CITIZENS' PETITION TO STATE AND FEDERAL AUTHORITIES

IN RE: REQUEST FOR INVESTIGATION/PROSECUTION OF OFFICERS AND DIRECTORS OF WILLIAMS INTERNATIONAL CORPORATION AND COMMANDERS OF WURTSMITH AIR FORCEBASE

BRIEF IN SUPPORT OF PETITION OF THE NUREMBERG CAMPAIGN, A PROJECT OF MICHIGAN FAITH AND RESISTANCE

AUGUST 6, 1991

TABLE OF CONTENTS

In view of the dramatic developments in eastern Europe and the soviet Union, one might conclude that the Michigan Nuremberg Campaign is no longer necessary. Tragically, the exact opposite is true. The need to investigate and prosecute the Officers and Directors of Williams International Corporation and the Commanding Officers of Wurtsmith Air Force Base for conspiring to commit crimes against peace, war crimes and crimes against humanity is more urgent now than ever before.

The U.s. government has made it plain that this country will not undertake to reduce or abolish its nuclear arsenal as long as approximately 30000 weapons are still deployed somewhere in the soviet republics. The continuing decline of central authority in the soviet Union makes it impossible to predict with any certainty under whose custody and control Soviet nuclear weaponry will be placed. The only rational approach toward an alleviation of such a world-threatening situation is for the U.S. and the Soviet Union to proceed immediately toward the abolition of their respective nuclear arsenals.

Incredibly, rather than take the initiative in immediate and total nuclear disarmament, the U.s. Department of Defense conducted still another test of a nuclear device at its Nevada test site during the second weekend of September, 1991. In answer to a puzzled journalist's question as to why under the present international circumstances the U.s. found it necessary to continue testing nuclear weapons, a Defense Department spokesman replied that as long as the u.s. maintained a nuclear arsenal periodic testing would be necessary.

Precisely because of that(U.S. military policy, investigation and prosecution of those who continue to be engaged in crimes against peace, war crimes and crimes against humanity become even more urgent and necessary.

A more important reason for going forward with the Michigan Nuremberg Campaign can be found in the Desert Storm military action in the Persian Gulf and in its aftermath. One of the first weapons used *in* the onslaught against the inhabited areas of Iraq was the cruise missile. The cruise missile engine is manufactured by Williams International Corporation. Even though the missiles carried "conventional" rather than nuclear warheads, the devastation and death inflicted upon Iraqi men, women and children by the cruise missile was there for all to see. Everyone now knows that such weapons do not discriminate between combatants and innocent civilians, and, whether they carry nuclear warheads or not, the employment of such weapons clearly violates international law, conventions, treaties and, therefore, u.s. criminal laws. The perpetrators of such crimes stand ready to repeat such horrors, and they must be held accountable now.

Zolton Ferency

I. INTRODUCTION AND BACKGROUND

Law enforcement officers do not countenance known and broadcast plans for murder. Neither should public preparations for mass murder proceed unabated. Whatever euphemisms have been used as legal justifications have now evaporated with indisputable facts presented here. The facts are so stark, so well understood and officially documented that any court could take judicial notice of them. The conclusions of law are likewise straight-forward. Agreement to inflict hideous and enduring atrocities is grossly illegal and must be stopped before the underlying crimes are executed.

As citizens of Michigan and the United States with collective commitments to the community of all human beings, we submit this thorough and formal request to meet some of our own responsibility to investigate and end these crimes. We expect our constituted authorities to investigate and prosecute with fairness and independence.

Those named in this request are assigned responsibility because they are pivotal in the criminal conspiracy. Intent on short-term gain, it is they who squander our national treasure for tortuous death and collective demise.

When the United Nations General Assembly declared the 1990s the decade of international law, many citizens all over the world, including civil resisters to nuclear weapons, their defense lawyers and international lawyers, had already engaged in prolonged and serious study of the subjects covered here. They discovered a basic problem. The law as now improperly applied speaks with forked tongue and is in danger of disintegrating into an unbelievable and unworkable means of structuring society.1

On the one hand, for example, the United States has signed and ratified binding treaties such as the Treaty on the Non-Proliferation of Nuclear Weapons in which the United States agreed:

> to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on General and Complete Disarmament under strict and effective international control. 21 UST 483, TIAS 6839, 729 JNTS 161, 7 ILM 811 (1968).

On the other hand, the United States Congress and Executive, through and with manufacturers and military leaders such as those named here, let contracts to build and prepare to use nuclear weapons. The law can not tolerate both. The many treaties and international agreements which prohibit acts of murder and annihilation can not be interpreted in concert with contracts to design and deploy weapons for the express purpose of inflicting murder and annihilation. Knowing that such contracts are illegal, the Officers and Directors of Williams International and the Commanders of Wurtsmith Air Force Base nevertheless agree to fulfill them.

Williams International Corporation (Williams) is the number one nuclear weapons manufacturer in the state. Military contracts account for 85% of Williams' business. Moreover, the corporation has a unique role in the development of cruise missiles, namely being the sole developer of the engine for all types of cruise missiles. Williams has played,and continues to play, a crucial role in the succeeding "generations" of engines for the newer cruise missiles, including the most recent advanced cruise'missile.

The Officers and Directors of Williams, a closely held private corporation, know, or should know, the consequences of this work, and should, therefore, be held accountable for it.

Wurtsmith Air Force Base (WAFB) in Oscoda, Michigan, is a significant link in the strategic nuclear force of the United States military, acting as an intermediate-level strategic Air Command base, keeping a 24 hour readiness to dispatch already loaded nuclear-tipped cruise missiles and other nuclear weapons on its B-52G aircraft. Moreover, it participates daily in organized "practice runs" designed to maintain that readiness. The daily planning for nuclear war clearly makes the Commanders liable for conspiracy under international legal principles which prohibit such activity.

Trust in the system of law and critical thinking have not yet disappeared. Double-speak no longer hides the specific intent of those named here because the consequences of the use of even one 200 kiloton nuclear weapon are inevitable, purposeful and indiscriminate death. Radiation can not be focused on a military target. The threat of all-out nuclear war can not be justified by calling it "the last resort." Nuclear war is total war, has no military purpose and is the negation of law itself. The term "deterrence" no longer masks the actual terrorism and extortion inherent in the threat and willingness to use poisonous weapons. War is not peace. Nor can inevitable and vast civilian deaths be absolved by terms such as "collateral damage," because the certain results of use of nuclear weapons are wanton destruction.

The confusion can be untangled. Indeed the judicial branch of our government is constitutionally charged with making sense of the law. The courts have acknowledged the validity of international prohibitions and our own state and federal law incorporates and mirrors those same prohibitions.

For ten years many Michigan citizens have been protesting the

design, manufacture and deployment of nuclear weapons in the state. Thousands have witnessed the power of the state protecting the Officers and Directors of Williams International and Commanders of Wurtsmith Air Force Base as hundreds of civil resisters have been arrested and many jailed. The courts have compromised their independence by not permitting a full argument in civil resistance cases in Michigan, but one court stated:

> The court recognizes the common acceptance of the doctrine that an individual has the duty to refuse to perform acts which would subject them to prosecution for crimes against humanity under principles of international law, even though the act is commanded by national law or by lawful order of a nation. This principle has not been extended to justify as an excuse an individual criminal act to interrupt or interfere with another party's violation of international law. Such interruption or interference is properly left to the duly constituted authority,... Michigan v Jones, 52-1 District Court, Walled Lake, MI, No 83-101226 (March 2, 1984), pp. 1-2.

Residents of lovely lakeside towns like Walled Lake and Oscoda caught by the criminal conspiracy to increase manufacture and continue deployment of hideous and unusable weapons desire unquestioning, creature comfort and economic security. No doubt residents of Dachau and other pleasant concentration camp towns also found themselves using "realism" to rationalize their inability to question or counter those in power. Whatever the means of ignoring the stench of gas,

whatever the lack of curiosity about the train loads of people who went into but never out of the concentration camps, in the end there could be no excuse for collaboration. What will we tell our children even if no.more nuclear weapons are ever used? We can no longer tell them we were ignorant of the properties of radiation or unsure about the existence of these weapons in our state, our towns. The building, testing and deploying of these nuclear weapons is done with the

specific intent to inflict death and long term poisoning on human beings and the earth itself. We know that, and because we do, we must act.

It was we Americans who were so horrified by Nazi atrocities that we insisted on making individuals criminally responsible for their acts. We were instrumental in clearly defining the Nazis' crimes in establishing those acts as firm law, as law so fundamental that law itself does not exist in their absence or their disregard. As

Americans too we insisted that these crimes were not only crimes after

having been accomplished but crimes in the planning and preparation. Recognition of universal jurisdiction prevents these criminal conspirators from escaping by leaving the place where their crimes are committed. Even without such clear definition of crimes of the magnitude as Crimes against Peace, War Crimes and Crimes against Humanity, our own criminal conspiracy statutes forbid the inexcusable activity which occurs at Williams International and Wurtsmith Air Force Base.

Mr. Justice Jackson, the United States Prosecutor at Nuremberg stated:

> "If certain acts in violation of treaties are crimes, they are crimes whether the United States does them or whether Germany does them, and we are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us.•
> (International Conference on Military Trials, Dept of State Pub. No. 3080, p. 330.)

This brief presents far more than probable cause that the named Officers and Directors of Williams International Corporation and Commanders of Wurtsmith Air Force Base, with their plans and preparations for nuclear war, are conspiring to commit Crimes against

peace, War Crimes, and Crimes against Humanity in violation of numerous and binding laws of war just as surely as they violate the conspiracy statutes of the State of Michigan and the United States.

