code is not sufficient.

28) 3) The alleged criminal act which defendants wanted to stop was one occurring in their presence, and was one which would subject them to immediate harm which a reasonable man would think could be eliminated by defendants' conduct. (See, Hawaii v. Marley, 54 Haw. 450, 509 P.2d 1095, 1108.) In the words of this case:

29) "To rule that a full justification defense to the prosecution for commission of crime is established even absent a presence requirement would be to create a very dangerous precedent, for it would make each citizen a judge of the criminality of all the acts of every other citizen, with power to mete out sentence."

United States vs. Davis (1982)
Docket No. 82-0016B-01, Newark, New Jersey, June 23, 1982

From the judge's decision:

I have understood the defendant, unrepresented by counsel as he has chosen to be, to be offering the Court a justification or necessity defense. In others words... what he is saying, boiled down to its essential meaning, is that he knows that ordinarily trespassing is not permitted and is not the thing to do, under our system of law, but that his intentions, after having educated himself about the nature of the problem with which he is concerned -- and I dare say, any sensible adult who wakes up in the morning is also concerned -- what he is saying is that his conduct is in his mind justified because it is intended to prevent a greater evil from occurring...

I would refer everyone's attention to two previously decided cases. The first is United States vs. Lowe, which is a reported opinion of the US Court of Appeals for the 9th Circuit, and it appears at 654 Fed 2nd, p. 562. It's a 1981 decision. In that case, the facts were that there was a pre-arranged demonstration, a group of demonstrators who appeared at the US Naval Submarine Base to protest the United States of America's maintenance of the Trident weapons system. And a number of the demonstrators climbed the fence of that facility and were charged with an offense similar to that charged against Mr. Davis in this case...

In that case the defense of necessity and violation by the United States of international law was offered as a justification for the trespassing offenses. And the district judge in that case refused even to hear the testimony about how that defense was offered to be made out. Now I have decided in this case not to do that, because I didn't think, on the facts of this case, that it was the fair thing to do. Contrary to what the lower court did in that Lowe case, I have allowed Mr. Davis to present his testimony and the exhibits that he wanted me to consider, because I thought that fundamental fairness required me to do so. . .

But in that Lowe case, continuing, the defense said specifically that the Trident weapons system would lead to the devastation of civilization as we know it, and constituted a form of aggressive warfare by the United States of America. And that therefore it was necessary for the demonstrators to enter the facility in order to prevent a greater imminent harm to the rest of us.

And the United States Court of Appeals affirmed the convictions and ruled that the trial judge had been correct in refusing even to allow the evidence as a matter of law. In coming to that conclusion, the 9th Circuit referred to an earlier case, one year earlier, called United States vs. May, which is also reported, at 622 Fed 2nd, p. 1000. And I have particular reference to the language of the Court's opinion at p. 1008 and then again at p. 1009.

Again in that case we had a similar situation where essentially the same base was involved, and the demonstrators, protesters, or by whatever name you want to call them, entered the fence, were charged with the trespassing, were convicted, and appealed their convictions. And in the section of the Court of Appeals dealing with the justification or necessity defense, the Court says this:

"All defendants presented below, and argue here, the affirmative defenses of necessity and justification based on international law. They argue that the Trident system is a harm that exceeds in magnitude that of the illegal re-entry with which they were charged and that by illegally re-entering the base they were preventing an imminent harm which no available options could similarly prevent. They also argue that the construction and deployment of the Trident constitutes preparation for aggressive warfare in contravention of international legal principles, thus justifying their actions."

Now the Court rejected their defense, and did so with these words, which I find exactly applicable to the proceeding before me: "We do not sit to render judgments upon the legality of the conduct of the government at the request of any person who asks us to because he happens to think that what the government is doing is wrong. He must be able to show some direct harm to himself, not a theoretical future harm to all of us that may or may not occur." (US vs. May, 622 Fed 2nd, p. 1009) Now that being so, I have determined that I find that the defense of justification or necessity is not a defense in this case. I find you guilty. . .

Law Panel Says Nuclear Weapons are Illegal (1982)

A committee of lawyers and law professors from the United States, Europe and Japan has declared that the manufacture and use of nuclear weapons violates long-accepted principles of international law. They expressed the hope that their declaration, issued over the weekend, would strengthen the nuclear disarmament movement. . .

Martin Popper, a New York lawyer and co-chair of the lawyers' committee, said in his welcoming address: "In our time -- unlike in all previous times -- the recognition, acceptance and enforcement of international law must occur before the event if we are to survive. There will be no Nuremberg tribunals to judge crimes against humanity after a nuclear war, because there will be no victors, no vanquished, no nothing."

...

"We thought we were the peacemakers, that we were making wars of all kinds impossible by reducing them to the absolutely absurd," [Los Alamos nuclear weapons physicist Dr. Theodore] Taylor recalled. "But nuclear war has not caused war to disappear; it's only made it more dangerous. Now we must get rid of these weapons as fast as possible."

("Law Panel Sees Atom Arms as Illegal," David Margolick, New York Times, June 7, 1982. Emphasis added.)

Pershing Plowshares (April 22, 1984)

Per Herngren, a student and peace worker from Sweden; Paul Magno, from the Dorothy Day Catholic Worker in Washington, D.C.; Todd Kaplan, involved in work with the poor in Washington, D.C.; Tim Lietzke, member of Jeremiah House in Richmond, VA; Anne Montgomery, of the Plowshares Eight and Trident Nein; Patrick O'Neill, university student and peace worker from

Greenville, North Carolina; Jim Perkins, teacher, father and member of Jonah House; and Christin Schmidt, university student and peace worker from Rhode Island; entered Martin Marietta in Orlando, Florida. Once inside, they hammered and poured blood on Pershing II missile components and on a Patriot missile launcher. They also served Martin Marietta with an indictment for engaging in the criminal activity of building nuclear weapons in violation of Divine, international and national law. They also displayed a banner which said: "Violence Ends Where Love Begins." They were apprehended after several hours.

During their jury trial in Federal Court they were denied a justification defense. They were convicted of depredation of government property and conspiracy. They were sentenced to three years in federal prison, given five year suspended sentences with probation, and each ordered to pay $2,900 in restitution. Both their appeal and motion for reduction of sentence were denied in Federal Court. Herngren, a Swedish national, was deported on August 27, 1985 after serving over a year of his sentence.

United States vs. Quilty (1984)
741 Fed. 2nd, p. 1031

Charles Quilty, Frank Fessler, and Larry Morlan were arrested at the Rock Island Arsenal, despite having received ban-and-bar letters forbidding them from entering the property.

From the Appeals Court decision:

> This is an appeal by three defendants who were arrested on the premises of the Rock Island Arsenal while participating in a peaceful "prayer meeting." Each defendant had been served with a "Bar Letter" after his prior participation in an anti-nuclear demonstration on the Arsenal premises.
>
> Reciting the prayer of St. Francis is certainly not an "anti-nuclear demonstration" under all circumstances and at all times. When spoken on the premises of a federal nuclear arsenal by persons who have been officially barred from the property as a result of a prior demonstration, this characterization is, we believe, appropriate.

"Presbyterians and Peacemaking: Are We Now Called to Resist?"
Advisory Council on Church and Society,
Presbyterian Church USA. 1985

Presbyterians have a high view of the function and responsibility of civil authority. Government and its processes and officials are given by God for the ordering and administration of the affairs of the human community according to God's purposes. Presbyterians view both participation and service in the affairs of government as a basic dimension of Christian vocation. Since government is established by God to serve the divine purposes of justice and peace, Presbyterians have believed and taught that civil authority is legitimate and is to be acknowledged and obeyed, echoing the teaching of John Calvin and the testimony of scripture.

Precisely because of such a high view of civil authority, however, Presbyterians have regarded a government's neglect of its responsibility or abuse of its power as very grave matters. Thus, Presbyterian life and witness at its best have always manifested strong efforts toward social reform directed at changing the policies and practices of government. But our Reformed heritage also teaches -- and evidences -- that <u>government may occasionally so neglect or subvert the divine purposes of justice and peace that it forfeits the presumption of legitimacy and its claim on the obedience of citizens, including Christians. When such circumstances arise, obedience to God requires resistance to civil authority</u>.

United States vs. Kabat (1986)
797 Fed. 2nd, p. 580

A series of disarmament actions at Missouri missile silos, included the Silo Pruning Hooks, Martin Holladay, the Silo Plowshares, and the Transfiguration Plowshares West.

Silo Pruning Hooks (November 12, 1984)

Carl Kabat, of the Plowshares Eight and Plowshares Number Seven; Paul Kabat (1932 - 1999), an Oblate priest from Minnesota; Larry Cloud Morgan (1938 - 1999), Native American and mental health care worker from Minneapolis, MN; Helen Woodson, mother of eleven children and founder of the Gaudete Peace and Justice Center from Madison, WI; entered a Minuteman II missile silo controlled by Whiteman Air Force Base in Knob Noster, Missouri. Once inside the silo area, they used a jackhammer and air compressor to damage the silo cover lid. They then offered a Eucharist and left at the silo a Biblical and Native American indictment of the U.S. government and the institutional church for their complicity in the pending omnicide of nuclear holocaust.