II. PETITION

Based on the facts and law as set forth in this brief and supported by the attached affidavits, the Michigan Nuremberg Campaign requests that the Attorney General for the State of Michigan and the Iosco and Oakland County Prosecutors, pursuant to MCL 767.3; MSA 28.943 and MCR 6.101, and the U.S. Attorney for the Eastern District of Michigan and Assistant U.S. Attorney for the Southern Division of the Eastern District of Michigan, pursuant to 18 USC 3331 and Fed. R. Crim. P. 3, file complaints against and/or apply to the court for investigation of the named Officers and Directors of Williams International Corporation, Walled Lake, Michigan, and the named Commanders of Wurtsmith Air Force Base, Oscoda, Michigan, for: Conspiracy to Commit Crimes Against Peace, War Crimes and Crimes Against Humanity in violation of the Nuremberg Charter, 59 Stat 1544, E.A.S. No.472 and the laws and customs of war and peace; and conspiracy to commit offenses prohibited by law in violation of MCL 750.157a; MSA 28.354 and 18 USC 371.

The Officers and Directors of Williams International Corporation did agree and conspire to design and build cruise missile engines to deliver 200 kiloton nuclear warheads with specific intent to, inter alia, wage war in violation of international treaties, agreements or assurances, inflict uncontrollable radiation poisoning and firestorms on civilians, cause human beings unnecessary suffering, and bring about wide-spread long-term and severe damages to the environment. The Commanders of Wurtsmith Air Force Base did agree and conspire to prepare to use 200 kiloton nuclear air launched cruise missiles, 170

kiloton nuclear short range attack missiles and nuclear gravity bombs with specific intent to, at a minimum, was a nuclear war in violation and international treaties, agreements and assurances, subject civilians to uncontrollable radiation poisoning, wantonly destroy cities, towns and villages, subject human beings to tortuous death and unnecessary suffering and cause serious long-term and severe damage to the environment.

III. JURISDICTION

The crimes alleged have been and are being committed by the named Officers and Directors of Williams International Corporation located at 2240 Maple Road, Commerce Township, Oakland County, Michigan in their capacities as Officers and Directors of Williams International Corporation and by the named Commanders of Wurtsmith Air Force Base, Oscoda Township, Iosco County, Michigan, in their capacities as Commanders of Wurtsmith Air Force Base.

A. JURISDICTION TO FILE A COMPLAINT AND/OR REQUEST INVESTIGATION

The U.S. Attorneys for the Eastern District of Michigan serve to enforce United States law in the judicial district including Oakland County and Iosco County, Michigan where alleged conspiracies in violation of the cited United States law and international law as incorporated into U.S. law have taken and are taking place.

The facts as stated in Section IV below constitute the offenses alleged. The U.S. Attorneys for the United States District Court for the Eastern District of Michigan are requested to make a complaint upon oath before a magistrate pursuant to Fed R. Crim. P. 3., and or in the alternative request investigation by a special grand jury:

> In addition to such other grand juries as shall be called from time to time, each district court which is located in a judicial district containing more than four million inhabitants, or in which the Attorney General, the Deputy Attorney General, the Associate Attorney General or any deisgnated Assistant AG certifies in writing to the chief judge of the district that in his judgment a special grand jury is necessary because of criminal activity in the district shall order a special grand jury to be summoned. 18 USC 3331

In Michigan United States prosecutions can proceed either by information or grand jury indictment. "An offense which may be

punished by a term exceeding 1 year. . . shall be prosecuted by indictment or, if indictment is waived, it may be prosecuted by information. " Fed. R. Crim. P. 7 (a)

> Except as otherwise expressly provided by enactment of Congress, any offense against the United States begun in one district and completed in another, or committed in more than one district may be inquired of and prosecuted in any such district in which such offense was begun, continued or completed. 18 USC 3237.

The Attorney General of the State of Michigan serves the entire state of Michigan.

The Iosco County Prosecutor serves Iosco County where the current and former Commanders of Wurtsmith Air Force Base have performed and are performing overt acts, as documented in the Statement of Facts, in connection with the conspiracy to commit Crimes against Peace, War Crimes and Crimes against Humanity. The Oakland County Prosecutor serves Oakland County, Michigan where the named Officers and Directors of Williams International have performed and are performing overt acts, as documented in the Statement of Facts in connection with conspiracy to commit War Crimes, Crimes against Peace and Crimes against Humanity.

> Whenever by reason of the filing of any complaint, which may be upon information and belief, or upon the application of the prosecuting attorney or attorney general, any judge of a court of law and of record shall have probable cause to suspect that any crime, offense or misdemeanor has been committed within his jurisdiction, and that any apersons may be able to give any material evidence respecting such suspected crime, offense or misdemeanor, such judge in his discretion, may make any order directing that an inquiry be made into the matters relating to the complaint... MCL 767.3; MSA 28.943.

A complaint, "a written accusation that a named or decribed person has committed a specified criminal offense,...[including] the

substance of the accusation,...may not be filed without a prosecutor's written approval endorsed on the complaint or attached to it or unless security for costs is filed with the court." MCR 6.101

B. CONSPIRACY MAY BE TRIED IN ANY VENUE VHERE ACTS IN PURSUANCE OF THE CONSPIRACY TOOK PLACE.

"Conspiracy may be tried wherever an overt act in pursuance of the conpsiracy takes place." People v Pettijohn, 283 Mich 108, 114 (1938). "Perhaps the most extensive choice of venue arises in conspiracy cases. The prosecutor there may initiate prosecution on the conspiracy charge in any district in which any act in furtherance of the conspiracy was committed by any of the conspirators, even though the defendant himself was not present in the district. Abrams, onspiracy and Multi-Venue in Federal Criminal Prosecutions: The Crime Committed Formula, 9 UCLA L. Rev. 751, 782-83. Kamisar, Yale, LaFave, Wayne, Israel, Jerold, Modern Criminal Procedure. West 1980, p. 1066.

Any party who violates the criminal code of Michigan, in Michigan can,of course, be tried in Michigan.

Thus, the prosecutors to whom petitioners have submitted this request have authority, and a duty, to act on this information here presented.

C. UNIVERSAL JURISDICTION FOR VIOLATION OF THE NUREMBERG CRIMES

Crimes against Peace, War Crimes and Crimes against Humanity (the Nuremberg crimes) are crimes for which there is universal jurisdiction. (Declaration of Francis A. Boyle, Paragraph 26). "The universality principle is based on the assumption that some crimes [including Crimes against Peace, War Crimes and Crimes against Humanity] are so universally condemned that the perpetrators are the enemies of all people." Demianiuk v Petrovskv. 603 F Supp 1468 (ND.Ohio), affirmed 776 F 2d 571 (6th Cir. 1985), certiorari denied,

457 U.S. 1016, 106 S Ct 1198, 89 L Ed 2d 312 (1986).

The American Law Institute Restatement of Foreign Relations Law Third, 404 (Restatement) states:

> A state [nation] has jurisdiction to define and prescribe punishment for certain offenses recognized by the community of nations as of universal concern, such as piracy, slave trade, attacks on or hijacking aircraft, genocide, war crimes, and perhapscerain acts of terrorism, even where none of the bases of jurisdiction indicated in 402 is present.

The Restatement comment explains further:

> Universal jurisdiction over the specified offenses is a result of universal condemnation of those activities and general interest in cooperating to suppress them as reflected in widely-accepted international agreements and resolutions of international organizations. These offenses are subject to universal jurisdiction as a matter of customary law...
>
> In general universal jurisdiction on the basis of universal interests has been excercied in the form of criminal law,...

The Restatement Reporters[1] Notes cite the following bases for their conclusions:

> That genocide and war crimes are subject to universal jurisdiction was accepted after the Second World War. Demianiuk. supra...
>
> Similarly, In Matter of Barbie, [1983] Gaz.Pal,Jur. 710 (Cass. Crim.Oct.6, 198.3),...[The Supreme Court of France ruled] that the charges against Barbie transcended internal French rules of procedure, since they involved crimes against all humanity, as defined by several wartime declaration of the Allies and by the Charter of the International Military Tribunal at Nuremberg. The Principles of the Nuremberg Charter and Judgment were unanimously adopted by the United Nations General Assembly in 1946. G.SA. Res. 95(1), 1(2) G.A.O.R. Resolutions, at 188... Universal jurisdiction to punish genocide is widely accepted as a principle of customary law... Restatement, supra. pp. 255-257.

The affidavit of Professor Francis Boyle attached establishes the following:

> "As long ago as 1804, the United States Supreme Court held that even an order from the President could not justify or excuse an act that violated the laws and customs of war. Little v Barreme. 6 U.S. (2 Cranch) 169, 2 L. Ed. 243 (1804). 'From the very beginning of its history this court has recognized and applied the law of war. .."Ex Parte Ouirin. 317 U.S. 1, 33, 63 S Ct. 2, 13, 87 L Ed 3, 12 (1942). Since the laws and customs of war are already part of United States domestic law, international treaties and executive agreements that incorporate these rules so not require implementing legislation by Congress.
>
> "For example, the Regulations annexed to the Hague Convention IV are either self-executing or have already been executed by Congress. Thus the Supreme Court expressly ruled in In Re Yamashita. 327 U.S. 1, 8 (1945) that Congress had adopted f the system of military common law applied by military tribunals so far as it should be recopgnized applicable by the Courts, and is further defined and supplemented by the Hague Convention'. The Nuremberg Tribunal has also expressly held that the Hague Regulations are binding as a matter of customary international law. The Nuremberg Trial . 6 F.R.D.69, 130 (1946).

(Declaration of Francis A. Boyle, Paragraphs 30 and 31).

D. CIVILIANS TRIED FOR VIOLATIONS OF THE NUREMBERG CRIMES

Civilians have been tried for violations of the laws of war including Crimes against Peace, War Crimes and Crimes against Humanity. In UK v Tesch. (The Zyklon B Case), Law Reports of the Trials of Maior German War Criminals, Vol. I, p. 93, Friedmann, The Law of War A Pr»-;irmentarv History. Vol. II, p. 1284, 1487, 1498, the defendant supplied prussic acid for use in concentration camps and were convicted as civilians for accessory to violations of the law. The court held:

> The present case i's a clear example of the application of the rule that the provisions of the laws and customs of war are addressed not only to combatants and to members of state and other public authorities, but to anybody who is in a position to assist in their violation.