Martin Holladay (February 19, 1985)

Martin Holladay, a carpenter from Sheffield, Vermont, entered another Minuteman II missile silo of Whiteman Air Force Base near Odessa, Missouri. With hammer and chisel, he damaged the silo lid and some electrical boxes. He also poured blood on the silo and spray-painted "No More Hiroshimas." He left at the site an indictment charging the U.S. government with committing crimes against God and international law by its nuclear war preparations. After his arrest, he was denied bond and held until trial. During his four-day jury trial, he was denied the opportunity to present a justification defense. On April 25, 1985 he was convicted of destruction of government property and destruction of national defense material. He was sentenced on May 16, 1985, to eight years in federal prison and five years probation. He was also fined $1,000 and ordered to pay $2,242 in restitution. Martin was released from prison after 19 months following a sentence reduction hearing on September 24, 1986.

Silo Plowshares (March 28, 1986)

Darla Bradley and Larry Morlan of the Davenport Catholic Worker in Iowa; Jean Gump, a mother of twelve and grandmother from Morton Grove, Illinois; Ken Rippetoe, a member of the Catholic Worker in Rock Island, Illinois; and John Volpe, father, former employee at the Rock Island Arsenal and member of the Davenport Catholic Worker; entered two Minuteman Missile Silos controlled by Whiteman Air Force Base near Holden, Missouri. Dividing into two groups, the first group of three went to Silo M10 while the second group went to Silo M6. Hanging banners on the silo fences, one of which read: "Disarmament - An Act of Healing" they employed sledgehammers to split and disarm the geared central track used to move the 120 ton missile silo cover at the time of launch. They also cut circuits and used masonry hammers to damage electrical sensor equipment. They then poured blood on the silo covers in the form of a cross and spray-painted "Disarm and Live" and "For the Children" on the silo pad. They left at the site an indictment charging the U.S. government with committing crimes against the laws of God and humanity and indicting as well the institutional Christian church for its complicity in the arms race.

Transfiguration Plowshares West (August 5, 1987)

Jerry Ebner, a member of the Catholic Worker Community of Milwaukee; Joe Gump, father of twelve and husband of the imprisoned Jean Gump of the Silo Plowshares from Morton Grove, Ill.; and

Helen Woodson, acting as a "co-conspirator" from Shakopee Prison in Minnesota where she was serving a 17-year sentence for the Silo Pruning Hooks action, carried out the fourth non-violent disarmament of a Minuteman missile silo controlled by Whiteman AFB in Missouri. They went to silo K-9 near Butler, Mo., and once inside the silo area, Jerry and Joe locked themselves within the fenced in area with a kryptonite bicycle lock. After pouring their own blood in the shape of a cross on the concrete silo lid, they used one eight and one three pound sledgehammer on the tracks used to open the silo lid. They also hammered on electrical connectors and other apparatus and cut various electric wires with bolt cutters. They then hung disarmament banners and sang and prayed while awaiting arrest. They also left at the site their action statement and indictment, signed by the three, as well as a photo of Jerry, Joe and Helen. In the interest of 'conservation' they used the very same banners and bolt cutters used by the Silo Pruning Hooks and Silo Plowshares.

From the deciding opinion by the 8th Circuit Court of Appeals:

> These attempts by the defendants to render the missiles useless were admittedly undertaken to interfere with or thwart current U.S. defense policies. For example, the N5 defendants in the letter they left at that missile site spoke of the "murderous intent" of "our government's war policies" and stated that they intended to place their trust in the "Lord of Life" rather than in missiles. Id. at 451-52. Carl Kabat in his closing argument protested, "We are required to trust in the security of these weapons. . . and not to trust in God as the Bible requires." Id. at 615. Similarly, Holladay testified that his intent in seeking to disarm the missile was influenced by a pastoral letter which instructed, "We must find means of defending peoples that do not depend upon threat of annihilation." Holladay transcript, Vol. II at 104. (US vs. Kabat, 797 Fed. 2nd)

From the dissenting opinion of Appeals Court Judge Bright:

> I believe that the Government overreacted in charging Father Carl Kabat, Father Paul Kabat, Lawrence Jacob Cloud-Morgan, Helen Woodson, and Martin John Holladay with sabotage. Although these individuals engaged in unlawful conduct by damaging government property, their acts of civil disobedience did not amount to sabotage. The Kabat defendants and Holladay are peace activists seeking to end the threat of global annihilation brought on by a nuclear arms race which the two superpowers seem unable to control. For the reasons stated in this dissent, their sabotage convictions must be overturned....
>
> It seems to this writer that the phrase "intent to injure, interfere with, or obstruct the national defense" should be given a normal connotation--that which the defendant did or attempted to do must be shown to have intended harm to the national defense. The impregnability of the missile sites meant that the acts committed by the Kabat defendants and Holladay could in no way affect the capabilities of the two missiles in their respective missile silos. The missiles were fully operational both before and after the incursion onto the missile sites by the Kabat defendants and Holladay. The intent to disarm the missiles and thereby interfere with the national defense did not lie within the capabilities of the Kabat defendants and Holladay and they knew this. The most that they could do, and all they intended to do, was to commit a symbolic act against these weapons of destruction. The Kabat defendants and Holladay did what they intended to do -- enter the missile sites, pound and chip away at the missile silo lids, pour "blood," hang banners, pray, and publicize the threat of nuclear war. Those acts did not, could not, and were not intended to damage the national defense in any way....
>
> The existence of nuclear weapons and the potential for nuclear war creates political, moral, and religious dilemmas never before confronted by mankind....
>
> We must recognize that civil disobedience in various forms, used without violent acts against others, is engrained in our society and the moral correctness of political protesters' views has on occasion served to change and better our society. Civil disobedience has been prevalent throughout this nation's history extending from the Boston Tea Party and the signing

of the Declaration of Independence, to the freeing of the slaves by operation of the underground railroad in the mid-1800's. More recently, disobedience of "Jim Crow" laws served, among other things, as a catalyst to end segregation by law in this country, and violation of selective service laws contributed to our eventual withdrawal from the Viet Nam War.
(US vs Kabat, July 22, 1986, 797 Fed. 2nd, dissenting opinion of Judge Bright, p. 599-601.)

Pantex Railroad Track Disarmament (July 16, 1985)

Richard Miller, involved in work with the poor in Des Moines, Iowa, began dismantling a section of railroad track from the railroad spur leading from U.S. Department of Energy's Pantex Nuclear Weapons Assembly Plant in Amarillo, Texas to a main line of the Topeka and Santa Fe Railroad. After first taking extensive precautions to prevent accidental derailment and avoid personal injury, he labored with railroad tools for seven hours, removing a 39-foot section of rail. Pointing out the connection between the Nazi extermination camp at Auschwitz and the Pantex factory, which is the final assembly point for every nuclear weapon made in the U.S., he put up a banner that read: "Pantex=Auschwitz - Stop the Trains." He further stated: "At Auschwitz the trains carried the people to the crematoria; at Pantex the trains carry the crematoria to the people." Charged with "wrecking trains" and destruction of national defense materials, he underwent a jury trial in Federal Court and was convicted. On November 8, 1985 he was sentenced to two four-year sentences to run concurrently. He was released from prison in February 1989 upon completing his sentence.

A New Class of Nuclear Weapons Appears (1991)

Throughout the 1980's there were persistent rumors about weapons research involving uranium at Picatinny Arsenal in Dover, New Jersey. The base was listed as working on "nuclear projectiles," but those were understood as a class of small-scale, tactical "battlefield nuclear weapons" that the US Army finally decided to phase out. In a decade of repeated line crossings and spray-paintings, I asked for the truth in US District Court proceedings in Newark, Trenton, and Camden. (See excerpts from US vs Davis above.) District Judges Cohen, Fisher, Stern, Politan, and Magistrates Perretti, Hedges, and Haneke, all declined to compel military witnesses to testify about the nature of the weapons research at Picatinny, and routinely handed out convictions and prison sentences of from one week to six months.

In July of 1990 -- before the Gulf War -- a study of the health and environmental consequences of weapons made with depleted uranium was completed and submitted to ARRADCOM officials at Picatinny. This study was classified, and I didn't see any of it until excerpts from it appeared in Martin Meissonnier's 2000 documentary, "Invisible War: Depleted Uranium and the Politics of Radiation."

A previous study of depleted uranium advantages and disadvantages was completed by Richard P. Davitt and submitted to ARRADCOM in June of 1980. This study listed research on the weapons going back to the 1960's, and it also remained classified, until March of 2000. It can be downloaded from the internet at http://fhp.osd.mil/du/pdfs/1999279_0000010.pdf.

German Judge Ernst Janning, brought to trial in Nuremberg after the war, described the character of his ignorance about Nazi atrocities thus: "If we did not know, it was because we did not want to know." This would also be the character of our pre-1991 ignorance about depleted uranium. It was under development for over 25 years prior to being unleashed on Iraq in the winter of 1991.