> The activities with which the accused in the present case were charged were commercial transactions conducted by civilians. The military court acted on the principle that any civilian who is an accessory to a violation of the laws and customs of war is himself also liable as a war criminal.

"The Nuremberg Tribunal also established that the legal duty to comply with international law was not confined to political and military leaders. The Flick Case, involved indictments brought against German industrial leaders. In that case the Tribunal faced squarely the issue of civilian responsibility for criminal violation of international law:

> '...[I]t is urged that individuals holding no public office and not respresenting the state, do not and should not come within the class of persons criminally responsible for a breach of international law. It is asserted that international law is wholly a matter outside the work, interest, and knowledge of private individuals. This distinction is unsound. International law, as such, binds every citizen just as ordinary municipal law. Acts adjudged criminal when done by an officer of the government are criminal when done by a private individual. The guilt differs only in magnitude, not in quality. The offender in either case is charged with personal wrong and punishment falls on the offender in prooia persona. The application of international law to individuals is no novelty."[1] Reprinted in Friedman, Leon, ed. The Law of War: A Documentary History. Vol II (Random House, 1972), pp 1284.

Falk, Richard, Meyrowitz, Lee, Sanderson, Jack, Nuclear Weapons and International Law. World Order Studies Program, Occasional Paper No. 10, Center of International Studies, Princeton University, 1981, p.66.

The civilians here, the Officers and Directors of Williams International can be charged under the criminal codes of Michigan and the United .States based upon underlying crimes defined in international law and incorporated into the law of the United States and the State of Michigan.

E. MILITARY PERSONNEL TRIED IN CIVILIAN COURTS

Cases involving military personnel have frequently been tried in civilian courts. Francis Boyle, in the attached affidavit, cites relevant cases. (Declaration of Francis A. Boyle, paragraph 29).

In Mitchell v Harmonyr 54 U.S. (13 How.) 115, 14 L. Ed. 75 (1851), a commanding officer gave an illegal order to seize property in Mexico. The United States Supreme Court held:

> [T]he order given was an order to do an illegal act; to commit a trespass upon the property of another; and can afford no justification to the person by whom it was executed. . . [I]t can never be maintained that a military officer can justify himself for doing an unlawful act, by producing an order of his superior. The order may palliate, but it cannot justify." Mitchell v Howard. supra. 54 U.S. (13 How.) at 137, 14 L. Ed. at 85.

In Luther v Borden. 48 U.S. (7 How.) 1, 12 L Ed. 581 (1848) the United States Supreme Court held that commanders and subordinates could be held liable for acts of force beyond the legitimate military objective in time martial law declared to suppress an insurrection.

> It was a state of war; and the established government resorted to the rights and usages of war to maintain itself, and to overcome the unlawful oppostition. And in that state of things the officers engaged in its military service might lawfully arrest anyone, who from the information before them, they has reasonable grounds to believe was engaged in the insurrection; and might order a house to be forcibly entered and searched, when there were reasonable grounds for supposing he might be there concealed... **No more force, however/ can be used than is necessary to accomplish the object. And it the power is excercised for the purposes** of **opposition, or any injury wilfully done to person or property, the party by whom, or by whose Oder, it is committed would undoubtedly be answerable.** (Emphasis Added). (Declaration of Francis A. Boyle, Paragraph 29). Luther v Borden, 48 U.S. (7How.) at 45-46, 12 L. Ed. at 600.

In Terril v Rankin. 65 Ky. (2 Bush) 453, 462 (1867), the state of Kentucky courts had jurisdiction over acts of soldiers "in

violation of the law of international war."

General, special, or summary courts martial jurisdiction over military personnel is not exclusive. 10 USC 817 - 820. Offenses in violation of the military code may be tried by military commisssions. 10 USC 821. "These provisions have not impliedly deprived civil courts of jurisdiction." People v Penman, 177 P 461, 179 Cal 497 (1918). The Air Force Commanders named here are not exempt from charges under state or federal criminal codes, c.f. United States Department of the Air Force, International Law; the conduct of armed conflcit and air operations (AFP 110-31), 1976, p 15-16. U.S. v Benedict, AFCMR 1985, 20 MJ 939, review granted in part 22 MJ 367, reversed on other grounds 27 MJ 253.

U.S. military personnel are always liable for violations of international law even during a war declared by Congress authorizing the President to take whatever steps necessary. Paauete Habana. 175 U.S. 677 (1900)

F. CIVILIAN COURTS MAY (AND MUST) ENFORCE INTERNATIONAL LAW

"All offenses against the law of nations are indictable at common law in state [and federal] courts," Mueller and Wise, International Criminal Law. 1965, p.258-259. (Declaration of Peter Weiss, Paragraph 13).

In investigating the specific intent to commit the underlying offenses of Crimes against Peace, War Crimes and Crimes against Humanity, civilian courts apply international law.

> Valid treaties are as binding within the territorial limits of the state [of Michigan] as they are elsewhere throughout the dominion of the United States People v Jondreau. 384 Mich 539, 548-549; 185 NW 2d 375 (1971).

> There is nothing in the Federal Consitution which deprives a State Court of power to decide a question of international law incidentally involved in a case over which it has jurisdiction; ... Christian County Court v Rankin, 63 Ky. (2 Duv.) 502, 505 (1866).

6. FEDERAL COURT JURISDICTION IS NOT EXCLUSIVE

18 USC 3231 states:

> The District Courts of the U.S. shall have original jurisdiction exclusive of the courts of the states of all offenses against the laws of the U.S. **Nothing in this title shall be held to take avay or impair** the **jurisdiction of the courts of the several states under the laws thereof.** (Emphasis added).

The Act for Implementation of the Prevention and Punishment of The Crime of Genocide, 18 U.S.C. 1091 (1987) provides specifically for a federal offense of genocide. Federal jurisdiction over the crime of genocide or attempted genocide, however, is not exclusive:

> Nothing in this chapter shall be construed as precluding the aplication of state or local laws to the conduct proscribed by this chapter...18 USC 1092.

The power of the States within the United States to define and punish "offenses against the law of nations" (U.S. Constitution Article 1, Section 8) is not in this instance preempted by Congress' definition of the federal crime of genocide.

IV. STATEMENT OF FACTS

A. WILLIAMS INTERNATIONAL CORPORATION

1. Corporate Structure and Responsibilities.

Williams International Corporation is the business that has developed, researched and built most of the engines for cruise missiles since the early 1970s. It is the remarkable turbofan engine that was envisioned and designed by Sam B. Williams and his company that, together with modern computer technology, has rescued the cruise missile from the floor of the military planners. Earlier generations of the cruise missiles, going back to the "buzz" bombs of Hitler's Germany, fast became obsolete inter alia, because of their bulky size and completely unreliable tracking systems. With the advent of the Williams engine and the TERCOM guidance system, new life was breathed into this weapon. (Declaration of Paul Francis Walker, Paragraph 6).

Sam B. Williams, a Michigan native, established Williams research in 1954. The name was changed to Williams International Corporation in 1981. Williams headquarters are at 2280 W. Maple Road, Walled Lake, Michigan 48390. It sits on 69 acres with 300,000 square feet of building space. In addition, it has a rail house office facility at 2121 Easy Street, Walled Lake, Michigan and storage facilities at 2077 Easy Street, Walled Lake, Michigan and at 2089 Easy Street, Walled Lake, Michigan. Williams also has a manufacturing plant at 3450 Sam

Williams Drive, Ogdon, Utah 84401. (Declaration of C. Peter Dougherty, Paragraphs 6 and 7). As a closely held, private corporation, Williams International does not have to report financial

results and much of its corporate activity remains private. However, it is known that in 1988, Williams reported assets of $145,000,000.00 and, in 1989, Williams reported sales of approximately $200,000,000.00. (Declaration of C. Peter Dougherty, Paragraphs 8, 10 and 11).

The current officers and directors of Williams International are as follows:

Sam B. Williams President-Treasurer
Eugene L. Klein Executive Vice-President
Lawrence L. Cruzen Senior Vice-President
Robert J. Haas Senior Vice-President
Robert C. Katz Senior Vice-President
Clyde E. Williams, Jr. Secretary
Thomas J. Williams, Jr. M.D.

Operational but not corporate officers:

David V.B. Carr Vice-President Operations
Angelo C. Farro Vice-President Operations
Leonard D. Frescoln Vice-President Finance
Donald A. Gries Vice-President Engineering
David C. Jolivette Vice-President Public Relations
John F. Jones Vice-President Technical Director
Raymond c. Preston Vice-President Business Development & Washington Operations
Williams R. Quasney Vice-President Programs & Product Services

(Dun & Bradstreet Business Credit Services; Declaration of C. Peter Dougherty, Paragraph 12).

2. Department of Defense Contracts.

Williams employs nearly 1000 people in Walled Lake, Michigan and about 300 in Ogdon, Utah. Fully 85% of all business at Williams is defense related. (Declaration of C. Peter Dougherty, Paragraphs 13 and 15). As more thoroughly outlined in the Declaration of C. Peter Dougherty, attached, Williams International is the sole designer and developer of the small turbofan engine that powers all of the United States cruise missiles to date. Recently, Teledyne CAE has been awarded some of the contracts for producing the engine developed by

Williams International. Williams International, as of 1988, had produced more than 3,500 turbofan engines for cruise missiles and had earned approximately $600,000,000.00 in research and development contracts from the Defense Department since 1973.