Nuremberg and Nuclear Weapons (1996)

"We know what the Principles of Nuremberg tell us about individual accountability. The primary principle is that "Any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment." The fact that there is no penalty for the act under internal law does not relieve the person who committed the act from responsibility under international law. Nor does the fact that the person acted as a Head of State or as a responsible government official relieve that person of responsibility. Nor does the fact that the person acted pursuant to superior orders, so long as a choice was in fact possible to him, relieve him of responsibility." (From "Nuremberg and Nuclear Weapons," by David Krieger, Nuclear Age Peace Foundation, published in 26 Medicine & Global Survival 1997; Vol. 4, found at http://www.wagingpeace.org/articles/1996/00/00_krieger_nuremberg.htm

International Court of Justice Decision (1996)

In the event of their use, nuclear weapons would in all circumstances be unable to draw any distinction between the civilian population and combatants, or between civilian objects and military objectives, and their effects, largely uncontrollable, could not be restricted, either in time or in space, to lawful military targets. Such weapons would kill and destroy in a necessarily indiscriminate manner, on account of the blast, heat and radiation occasioned by the nuclear explosion and the effects induced; and the number of casualties which would ensue would be enormous. The use of nuclear weapons would therefore be prohibited in any circumstance, notwithstanding the absence of any explicit conventional prohibition. That view lay at the basis of the assertions by certain States before the Court that nuclear weapons are by their nature illegal under customary international law, by virtue of the fundamental principle of humanity.

(From Section 92 of the decision of the International Court of Justice, The Hague, July 8, 1996. Emphasis added.)

In these circumstances, the Court appreciates the full importance of the recognition by Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of an obligation to negotiate in good faith a nuclear disarmament. This provision is worded as follows:

"Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control."

The legal import of that obligation goes beyond that of a mere obligation of conduct; the obligation involved here is an obligation to achieve a precise result -- nuclear disarmament in all its aspects -- by adopting a particular course of conduct, namely, the pursuit of negotiations on the matter in good faith.

(From the opinion of the International Court of Justice, July 8, 1996, Section 99. Emphasis added.)

Congress Studies Role of DU in Gulf War Syndrome (1997)

The [congressional] report does not single out any one poison as the cause of the health problems. Instead it offers a list: "Chemical and biological warfare agents, organophosphates found in pesticides and insect repellents, leaded diesel fuel, depleted uranium, oil-well fire smoke, leaded vehicle exhaust, contaminated drinking water, shower water and clothing, parasites, and pyridostigmine bromide and other drugs to protect against chemical warfare agents." ("House Committee Assails Pentagon on Gulf War Ills," Philip Shenon, New York Times, October 26, 1997; see also "Danger from Uranium Waste Grows as Government Considers its Fate," Matthew L. Wald, New York Times, March 25, 1997)

My Lai Massacre, A New Perspective (1998)

From the New York Times:

The massacre, which left some 500 Vietnamese civilians -- mostly old men, women and children -- dead and led to the court-martial of Lieut. William L. Calley, Jr. and five other soldiers, stands as one of the worst moments in American military history.

On March 16, 1968, the helicopter flown by Mr. Thompson, with Mr. Colburn as his door-gunner and Mr. Andreotta as crew chief, came upon American ground troops killing Vietnamese civilians in and around the village of My Lai. They landed in the line of fire between American troops and fleeing Vietnamese civilians and pointed their guns at the soldiers to prevent more murders. Mr. Colburn and Mr. Andreotta provided cover for Mr. Thompson as he went forward to confront the leader of the American forces.

Later, Mr. Thompson coaxed civilians out of a bunker so they could be evacuated, and then landed his helicopter again to pick up a wounded child whom he, Mr. Colburn and Mr. Andreotta transported to a hospital.

("Three Honored for Saving Lives at My Lai," New York Times, March 7, 1998. See also, "My Lai, And its Omens," Seymour M. Hersh, New York Times Op Ed, March 16, 1998.)

Felton's take: Applying the language of the court of appeals in US vs Berrigan (1968), helicopter pilot Hugh Thompson "selected what law he would obey." He and his crew threatened their fellow American soldiers in order to save the lives of unarmed Vietnamese civilians. Continuing in the court's language, they "imposed their beliefs upon others," that is, they blocked Lt. Calley and the ground troops. They did so even though, applying the language of the court of appeals in US vs May (1980), there was no pending "direct harm to themselves," that is, they were not being fired upon. But was the result of their arbitrary and selective obedience chaos? Not at all. The result was that people who otherwise would have been massacred were evacuated to the coast. One of the orphaned children was named Vo Thi Lien, and Cora Weiss was allowed to read her shattering account of the My Lai massacre during the federal trial of the Chicago Eight in January of 1970. (But not, needless to say, in the presence of the jury!)

Problems at DU Storage Sites (1998)

Excerpt: The federal government has been storing a uranium byproduct for so long that some of the 28,000 cylinders stacked in an open yard here are labeled "MD," for Manhattan District, leftovers from the project that built the first atom bomb. After three years of studying what to do with its 1.2 billion pounds of the byproduct, depleted uranium in a toxic compound known as uranium hexafluoride, the Energy Department has chosen a solution and this week opened hearings on the plan. The plan is to empty the more than 46,000 cylinders stored at processing plants here in Paducah in the far west of Kentucky near the Illinois border; at Oak Ridge, Tenn; and at Piketon, Ohio, and chemically convert the uranium into safer, more stable forms -- "when economically feasible." That means when the department finds a buyer for the material. And that, say experts outside the department and some inside it, probably means never.

"Is there somebody we can sucker into this?" John A. Volpe, manager of the radiation health and toxic agents branch of the Kentucky Health Department, said at the first hearing, on Thursday. "Maybe somebody inside the Beltway -- there isn't anybody out here."

Presenting options, Charles E. Bradley, Jr, the Energy Department program manager for the uranium, listed a variety of possible uses for the uranium cited over the years. But, Mr. Bradley acknowledged, "none of these have yet panned out." While the department looks for a market to defray

the cost of processing the material, estimated at $2 billion to $4 billion, the cylinders, which weigh up to 14 tons each, are sinking into the dirt, where they rust even faster. When a cylinder rusts through, a toxic smoke leaks out. ("US Seeks Solution for Byproduct of Uranium," Matthew L. Wald, New York Times, February 24, 1998)

DU Plowshares (December 19, 1999)

Philip Berrigan and Susan Crane, plowshares activists from Jonah House; Fr. Steve Kelly, SJ. who noncooperated with probation restrictions upon his release from prison for the Prince of Peace Plowshares action; and Elizabeth Walz, a Catholic Worker from Philadelphia, entered the Warfield Air National Guard Base in Middle River, Maryland. They hammered and poured their blood on two A-10 Warthog (Fairchild Thunderbolt II) aircraft. They sought to disarm the A-10's for these planes are equipped with a Gatling gun which fires 3,900 rounds of depleted uranium (DU) per minute. DU is a dense radioactive waste product and heavy metal that is used in munitions because it can burn its way through tank armor and oxidizes, releasing radioactive particles up to 25 miles away. When ingested, these toxic particles cause chemical and radioactive damage to the bronchial tree, to kidney, liver and bones, causing somatic and genetic trauma. Cancer often results. DU is not only toxic to people but also poisons the environment. The A-10's fired 95% of DU in Iraq leaving behind over 300 tons of this poisonous element. Over 10 tons of DU was used by the US in Yugoslavia.

From their statement: We come…to convert the A-10, as Roman Catholic Christians, in obedience to God's prohibition against killing. Also, to embody Isaiah's vision of a disarmed world where hearts are converted to compassion and justice and the weapons are converted to tools of peace. Finally, to atone for another nuclear war in Iraq, and a third in Yugoslavia. So help us God."

Legal Consequences: The four were all convicted of malicious destruction of property -- with property damage of more than $300 and conspiracy to maliciously destroy property. Phil Berrigan was sentenced to 30 months imprisonment, Steven Kelly and Susan Crane to 27 months, and Elizabeth to 18 months. They were also each ordered to pay one-fourth of $88,622.11. Upon their release, they were returned to Maine to face additional prison time.

United States vs. Hudson, Gilbert, Platte (2002)
(D.C. NO. 02-CR-509-RB)

Sacred Earth & Space Plowshares

On October 6, 2002, three Roman Catholic Dominican Sisters Carol Gilbert, Jackie Hudson (1934 - 2011) and Ardeth Platte, entered Minuteman missile silo site N-8 near Greeley, Colorado. Wearing white mop-up suits which said Disarmament Specialists and Citizens Weapons Inspection Team, they cut through two gates and entered the silo area. They hammered on the tracks used for the silo lids to open and on the silo itself. They also used their blood to make the sign of the cross on the tracks and on the silo. They then began defencing -- cutting through the fence in three places. They concluded the witness with a liturgy. By 8:30 a.m. military personnel arrived in humvees with machine guns pointed at them and they were placed under arrest. They were then taken to the Women's Detention Center in Greeley. They appeared in state court the next day and were charged with destruction of property--this charge was dropped when their case was transferred to federal court. On October 16, 2002, they appeared in Denver Federal Court and were initially charged with destruction of government property. Although she did not participate in the action due to her peace-work in Hebron with the Christian Peacemaker Team, Sr. Anne Montgomery signed the action statement. In their statement they declared: We, women religious, come to Colorado to unmask the false religion and worship of national security so evident at Buckley AFB, in Aurora, the Missile Silos, and in Colorado Springs: Schreiver AFB (the Space Warfare Center), the Air Force Space Command Center at Peterson AFB, Cheyenne Mountain (NORAD) and the Air Force Academy. We reject the mission of these along with the US Space Command and Stratcom in Omaha, Nebraska...We act in the many names of God the Compassionate, ar-Rahim: our Life, our Peace, our Healer to transform swords into plowshares, our violence and greed into care for the whole community of earth and sky, not as masters but as servants and friends. On October 24, they were arraigned in federal court in Denver and were given two charges: "Injury/Obstruction of National Defense of the US" which carries a maximum sentence of 20 years imprisonment and a $250,000 fine, and Injury to Government Property of the US which carries a 10-year sentence and $250,000 fine.