While the INF treaty has ended deployment of ground launched cruise missiles, prior to the adoption of that treaty, Williams International had designed, tested and produced 560 engines for that weapon, each of which had a nuclear warhead of 200 kilotons. In addition, 1,753 air launched cruise missiles, each having a nuclear warhead of 200 kilotons, are powered by the Williams F 107-WR-101 engine. Production of these engines was completed in 1984. Also, 760 sea launched cruise missiles, known as Tomahawk missiles, are powered by the Williams F 107-WR-402 engine. Each of these missiles carries a nuclear warhead of 200 kilotons. It is anticipated that a total of 4000 Tomahawk cruise missiles with both conventional and nuclear warheads will be produced. The engine contracts are now competitively awarded by the Navy to both Williams International and Teledyne CAE. This competition, however, was not without its flaws. Between 1978 and 1989 Williams International is paid approximately $36,000 as "management costs" for each of the 708 F 107 Tomahawk cruise missile engines built by Teledyne for the Navy, and although complaints were raised, Williams is presumably still receiving this "management fee." Between fiscal years 1991 and 1995, it is estimated that Williams will produce approximately 1500 new Tomahawk sea launched cruise missile engines, according to recently awarded Navy contracts. (Declaration of C. Peter Dougherty, Paragraphs 18-20; 22-24). The cost of one

Williams engine for the cruise missile is approximately $150,000.00 and is approximately 1/10 of the missile's 1.5 million dollar unit

cost. (Declaration of C. Peter Dougherty, Paragraph 27).

Not all of the cruise missiles that contain Williams engines are, or will be, nuclear weapons. However, for example, it is estimated that about 19% of all Tomahawk cruise missiles carry nuclear warheads of 200 kilotons each. (Declaration of C. Peter Dougherty, Paragraph 30).

Williams International is the sole contractor to the Air Force in a project to build a new generation of air launched cruise missiles expected to have greater range and so-called "stealth" features, called the advanced cruise missile. The "stealth" nature of the weapon comes from its improved range and efficiency. The Williams F 112 engine is used to power the U.S. Air Force's advanced cruise

missile and the Air Force has plans to acquire approximately 1500 advanced cruise missiles. Plans are to have full rate production of the advanced cruise missile as of 1992. All advanced cruise missiles are to carry the 200 kiloton W 80-1 nuclear warhead. (Declaration of C. Peter Dougherty, Paragraphs 37, 39 and 42). This year alone, Williams International was awarded a $19,129,000.00 contract from the Air Force to provide additional long-lead efforts for 90 F 112-WR-100 engines for the advanced cruise missile and the Department of Defense indicates that the program acquisition cost for the advanced cruise missile engine will exceed $500,000,000.00 every year in fiscal years 1991 through 1993, at least. (Declaration of C. Peter Dougherty, Paragraphs 43 and 44).

3. Agreement of Officers and Directors.

Obviously, each of these contracts with the government has included written correspondence and discussion between government agents and representatives of the Williams International Corporation.

Since 1973, Williams International has been a major league player in the nuclear weapons capability of the United States military. While it is true that cruise missiles can carry a conventional payload, and have, in fact in the recent Gulf War, nevertheless, it has always been a goal of the U.S. military to use cruise missile technology in its nuclear arsenal. That fact has been a part of public knowledge for at least the last ten years. That knowledge must be ascribed to the officers and directors of Williams International Corporation who have oversight responsibility and accountability to the U.S. military for its numerous contracts and ongoing contact with the military. In addition, since it is anticipated that all advanced cruise missiles will be equipped with 200 kiloton nuclear warheads, and this too is public knowledge, the ongoing complicity of Williams International's officers and directors with the nuclear weapons capability of the United States can be undisputed.

4. Williams international Corporation Nuclear Cruise Missile Engines.

a. Physical Characteristics of the Cruise Missile and the Cruise Missile Engine.

The cruise missile is a small, completely autonomous, pilotless drone. It can carry either a conventional warhead or a nuclear warhead. It is guided by a computer that is on board and it flies on a one-way mission and explodes at its target. The range and accuracy of today's cruise missiles is longer and better than any cruise missiles in the past. These characteristics are due to the Williams International engine and the computer guidance system. The long range possible for the cruise missile today (1500 miles) is due to the Williams International turbofan engine. The engine has a very high

thrust for its weight (thrust is in the 600 pound class while the engine only weighs 146 pounds, (Declaration of c. Peter Dougherty, Paragraph 22), which means that it is a very powerful engine even though it is very light. It is also an "air breathing" engine, which means that when it burns its fuel, it does not have to carry oxygen. The Williams engine is extremely quiet so that the cruise missile makes very little noise as it flies. In addition, the exhaust of the engine is very cool, making it difficult to detect the cruise missile by infrared detectors. The guidance system in a cruise missile, known as TERCOM, for Terrain Contour Matching, has allowed the cruise missile to join the modern day nuclear weapons arsenal. It is an on board computer system that has a pre-programmed map in its memory which it matches to the terrain that it is flying over and compares what it sees with the image that it already has in its computer memory. The guidance system then directs the missile to correct its course by changing the direction or attitude of the missile's fins. This system enables the cruise missile to generally strike within approximately 100 feet of an intended target. (Declaration of Daniel Axelrod, paragraph 9).

The cruise missile is a comparatively very light weapon weighing only 3,000 pounds and is from 20 feet to 25 feet long and approximately 24 inches around. This characteristic allows the cruise missile to be very mobile, since it can be launched from almost any location in the world. It also means that it can be easily hidden. These characteristics make the cruise missile a difficult weapon to verify. It is, therefore, a difficult weapon to negotiate about in the international community, since verification is a key element of such negotiations. (Declaration of Daniel Axelrod, Paragraph 10).

Cruise missiles can be launched from a ground launcher using a booster engine that falls off, or they can be launched from submarines or aircraft. In the latter two cases, the cruise missile is essentially brought to an area of the world which allows it to be launched within its range in order to successfully reach a target. That range is approximately 1500 miles so that a submarine or an aircraft need only come within 1500 miles of the target and release the cruise missile at that point, when it becomes an autonomous, one-way drone headed accurately toward its target. Initially, the cruise missile flies at a very high altitude until it reaches the region where it is thought that it might be detected by the enemy. Then, it is designed to drop to a very low altitude and, in fact, flies at tree top levels. Flying at such a low level, the cruise missile cannot be detected by conventional radar. Radar is a certain type of electromagnetic radiation. Radar waves go out from an antenna and hit the intended object, in this case the cruise missile. That wave reflects off the cruise missile and returns back to a receiver. However, because of the smallness of the cruise missile and its closeness to the earth, that is, flying at treetop level, the radar reflection is often confused with general ground reflections, what is called ground clutter. Therefore, the radar picture is useless. (Declaration of Daniel Axelrod, Paragraph 11).

The current generation of the Williams International turbofan engine has provided a 19% increase in cost and a 2% decrease in fuel consumption. (Declaration of C. Peter Dougherty, Paragraph 32). In addition, the advanced cruise missile is intended to substantially improve range, accuracy and flexibility of the weapon. The high energy content fuel burned in an advanced cruise missile engine is

expected to give the missile even greater range. (Declaration of C. Peter Dougherty, Paragraphs 40-41 and Declaration of Paul Francis Walker, Paragraph 11).

b. Ground Launched Cruise Missiles.

Williams International had produced 560 ground launched cruise missile engines. All of those cruise missiles had bee deployed prior to the signing of the INF treaty. With the approval of that treaty, those weapons are no longer deployed and are in the process of being dismantled. Those weapons will certainly have their nuclear material recycled as well as many of their parts. It is anticipated that many of the engines in those weapons will be refurbished to be used in future weapons. Prior to the signing of the INF treaty, those weapons, all of which carried a 200 kiloton nuclear warhead, had been deployed throughout the world, primarily in Eastern Europe, and had been ready for use in the East-West arena.

c. Air Launched Cruise Missiles.

While it is not absolutely clear how many engines Williams has produced for air launched cruise missiles, it is known that as of 1984, Williams had produced 1,753 engines for the air launched cruise missile. All of these weapons have a nuclear warhead of 200 kilotons. (Declaration of C. Peter Dougherty, Paragraph 18b). In addition, Williams International is the sole contractor to the Air Force to build the\advanced cruise missile. It is estimated that the Air Force plans to acquire 1,500 advanced cruise missiles. (Declaration of C. Peter Dougherty, Paragraphs 35 and 37). All of these weapons are planned to carry the 200 kiloton nuclear warhead. (Declaration of C. Peter Dougherty, Paragraph 42). These advanced cruise missiles have

been promulgated as a substantially improved weapon in range, accuracy and flexibility. While it is unknown exactly what Williams International's costs will be in undertaking the advanced cruise missile projects, it was announced in April, 1991 that Williams had won a $19,129,000.00 contract from the Air Force to provide additional long-lead efforts for 90 engines for the advanced cruise missile. Also, it is estimated that the department of defense will spend over $500,000,000.00 a year for the Williams advanced cruise missile engine in the fiscal years 1991, 1992 and 1993. (Declaration of C. Peter Dougherty, Paragraph 45).

d. Sea Launched Cruise Missiles.

Again, it is hard to estimate the exact number of engines produced by Williams International for the Navy. However, it is known that 760 Tomahawk cruise missiles with the F 107-WR-402 engine and a nuclear warhead of 200 kilotons has been produced by Williams. Those weapons are part of the estimated 4000 sea launched cruise missiles, both conventional and nuclear, still under production. Obviously, some of those will be non-nuclear and some of them will presumably be built under contract to Teledyne CAE. It should be noted, however, that between fiscal year 1980 and fiscal year 1989, at least, Williams International has won over 83% of all contracts for Tomahawk cruise missile engines procured by the Navy. (Declaration of C. Peter Dougherty, Paragraph 23). Williams International was awarded several firm, fixed-price contracts to produce new Tomahawk sea launched cruise missile engines and to remanufacture 100 government furnished ones. Those contracts for 1992 through 1995 will produce approximately 1500 new or remanufactured engines. (Declaration of C. Peter Dougherty, Paragraph 24). It has been stated that of all

Tomahawk cruise missiles, about 19% will carry nuclear warheads of 200

kilotons each. (Declaration of C. Peter Dougherty, Paragraph 30). Further information about the Tomahawk cruise missile is contained in the Declaration of Paul Francis Walker, Paragraph 7.

B. WURTSMITH AIR FORCE BASE

l« Location and Command Structure.