From the Appeals Court Decision, issued March 17, 2005:

> The high-minded motives of Defendants do not negate their intent. In a similar prosecution under 2155(a) of an intrusion on a missile site by persons opposing nuclear weapons, the Eighth Circuit said: "Though the defendants . . . intended disarmament only as a means and not as an end, their ultimate desire of saving innocent lives does not replace or negate the intent which the statute requires-that of interfering with U.S. defense functions, facilities, and policies." Kabat, 797 F.2d at 588.
>
> Civil disobedience can be an act of great religious and moral courage and society may ultimately benefit. But if the law being violated is constitutional, the worthiness of one's motives cannot excuse the violation in the eyes of the law. History has not been short of evidence of the risks, the evils, that can attend subordinating the requirements of law to one's personal view of morality. In the words of Judge (now Justice) Stevens:
> If [Defendants'] theory of defense were valid, the character of [their] conduct would be judged not by the rule of law but by the end which [their] means were designed to serve. . . .
>
> One who elects to serve mankind by taking the law into his own hands thereby demonstrates his conviction that his own ability to determine policy is superior to democratic decision making. [Defendants'] professed unselfish motivation, rather than a justification, actually identifies a form of arrogance which organized society cannot tolerate.
>
> A simple rule, reiterated by a peace loving scholar, amply refutes [Defendants'] arrogant theory of defense: "No man or group is above the law." United States v. Cullen, 454 F.2d 386, 392 (7th Cir. 1971) (quoting United States v. United Mine Workers, 330 U.S. 258, 343, 385 (1947) (Rutledge , J. dissenting)) (internal footnote omitted).

North Dakota Missile Silo (June 20, 2006)

From Bill Quigley's account of the trial:

> After the prosecution rested, the judge ushered the jury out of the room. Then the three were allowed to introduce into the record the evidence of the International Court of Justice decision about the illegality of nuclear weapons, the testimony of the mayor of Hiroshima, and two statements by Professor Boyle about international law and its condemnation of nuclear weapons. The judge was asked to dismiss the case because of this evidence. When the judge declined, Greg told the judge that he was making a mistake. The judge responded that in light of all the other federal cases he had reviewed he was not making a mistake. “But in the judgment of history, you are,” Greg responded. The judge noted Greg’s objection for the record and re-started the trial.

From Annabel Dwyer's international law brief:

> In light of the global catastrophe threatened by the US’s ICBMs, the principle of individual responsibility established in the Nuremberg Tribunals and the absolute prohibition against any threat or commission of war crimes and genocide, we continue to insist that citizens’ reasonable, non-violent or symbolic affirmative acts to point out and resist complicity with specific illegal and criminal acts of the US government are lawful, sensible and prudent. In addition, our basic rights to life and a sustainable environment must be protected by the rule of law. But a string of incorrect federal appeals courts decisions awaits successful challenge. These federal courts remain blind to the grim and urgent realities of US nuclear weapons. The facts and specific and directly relevant and intransgressible rules and principles of humanitarian law, treaties and statutes positively prohibit any threat or use of the Minuteman III.

Disarm Now Plowshares (November 2, 2009)

Bill Bischel, SJ, 81, of Tacoma, Washington; Susan Crane, 65, of Baltimore MD; Lynne Greenwald, 60, of Bremerton, Washington; Steve Kelly, SJ, 60, of Oakland, CA.; Anne Montgomery RSCJ, 83, of New York, New York, were arrested on Naval Base Kitsap in Bangor, WA. They entered the Base in the early morning hours of November 2, 2009, All Souls Day, with the intention of calling attention to the illegality and immorality of the existence of the Trident weapons system. They entered thru the perimeter fence, made their way to the Strategic Weapons Facility - Pacific (SWFPAC) where they were able to cut through the first chain-link fence surrounding SWFPAC, walked to and cut the next double layered fence, which was both chain link and barbed wire, onto the grounds of SWFPAC. As they walked onto the grounds, they held a banner saying "Disarm Now Plowshares : Trident: Illegal + Immoral," left a trail of blood and hammered on the roadway that are essential to the working of the Trident weapons system, hammered on the fences around SWFPAC and scattered sunflower seeds throughout the base.

Excerpt from their statement:

> "The manufacture and deployment of Trident II missiles, weapons of mass destruction, is immoral and criminal under International Law and, therefore, under United States law. As U.S. citizens we are responsible under the Nuremberg Principles for this threat of first-strike terrorism hanging over the community of nations, rich and poor. Moreover, such planning, preparation, and deployment is a blasphemy against the Creator of life, imaged in each human being."

They were not indicted on conspiracy, trespassing and destruction of federal property, until September of 2010, and then the trial finally took place in December of 2010.

Prosecutors said the government would neither admit nor deny the existence of nuclear weapons at the base and argued that "whether or not there are nuclear weapons there or not is irrelevant." Prosecutors successfully objected to and excluded most of the defense evidence about the horrific effects of nuclear weapons, the illegality of nuclear weapons under US treaty agreements and humanitarian law, and the right of citizens to try to stop war crimes by their government. The peace activists, who represented themselves with lawyers as stand by counsel, tried to present evidence about nuclear weapons despite repeated objections. At one point, Sr. Anne Montgomery challenged the prosecutors and the court "Why are we so afraid to discuss the fact that there are nuclear weapons?" (From the Disarm Now Plowshares blog, http://disarmnowplowshares.wordpress.com)

Sentenced on March 8, 2011:

Susan Crane and Fr. Steve Kelly were sentenced to 15 months prison and one year supervised release. Lynne Greenwald was sentenced to six months prison, one year supervised release, and 60 hours community service. Bill Bichsel was sentenced to three months prison, six months electronic home monitoring, and one year supervised release. Sr. Anne Montgomery (1926 - 2012) was sentenced to two months prison, four months electronic home monitoring, and one year supervised release.

Transform Now Plowshares (July 28, 2012)

Megan Rice (82), Michael Walli (63), and Greg Boertje-Obed (57) entered the Y-12 Nuclear Weapons Facility in Oak Ridge, Tennessee, cutting through more than one security fence, hoisting banners and pouring their blood, bringing with them a citizens' indictment citing US Constitutional Treaty Law as well as the Nuremberg Principles: "The ongoing building and maintenance of Oak Ridge Y-12 constitute war crimes that can and should be investigated and prosecuted by judicial authorities at all levels. We are required by International Law to denounce and resist known crimes."

Y-12 Spokesman Responds

"The protestors essentially penetrated one of our outer defensive layers and actually got in and defaced the walls of the facility known as the Highly Enriched Uranium Materials facility," said Steven Wyatt, a spokesperson for the security administration at the nuclear site. The facility, Wyatt said, opened in 2010 and is where the complex stores enriched uranium. "It essentially was built from the ground up to store and secure nuclear materials. It's probably the strongest building of its type in the world," Wyatt said. "We're doing a top-to-bottom look at the whole issue, what happened. Certainly we will learn from what took place and improve the security at the plant."

Legal Consequences

Initially indicted for trespassing and destruction of federal property, in December of 2012 the activists received an additional indictment for sabotage, raising their potential sentence to 35 years in prison. They are scheduled for jury trial on May 7, 2013. The security breach resulted in an unusual amount of press attention, most of which is available on the internet.

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National Catholic Reporter, July 31, 2012
Catholic Activists Breach Tennessee Nuclear Weapons Plant in Protest
By Joshua J. McElwee

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Nuke Ops Halted After Protesters Enter TN Complex

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http://www.nytimes.com/2012/08/08/us/pacifists-who-broke-into-nuclear-weapon-facility-due-in-court.html
New York Times, August 7, 2012
Security Questions Are Raised by Break-In at a Nuclear Site
By Matthew L. Wald & William J. Broad

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New York Times, August 11, 2012
The Nun Who Broke Into the Nuclear Sanctum
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After "Fort Knox" Break-in, US Nuclear Stockpile Security in Focus
By Roberta Rampton

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Kangaroo Court Looming for Nuclear Weapons Critics
by John LaForge

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http://dissidentvoice.org/2013/01/lengthy-prison-terms-grow-more-likely-for-peace-activists/
Dissident Voice, January 12, 2013
Lengthy Prison Terms Grow More Likely for Peace Activists
by Fran Quigley

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The Catholic Worker, March-April 2013
Plowshares Update
By Paul Magno

Excerpt: The primary message the Transform Now Plowshares brought to Y-12 last summer continues to be raised by the three and by their supporters: that Y-12's ongoing weapons production activities and future plans egregiously violate landmark international law. The Nuremberg Principles, codified and adopted in the wake of the Second World War, identified war crimes and crimes against peace, including indiscriminate weapons of mass destruction, and they oblige citizen action to resist them. The Non-Proliferation Treaty also dates back over forty-seven years and stresses the obligation of all nuclear powers to hasten the end of the nuclear weapons era. In contrast, the "nuclear modernization" plans for Y-12 and kindred facilities propose investing billions of dollars over the next decade alone in updating and enhancing US nuclear capability, envisioned to endure until at least 2080, and likely beyond.