Wurtsmith Air Force Base (WAFB) is located on 5,200 acres in Oscoda, Michigan. It is bordered by Van Ettan Lake and, at its closest point, it is approximately a quarter of a mile from Lake Huron. The entire Air Force Base is surrounded by 8 foot high steel

mesh fences, topped with 1 foot of barbed wire; the A-l high alert area is encircled by an inner fence similar to the other except it has a double barbed wire strand on top. At least two, and as many as six, B-52Gs may wait on the alert apron at WAFB, that is the launch pad in the A-l high alert area. This area is within public view from the county road that encircles the base. The high alert area also contains a number of nuclear weapons bunkers, which are partially underground, covered with grass.

WAFB is a United States Strategic Air Command Base (SAC), directly responsible to SAC headquarters in Omaha, Nebraska. It is within the 40th Air Division of SAC. WAFB houses the 379th Bombardment Wing, the 525th Bombardment Squadron and the 920th Air Refueling Squadron. WAFB is the intermediate command center of SAC controlling three other SAC bases.

Altogether, the 379th Bombardment Wing maintains 19 B-52GS and 16 KC-135 refueling airplanes. (Declaration of Ardeth Platte, Paragraphs 12-19). In addition, the Air Force base also has assigned to it 4 T-

37 trainers. (Declaration of Carol Sue Gilbert, Paragraph 11).

Aircraft and missiles at the Air Force base represent a 1.46 billion dollar expenditure. In addition, there are millions of dollars worth of other capital fixed assets, including buildings, gas stations, utility systems, a hospital and housing (1,000 residences); $100,000,000.00 worth of equipment and $9,600,000.00 in various inventories. WAFB is the largest employer in Iosco County, employing 3,500 people, with an annual civilian and military payroll of $64,500,000.00. The base generates approximately $100,000,000.00 in wages, taxes and businesses in the state. (Declaration of Carol Sue Gilbert, Paragraphs 12-15; Declaration of Ardeth Platte, Paragraphs 44-46).

2. Nuclear Mission at Vurtsmith Air Force Base.

The mission at WAFB was stated "in the Installation Restoration Program, Phase I, WAFB, Michigan, April, 1985 - Radian Corporation as follows:

> WAFB is to maintain full readiness to conduct strategic bombing operations on a worldwide scale according to the Emergency War Order. This mission responsibility is executed by the 40th Air Division which supervises and monitors the operation of the 379th Bombardment Wing at WAFB. The 524th Bombardment Squadron and 920th Air Refueling Squadron support and supplement the mission of the 40th Air Division.

(Declaration of Ardeth Platte, Paragraph 20).

This nuclear readiness function is the primary mission of the 524th Bombardment Squadron. The commander of the 524th Bombardment Squadron reports to the deputy commander for operations of the 379th Bombardment Wing. In addition, the commander of the 920th Air Refueling Squadron, whose mission is to support the Strategic Air

Command Bomber Force, also reports directly to the deputy commander for operations of the 379th Bombardment Wing. The specific chain of command at WAFB is as follows:

379th Bombardment Wing Commander - Col. William Campbell (1991-
Col. Kenneth S. Boykin
(1989-1991)

379th BMW Vice Commander - Col. John Walther

(formerly Col. Dennis C. Scruggs, III)

379th BMW Senior Unlisted Advisor - CM Sgt. Andrew King

Deputy Commander for Operations - Lt. Col. Hugh E. Smith

Deputy Commander for Resources - Col. John F. McCaffy

379th Combat Support Group Commander - Jimmy W. Haines, Jr.

379th C.S.G. Deputy Commander - Lt. Col. Dieter Barnes

(formerly Lt. Col. Clemens E. Uptomore)

379th Strategic Hospital Commander - Lt. Col. Virgil E. Hemphill

524th Bombardment Squadron Commander - Lt. Col. Mark Nilius

(Declaration of Ardeth Platte, Paragraph 26).

Nuclear weapons are not new at WAFB. They first arrived at the base with 18 SAC B-52 bombers in 1960. (Declaration of Ardeth Platte, Paragraph 29). It is believed that nuclear weapons have been at the base ever since. In 1983, 16 B-52G bombers, specially modified for nuclear capability, arrived at WAFB. Each of the B-52G bombers present at WAFB, currently 19, is equipped with up to 12 nuclear tipped air launch cruise missiles. Those cruise missiles are attached to the aircraft on two six round underwing pylons. The B-52Gs also carry nuclear gravity bombs and/or short range attack missiles (SRAM), on an internal rotary launcher located in the plane's bomb bay. The air launched cruise missile was described in Section 4(a) above; the SRAM is a short range attack missile that is a supersonic air to surface nuclear weapon. It carries a W-69 nuclear warhead of 170

kilotons or either a contact ground-burst or preset altitude air-burst type of nuclear explosion. Also, as noted above, the ALCM carries a 200 kiloton weapon (W-80-1), which is equivalent to 300,000 tons of TNT. It is anticipated that in total WAFB will house 150 gravity bombs, 60 SRAMs and 200 ALCMs, after full deployment. (Declaration of Ardeth Platte, Paragraphs 29-40; But see Declaration of Paul Francis Walker for a discussion of how the START Treaty will affect the number of nuclear weapons).

Obviously, in addition to simply housing these weapons and aircraft at the base, it has been the practice to test, assemble and conduct exercises of all the various component parts on a daily basis in order to maintain combat readiness. This combat readiness posture is made apparent by the two or more fully loaded nuclear equipped B-52Gs which remain on the runway of the A-1 high alert area at all times on the base. (This high alert status was altered temporarily during the Gulf war, when all of the B-52Gs were gone from WAFB.) (Declaration of Ardeth Platte, Paragraphs 18 and 53).

Nuclear weapons are assembled on the base from components kept separately in the bunkers, including a high explosive element; fusion materials including deuterium or tritium, and critical masses of fissionable uranium 228 and plutonium 239. Each aspect of weapons assembly is handled by a different team of people whose primary mission is to practice assembly of the weapons. The members of the different teams are given daily pass numbers and a daily pass check as part of the security system on the base. These teams literally assemble the nuclear weapons in order to have at least some ready at all times for possible combat. These teams also disassemble weapons

when those particular weapons are going off alert. Several exercises

are held to again keep the base at combat readiness. B-52Gs at WAFB take off and land often in a touch and go pattern many times every day. These aircraft are capable of getting into the air within four minutes of an alert. Every B-52 and KC-135 crew spends 7 days, once every 3 weeks, on alert duty. Alert sirens are tested every Friday at the base. In addition, exercises involving B-52Gs and missile assembly and loading crews at WAFB and by other crews stationed elsewhere include competitions in ALCM weapons loading, bombing competitions, test launches and ALCM tests six times a year. In addition, WAFB participates in the annual "Global Shield" SAC exercise where aircraft and missile crews are tested under simulated war conditions during a 10 day exercise period. Finally, the Air Force national security team conducts annual visits to the base to review the readiness of the installation. (See Declaration of Carol Sue Gilbert, Paragraphs 23-25? 39-45).

3. Accountability.

The commanders listed above in this section are clearly men with knowledge of the intended use of the nuclear weapons stored and deployed at WAFB. There is a command post in the war readiness room which is located in the basement of the wing headquarters building on the base. (Declaration of Carol Sue Gilbert, Paragraph 26). These men answer to authorities both within the SAC chain of command and in the national command authority which consists of the President and Secretary of Defense or their "duly deputized alternates and successors." (Declaration of Carol Sue Gilbert, Paragraph 28).

Moreover, they have day to day responsibility for the running of this

Air Force base. They must be attributed with knowledge of the nuclear mission which is the raison d'etre of WAFB. While there are people

higher in authority in the chain of command to make decisions about launching nuclear war, (See Declaration of Carol Sue Gilbert, Paragraphs 28-33), nevertheless it is true that these individuals have substantial responsibility in the daily preparation for use or threat of use of the nuclear weapons bunkered on their base. It should also be noted that Commander Kenneth Boykin was a computer program manager in the operations plan directorate at SAC headquarters, responsible for managing the development of the computer planning software that incorporated the ALCM and B-52G offensive avionic system into SAC operations. (Declaration of Carol Sue Gilbert, Paragraph 33). Clearly, therefore, Commander Boykin has knowledge and responsibility that exceeds even his responsibilities at WAFB.

C. EFFECTS OF PLANNING AND CONDUCTING NUCLEAR WARFARE

1. Immediate Effects of a Nuclear Explosion.

As stated in the recent Report of the Secretary General of the United Nations (September, 1990), "the existing knowledge of the effects of the use of nuclear weapons is far from complete...Even in recent years new findings have been brought to life about the detailed effects of the bombings of Japan [during World War 11]". (Chapter VI of the Report is attached hereto). Studies that have been done in an attempt to simulate the effects of the use of nuclear weapons have used different scenarios and applied various assumptions. It is agreed, however, that any use of large numbers of nuclear weapons would have a total effect much larger and more complex than the sum of the individual weapons. These would include long term climactic effects and other devastating health effects approaching global genocide.

Nevertheless, certain facts are known about the effects of, for example, one nuclear explosion. There would be intense thermal radiation, a powerful blast wave and nuclear radiation immediately from the fire ball and from radioactive fallout. In addition, there would be a pulse of electromagnetic radiation that would negatively effect electrical systems, and what is known as nuclear "fallout" would follow. The initial "fireball," releases intense heat and light. The temperature is of the order 10,000,000 degrees centigrade. It is agreed that within the radius of the fireball, and also in an area close to that fireball, everything would be vaporized. In addition, easily ignited materials would catch fire at much longer distances. Everything within the immediate area of the fireball would vanish. Along with the thermal radiation of the fireball, there is a blast wave that carries about half the explosive energy and travels slower than the forms of radiation, but still at supersonic speed. As described in the UN report:

> The arrival of the blast wave is experienced as a sudden and shattering blow, immediately followed by a hurricane-force wind directed outwards from the explosion. Near the explosion, virtually all buildings would be utterly demolished and people inside them killed. At somewhat larger distances, ordinary buildings would be crushed or heavily damaged by the compressional load as they would be engulfed by the blast over pressure and the wind dragged. People inside could be crushed under the weight of the falling buildings, hurt by the flying debris of broken windows, furniture, etc., or even suffocated by the dense dust of crushed brick and mortar. All the primary blast destruction would take place during a few seconds.

(UN Comprehensive Study on Nuclear Weapons, Paragraph 295).

In addition, the air blast would create a shock wave in the ground, very possibly destroying or damaging underground structures.

Simultaneous with the explosion, a nuclear weapon begins to emit

an intense burst of neutrons and gamma rays. This radiation would kill anyone in the immediate area, would render human beings unconscious within minutes at distances up to 700 or 800 meters and exposed persons would die in a few days from radiation injury (these statistics are based on an explosion similar to those over Hiroshima or Nagasaki, Id., Paragraph 297).

In addition, a small percentage of the radiation is converted to electromagnetic energy and would create an electromagnetic pulse which is thought to damage electronic equipment anywhere in the vicinity.

Finally, nuclear fallout would result from the explosion of any nuclear weapon. Any nuclear weapon would create a radioactive cloud which would drift, change shape and eventually disintegrate under the action of the wind. This fallout could occur in the troposphere or, if it were to reach the stratosphere, the fallout would be referred to as global fallout and would contribute to long lasting effects of the blast. (Later cancers and genetic injuries).

While an air explosion close or at ground level would decrease the area of blast, the effect of a nuclear blast at ground level would result in

> "thousands of tons of soil...injected into the hot vapors [of the explosion]. Large...particles then carry a significant part of the residual activity. These particles come down to earth in a matter of hours or even minutes and create an intensely radioactive contamination field in the downwind vicinity of ground zero. This so called immediate fallout gives rise to acutely lethal radiation doses for unprotected people over large areas. The possibility of late radiation injuries in this area is also much larger than in the case of an air-burst [at higher altitudes].

A low or surface air-burst will generate EMP that may be much more harmful to electrical and electronic equipment much further away from ground zero. (Id., Paragraphs 300-305).

Medical effects of a nuclear blast would include so called mechanical injuries (e.g., fractures, soft tissue wounds, crush injuries)? burns; and acute radiation poisoning injuries. While the first two types of injuries are well known to medical science, it is agreed that the combinations of injuries as well as the huge number of casualties would create unknown problems for treatment due to a complete lack of resources. For example, while a 40% burn might be fatal in one case out of five if medical treatment is optimal, it is agreed that a 40% burn would be fatal in all cases if treatment is delayed for 24 hours. (Id., Paragraph 326). However, the most debilitating and unusual medical effects related to a nuclear explosion are the radiation injuries. These injuries include "acute radiation sickness, long term effects that comprise an increased probability of late cancer and genetic effects and short term effects such as injuries in the prenatal stage and decreased immunological resistance." (Id., Paragraph 328). There is both external radiation, that is, exposure to radiation at or near the time of a blast, and internal radiation, or doses of radiation that accumulate inside the body over long periods of time taken in by breathing, eating and drinking. Radiation injuries include damage to bones and the gastro-intestinal and neurovascular systems. Again, treatment of radiation injuries would be presumably impossible in the aftermath of a nuclear explosion given the specific needs for isolation and intense medical attention. (Ic|., Paragraphs 331 and 332).

2. Long Lasting Effects.

a. Hadical Effects.

As indicated above, there would be long lasting medical effects of any nuclear explosion, namely increased chances of cancer and

genetic defects. It is also surmised that since radiation effects the gonads (ovaries and testicles), radiation induced mutations may appear in the reproductive cells. These mutations may be transmitted to future offspring and would create genetic damage that could become manifest in present and future generations. (Id., Paragraph 336). These effects are due to radiation poisoning.

b. Psychological Effects.

The pioneering work done in the field of psychological effects of nuclear weapons has been conducted by Dr. Robert J. Lifton, who did extensive interviews with Hiroshima survivors. He was qualified as an expert at a Michigan trial in the psychological effects of nuclear weapons. In addition to his interviews with Hiroshima victims, Dr. Lifton is an expert in the impact of the nuclear effect on the American people.

While interviewing Hiroshima survivors, Dr. Lifton testified that "They described very repeatedly a feeling of their minds simply turning off. They said things like, 'we could see things happening. People were dying but I suddenly ceased to feel[1]. I called that psychic numbing, by which I meant, an inability for disinclination to feel under certain conditions." (Transcript of the Testimony of Dr. Robert J. Lifton, Page 24, copy attached). Dr. Lifton single-handedly introduced the concept of psychic numbing into the field of psychiatry, where it is now commonly used in the diagnostic and statistical manual of the American Psychiatric Association to describe traumatic reactions.

Dr. Lifton testified that he found the occurrence of psychic numbing to be quite common among Hiroshima survivors. These were the survivors of a single, relatively small nuclear explosion; there is no

reason to doubt that an equally devastating psychological trauma would be visited upon the survivors of any modern day nuclear exchange.

c. Environmental Effects.

It is now agreed that any nuclear exchange that involves multiple nuclear weapon explosions would produce several fires throughout large areas. The whole climate of the area would cool dramatically because of the absorption of sunlight in the clouds of smoke. This effect, first studied in the early 1980s, has been termed "nuclear winter." (Id., Paragraph 341). Depending on the size of the nuclear exchange, the risk would include reducing solar energy by dramatic amounts (for example, it is estimated that in the northern hemisphere solar energy could be reduced by 80% or more, which would drop the temperatures between 5 and 20 degrees centigrade below normal). Due to the reduction in sunlight, agricultural production and the survival of natural equisystems would be threatened.

Moreover, it is also agreed that there may be damage to the ozone layer of the earth's atmosphere. Any depletion of the ozone layer would produce harmful effects. It is known, for example, that ocean phytoplankton, the basis of the world food chain, has been shown to be particularly sensitive to the increased solar ultraviolet radiation that accompanies depletion of the ozone layer. (Id., Paragraph 346).

As the UN report states:

> It has long been recognized in principle that certain consequences of a major nuclear exchange would not be possible to limit to the territories of nuclear weapon states, or the territories of other nations being included in the nuclear exchange.

(Id., Paragraph 340).

Such an exchange would render world economic balances inoperative

and would drastically effect the global food situation.

Clearly, the effects of exploded nuclear weapons cannot be limited to combatants, or even to the people with whom we are at war.[1]

3. Effects of a Nuclear War Mentality.

a. Psychological Effects.

Dr. Lifton has- also studied the effects of the threat of nuclear

[1]By way of real-life example, the accident at Chernobyl in the Soviet Union has been likened to a "slow nuclear explosion":

> ...Within thirty-six hours, more than 100,000 people had been evacuated from a radius of some twenty miles around the reactor, and eventually over 130,000 people in the USSR had to be relocated. The direct, physical effects of the explosion began spreading immediately. Two workers died instantly and over 30 others died in the following weeks. The hot debris of the Chernobyl reactor covered an area of more than 5000 square kilometers with nearly twenty million radionuclides, "making human life impossible." The cloud of radioactive residue spread over much of the northern hemisphere, creating areas of serious radioactive contamination in Sweden, Germany, Northern Italy, Poland, Austria, Yugoslavia, Greece and many other countries...
>
> The Chernobyl accident resulted in billions of dollars in economic damages to human beings and the ecology in both the Soviet Union and far beyond. From 1986 to 1989, 9.2 billion rubles ($15.4 billion at the official exchange rate) were spent cleaning up. The Soviet Parliament recently appropriated 16 billion rubles to continue the work and to address medical emergency needs, and the republic Byelorussia is asking for another 17 billion rubles to rehouse displaced residents and continue cleaning up.
>
> Moreover, the ecological impact of Chernobyl is unequaled in size of scale, excluding only perhaps the bombed Japanese cities of Nagasaki and Hiroshima...

Nanda, Ved P. and Jeffrey C. Lowe, "Nuclear Weapons and the Ecology," Den. J. International L. and Policy, Vol 19:1 1990, p.96-98.

war among American people including strategists, scientists and ordinary individuals. He stated:

> Starting with children, I would say that the study showed something consistently: that fear of something like nuclear death or nuclear holocaust or nuclear war, however the children put it, is a prominent fear in children...and evidence of these studies with children also shows that many of the children have doubts about whether they'll ever be able to have an adult life. They do everything to prepare for an adult life, and they go to school, but they have some doubt in their minds about whether they'll ever live a full life as adults. That's what I mean by the fear of futurelessness.

(Transcript of Robert J. Lifton, Page 27).

Dr. Lifton concluded that, among both children and adults, there is a type of psychic numbing that is happening even now in relation to ordinary people coming to terms with the reality of nuclear weapons and the possibility of nuclear war. He described symptoms of that numbing as "a general attitude of resignation;" "sometimes people are more troubled than that and they feel anxiety and despair and have anxious dreams about nuclear war, nuclear threat;" "[There is an] inability to make long range plans." (Transcript of Robert J. Lifton, Page 28-29).

While Dr. Lifton described the phenomena of some people "breaking away" from the psychic numbing, the "turning off" of fear regarding nuclear weapons, he also described that one aspect of psychic numbing is to simply stop thinking or fearing anything about the issue of nuclear weapons. That kind of psychological overlay affects many people in the culture, making decisions about nuclear weapons and nuclear warfare more and more the purview of a select group of "experts."

b. Economic Effects.

As indicated earlier in this brief, the cost of a single nuclear weapons system is enormous. Even with the reductions contemplated by the START treaty, the United States will have approximately 10,000 nuclear weapons in its arsenal. (Declaration of Paul Francis Walker, Paragraph 14). Common sense indicates that the cost of the production and deployment of these weapons creates a huge drain on the resources of this country as well as other nuclear capable countries. That drain on resources directly affects the distribution of life giving resources in the whole of our society, most notably among its most helpless members.[2]

In addition, the huge infrastructure which has grown up around the research, development, manufacture, deployment and negotiations about nuclear weapons has created a system which all too often results in nearly total dependence on the nuclear weapons industry by whole communities. That is true, for example, in Oscoda, Michigan. While

Oscoda residents are now beginning to struggle with the challenge of the likelihood that WAFB will soon close, they are not alone in their

[2]According to James R. Anderson, in Bankrupting America, 1984 and 1989 eds., Employment Research associates, Lansing, Michigan, the following table represents the local drain of military spending:

1. Cong. Dist.	Pentagon Expenditures ($ Millions)	Pentagon Tax Burdon ($ Millions)	Net Los ($Millions)	Net Loss Per Family ($)
FY 1983				
11 Davis	$ 234.4	$ 371.8	$ -137.4	**$ - 880**
18 Broomfield	$ 229.7	$ 796.3	$ -568.6	$ -3640
FY 1987				
11 Davis	$ 324.0	$ 455.0	$ -131.0	$ -837
18 Broomfield	$ 247.9	$ 976.3	$ -728.4	$ -4657

dependence upon a single military employer for their historic and current economy. In 1988, WAFB contributed one hundred forty million ($140,000,000.00) dollars to the local economy of Oscoda. (Declaration of Ardeth Platte, Paragraph 45). The combined effects on the distribution of resources, the failure to meet basic human needs in an otherwise affluent society and the occurrence of complete dependence upon the nuclear weapons industry in many small communities, only highlights the vast complex hold that these weapons have on our society as a whole.

c. Effects on Democracy.

Due to the life and death nature of nuclear weapons, that is, potentially the life and death of the entire planet, it is no wonder that the nuclear capable countries, in particular the United States, have created a "secret society" in order to protect "national security". That kind of secrecy, coupled with the power that these weapons have, both literally and economically, can only lead to a deterioration of democratic principles which depend on open discussion and full disclosure in order for the people to make decisions. Nuclear weapons by their nature require or result in a centralization of decision making of vast importance. Given the genocidal nature of nuclear weapons, and the concomitant need and use for secrecy and centralized decision making, one can begin to wonder if the whole of our democratic process has begun to lose its meaning.

D. THE OVERALL NUCLEAR STRATEGY OF THE UNITED STATES

Until the beginning of the thaw in East-West relations, the central strategic war plan was contained in "SIOP-6," for Single

Integrated Operational System. SIOP-6 has been in place since 1983, and calls for the ability to escalate within conventional warfare, and to cross over the rubicon of nuclear warfare, as part of a single plan. It contemplates a nuclear first strike, rather than reserving nuclear weapons as a last resort retaliatory weapon. (Declaration of Carol Sue Gilbert, Paragraphs 30 and 31; Declaration of Paul Francis Walker, Paragraphs 12 and 14). The characteristics of the cruise missile make it a very valuable weapon in this planned escalation scheme that has as its goal dominating every level of warfare, from the activity of wage protracted nuclear war to an all out nuclear exchange. Cruise missiles can carry both conventional and nuclear warheads. They are capable of being launched in a variety of ways, from far distances with great accuracy (when successful). Their size and flight path make them hard to detect.

Their usefulness in non-nuclear warfare was first tested on a large scale in the Gulf War. WAFB bombers flew 1,000 sorties in 42 days, most aircraft suffering some damage. (Declaration of Ardeth Platte, Paragraphs 42-52). The U.S. military were impressed by the performance, calling it "a tremendous success," and plan to order more of them for use in regional conflicts the world over, though this success may be short lived once all the facts about their use in the Gulf War are known. (Declaration of Paul Francis Walker, Paragraphs 13 and 14).

In any case, cruise missiles will continue to play a role in the nuclear war fighting capacity of the U.S. military. Given their

perceived success in the Gulf War, the Navy will continue to maintain its 750 plus nuclear SLCMs and will likely increase that number since the present START Treaty does not place a cap on these weapons.

(Declaration of Paul Francis Walker, Paragraph 14).

START does affect the number of ALCMs, since under the Treaty's terms strategic bombers loaded with ALCMs will be counted as multiple warheads. This may likely lead to a reduction in production of ALCMs. However, the START Treaty does not count gravity bombs as having multiple warheads, so aircraft carrying these bombs are likely to incerase. (Declaration of Paul Francis Walker, Paragraph 14).

While the future landscape of the nuclear weapons arsenal appears to be rapidly changing, it is undisputed that Williams International Corporation and Wurtsmith Air Force Base have been engaged in conspiracies to produce and plan for the use of nuclear weapons. It also is clear that both will continue to play a role in the near future at least, unless and until all nuclear weapons are dismantled.[3]

> Petitioners are aware that WAFB is scheduled to close as early as next year. Nevertheless, the Base will continue to play its daily role in the "nuclear readiness" of this country until that happens.

V. STATEMENT OF THE LAW

A. THE APPLICABLE LAW - AN OVERVIEW

The international laws of war and peace, including the crimes that the named individuals are committing, have developed over many years, through custom, referred to as customary laws, and have also been codified in treaties, called conventional or treaty law which includes written executive agreements. International criminal laws, established, in part, by prohibitory norms of international law of war and peace, are an integral part of the criminal law of the United States and of Michigan.

It is no surprise and in fact a legal and common-sense requirement that Michigan, United States and international law mirror each other. This is true not only in establishing the elements of the crimes themselves but also in the kinds of evidence required to prove their commission. All individuals are required to observe the criminal law, whether international or domestic. The absolute prohibition against murder by poisoning, for example, applies whether such a murder is of one person or many people, whether it is simply planned and prepared for or executed, in fact, and whether it is accomplished by cyanide in coffee or radioactive poison delivered from a nuclear weapon.

1. International Law Incorporated into United States and Michigan Law.

All formal law in the United States rests on the Constitution which recognizes treaties and other constitutionally established laws as its equal. Article VI of the United States Constitution states:

> The Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made,

> under the Authority of the United States, shall be the Supreme Law of the land; and the Judges in very state shall be bound thereby. United States Constitution, Article VI, Clause 2.

That the judicial branch of government interprets the law remains basic to the constitutional foundation of the United States government. Thus, international law is used not only by the International Court of Justice and the Nuremberg Tribunals, but also by both state and federal courts within the United States. Ex Parte Ouirin, supra. 317 U.S. 1 at 33 (1942), In re Yamashita. 327 U.S. 1 at
8 (1945).

In determining international law applicable to the facts above and incorporated into Michigan and United States law, courts in the United States have recourse not only to international conventions or treaties, executive or legislative acts and judicial decisions, but also "the general principles of law recognized by civilized nations" and "the teachings of the most highly qualified publicists." United Nations Charter, The Statute of the International Court of Justice, Article 38 (c)(d). 59 U.S. Stat. Part 2, p.1035, et sea. For this reason a number of affidavits from international law experts are attached as supporting evidence of what the law is.

2. Conflicts Between Lavs Resolved by the Courts.

Where conflict exists between international law and domestic law or within domestic law, that conflict must be resolved by the courts.

> It is, as Chief Justice Marshall said, Emphatically the.province and the duty of the judicial department to say what the law is.' Marburv v Madison. 5 U.S. (1 Cranch) 137, 177, 2 L Ed 60 (1803). U.S. V P.L.O., 695 F Supp 1456, 1464 (SDNY, 1988).

Within the United States, the laws of war and peace govern

relations among the United States and other nations and make individuals criminally responsible for certain acts in violation of those laws. The statutes of the state of Michigan and the United States work in concert with international law which equally binds the United States. The crimes alleged here are clearly established both by customary and conventional international law as part of United States and Michigan law and by United States and Michigan law with and without reference to international law.

> International law is part of our law and must be ascertained and administered by the courts of justice. . . The Paauete Habana. 175 U.S. 677, 700-701. 20 S Ct 290, 299, 44 L Ed 320 (1900)

Only when a later act of Congress clearly and by its express intent abrogates an earlier international obligation can the courts rule that an international obligation is superceded.

> Recently the Supreme Court articulated it in Weinberger v Rossi. 456 U.S. 25, 32, 102 S Ct 1510, 1516, 71 L Ed 2d 715 (1982)
>
> It has been a maxim of statutory construction since the decision in Murray v The Charming Betsy. 6 U.S. (2 Cranch) 64, 118[2 L Ed 208] (1804), that "an act of Congress ought never to be construed to violate the law of nations, if any other possible construction remains. . . " U.S. v P.L.O.. m695 F Supp 1456, 1466 (SDNY, 1988).

When Congress appropriated money to Williams International and Wurtsmith Air Force Base to design, manufacture and deploy nuclear weapons, it in no way expressed an intent to overturn any treaties nor did Congress exempt any party from the application of customary prohibitory norms. It is presently obvious from the Statement of Facts above and the discussion of the law which follows that the contracts to manufacture, build and deploy nuclear weapons can not be interpreted in concert with applicable international and domestic

criminal laws. Certain acts, and plans and preparations for those acts, remain criminal and responsibility is not relieved by an act of state or an order in the form of a contract.

3. Crimes Defined by Elements/ Proven Through Evidence.

Any crime is a legal prohibition which sets boundaries on acceptable behavior and in part, structures a society. In this respect, the crimes alleged here are no different. Evidence described in the statement of facts is precise though horrific, and shows present knowledge of the effects of exploding even one of the nuclear weapons designed, manufactured or deployed by the individuals named in this request.

The fact that exact results of the use of hundreds or thousands of nuclear cruise missiles, SRAMS or gravity bombs or some combination cannot be determined exactly because they are so apocalyptic and interrelated, merely emphasizes the urgency of ending crimes before they are completed. The conspiracies alleged here demonstrate the importance of prosecuting inchoate crimes. Crimes of this magnitude flaunt the rule of law itself but can be arrested now. The law does not required that the underlying crimes be completed before they are thwarted, and the persons responsible are prosecuted.

As in any criminal prosecution, specific facts link the alleged perpetrators to each element of the defined crimes. Neither the complicated nature of the technology and effects of nuclear weapons nor the inevitable defense arguments of acting under color of federal contracts or following orders should deter the law enforcement authorities from pursuing full investigation and prosecution in this matter.

> ...[P]olitics and law meet at almost every point on the road... The frequently unorthodox nature of problems facing States today requires as many tools to be used and as many avenues to be opened as possible, in order to involve the intricate and frequently multifaceted issues involved. Military and Paramilitary Activities. ICJ Reports 1986, pp. 168, 170.

Law enforcement authorities and the courts are not only equipped to but are also obligated to investigate and prosecute these crimes in order to avoid their own complicity. In the words of Sir Shawcross, the British Prosecutor at the Nuremberg Trials of Major War Criminals:

> In England and in the United States, our courts have invariably acted on the view that the accepted customary rules of the Law of Nations are binding upon the subject and the citizen. . . Shall we depart from that principle merely because we are concerned here with the gravest offenses of all— crimes aginst the peace of nations and crimes against humanity? The Trial of German Maior War Criminals. Part 19, 16-27 July, 1946, HMSO, London, 1949, p. 425.

B. THE CRIMES

Crimes, which have been committed and are being committed by the named Officers and Directors of Williams International Corporation and the Commanders of Wurtsmith Air Force Base, include:

1. Conspiracy to commit Crimes against Peace, War Crimes and Crimes against Humanity as established by the Nuremberg Charter, 59 Stat, E.A.S. No. 472, derived from and further established in present conventional and customary laws of war and peace, cited in detail below; and

2. Conspiracy to commit an offense prohibited by Michigan law, MCL 750.157a; MSA 28.354(1) *And.* conspiracy to commit an offense against the United States. 18 USC 371.

1. Nuremberg Crimes:

Crimes Against Peace, War crimes, crimes Against Humanity

a. Elements of the crimes as Defined by the Nuremberg Charter•

The Charter of the International Military Tribunal including the definitions of Crimes Against Peace, War Crimes and Crimes Against Humanity, is part of and attached to the London Agreement on War Criminals (The London Treaty), of August 8, 1945, 59 Stat 1544, E.A.S. No. 472. The crimes are defined as follows:

> Article 6.
>
> (a) Crimes against Peace: namely, planning, preparation, initiation, or waging of a war of aggression, or a war in violation of international treaties, agreements, or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing:
>
> (b) War Crimes: namely, violations of the laws or customs of war. Such violation shall include, but not be limited to, murder, ill-treatment, or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity:
>
> (c) Crimes aginst Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.
>
> Leaders, organizers, instigators, and accomplices participating in the formation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.
>
> Article 7.
>
> The position of defendants, whether Heads of

> State or responsible officials in Government Departments, shall not be considered as freeing them from responsibility or mitigating punishment.
>
> Article 8.
>
> The fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

1. The Nuremberg Charter is United States and Michigan Law.

The Nuremberg Charter, compiled in 59 Stat 1544, EAS No. 472, enumerates the crimes alleged in this section. The Nuremberg Charter is an executive agreement signed by the President of the United States as Commander and Chief of the Armed Forces under Article 2, section 2 of the United States Constitution. It was signed as part of the London Treaty, as quoted above. Such an executive agreement, even without the advice and consent of the United States Senate, is within the meaning of "treaty" as used by Article 6 of the United States Constitution.

> All constitutional acts of power, whether in the executive or in the judicial department, have as much legal validity and obligation as if they proceeded from the legislature, . . . The Federalist, No. 64. A treaty is a "Law of the Land" under the supremacy clause (Art. VI, CI. 2) of the Constitution. Such international compacts and [executive] agreements . . . have a similar dignity. United States v Belmont. 301 U.S. 324, 331 (1936). See Corwin, The President, Office & Powers (1940), pp. 228-240.
>
> United States v Pink. 315 U.S. 203, 230 (1941).

2. Crimes Against Peace, war Crimes and Crimes Against Humanity are binding United States Law as part of the Law of Nations Including Both conventional and customary international Law.

The United States has recognized that international law is part of its own law. The Supreme Court of the United States held:

> International law is part of our own law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction as often as questions of rights depending upon it are duly presented for their determination. For this purpose, where there is no treaty and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations, and as evidence of these, to the works of jurists and commentators who by years of labor, research, and experience have made themselves particularly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is. Paauete Habana. 175 U.S. 677, 700? 20 S Ct 290; 40 L Ed 32 (1900).

The applicability of the laws and customs of war to U.S. courts was further stated by the United States Supreme Court as follows:

> From the very beginning of its history, the Court has recognized and applied the law of war as including that part of the law of nations which prescribes for the conduct of war, the status, rights and duties of enemy nations as well as of enemy individuals. Ex Parte Ouirin. supra. 317 U.S. 1 at 27-28.

Methods of determining rules of international law, either by international or domestic tribunals are established by United States Supreme Court decisions, c.f. The Paauet Habana. supra. and the Statute of the International Court of Justice. The Statute of the International Court of Justice stands as an integral part of the United Nations Charter, a United States treaty. 59 U.S. Stat. Part 2, p. 1035, et sea, c.f. U.S. v Steinberg, 478 F Supp 29, 33 (1979). The Statute of the International Court of Justice includes as applicable international law:

> a. international conventions, whether general or particular, establishing rules expressly recognized...;
>
> b. international custom, as evidence of a general practice accepted as law;

> c. the general principles of law recognized by civilized nations;
>
> d. ...judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for determination of rules of law. Statute of the ICJ Article 38 (1).

The Trial of German Maior War Criminals: Proceedings of the International-Military Tribunal Sitting at Nuremberg Germany. Part 22 HMSO, London, 1950, 41 AJIL 174 ff, is officially reported in 6 F.R.D 69 (1946). The defendants were indicted under Article 6 of the Charter, 22 HMSO 412-413 (1950), 6 F.R.D. 69 (1946), for the crimes cited above and alleged in the present request for prosecution.

> The law of war is to be found not only in treaties, but in the customs and practice of States, which gradually obtained universal recognition, and from the general principles of justice applied by jurists and military courts. This law is not static, but by continual adaptation follows the needs of a changing world. Indeed, in many cases treaties do no more than express and define for more accurate reference the principles of law already existing. Trial of German Maior War Criminal. Judgment, 22 HMSO, p. 445 (1950).

The Nuremberg Charter codified the crimes alleged here. Those crimes are recognized as binding United States law not only because they are part of an executive agreement, but also because of the assent and urging of the United States when it pressed for the codification at Nuremberg, and later at the United Nations. Crimes against Peace, War Crimes and Crimes against Humanity were deemed binding conventional and customary international law at the time of the judgment of the Nuremberg Tribunal and are clearly binding United States law today.

b. Nuremberg Crimes, the International Lav Commission (ILC) Definition: "Any person" is liable.

On December 11, 1946, The United Nations General Assembly unanimously adopted the principles of International Law Recognized by the Nuremberg Tribunal and the Judgment of the Tribunal. UNGA Res. 95, U.N.Doc A/64/Add. 1, at 188 (1947). The United Nations General Assembly Resolution 177 (II) paragraph (a), directed the International Law Commission to formulate the principles of international law recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal.

> Whatever the state of the law in 1945, Article 6 of the Nuremberg Charter has since come to represent general international law." Brownlie, Ian, Principle of Public International Law. 4th ed., Clarendon, Oxford, 1990, , p.562.

As stated above, the United Nations Charter is a treaty of the United States that has received the advice and consent of the Senate. 59 Stat 1031, TS 993, 3 Bevans 1153 (1945). U.S. v Steinberg. 478 F Supp 29,33 (1979)

United Nations General Assembly Declarations are:

> significant because they specify with great precision the obligations of member nations under the Charter. . . Thus a Declaration creates an expectation of adherence, and insofar as the expectation is gradually justified by State practice, a declaration may by custom become recognized as laying down rules binding upon the States.
>
> Filartiaa v Pena-Irala, 630 F 2d 876, 885 (1980)

As directed by the United Nations General Assembly, Resolution 177 (II) (paragraph a), the International Law Commission formulated of the Principles of International Law Recognized by the Nuremberg Tribunal and the Judgment of the tribunal, Yearbook of the ILC 374-380 (1950), as follows:

Principle I

Any person who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment.

Principle II

The fact that internal law does not impose a penalty for an act which constitutes a crimes under international law does not relieve the person who committed the act from responsibility under international law.

Principle III

The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible government official does not relieve him from responsibility under international law.

Principle IV

The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.

Principle VI

The crimes herinafter set out are punishable as crimes under international law:

a. Crimes against Peace:

(i) Planning, preparation, initiation or waging of war of aggression or a war in violation of international treaties, agreements or assurance,

(ii) Participation in a common plan or conspiracy for any of the acts mentioned under (i)

b. War Crimes

Violations of the laws or customs of war which include, but are not limited to murder, ill-treatment or deportation to slave-labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

c. Crimes against Humanity:

> Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are carried out in execution of or in connection with any Crimes against Peace or any War Crime.

Principle VII

> Complicity in the commission of a Crime against Peace, a War Crime, or a Crime against Humanity as set forth in Principle VI is a crime under international law.

> Report of the International Law Commission (ILC) covering its second session, 5 July - 29 July, 1950, Document A/1316, pp. 11-14; Yearbook of International Law Commission 1950. Vol. II, pp. 374-380. 44 AJIL 1950, Suppl., pp. 126-134.

The United Nations has, therefore, unanimously agreed that "any person" can be culpable for conspiracy to commit Crimes against Peace, War Crimes and Crimes against Humanity.

c. Nuremberg Crimes: Culpability as defined in Armed Services Manuals.

The Law of Land Warfare, Department of the Army Field Manual 27-10 (1956) is also a reliable statement of the United States Government interpretation of the laws of war as they apply to both members of the armed forces, civilian government officials and industrialists. UK v Tesch, supra. at 93, The Flick Case, supra. at 1284.

Section II. CRIMES UNDER INTERNATIONAL LAW

498. Crimes Under International Law

> Any person, whether a member of the armed forces or a civilian, who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment. Such offenses in connection with war comprise:
>
> a. Crimes against peace.
> b. Crimes against humanity.
> c. War crimes.
>
> Although this manual recognizes criminal responsibility of individuals for those offenses which may comprise any of the foregoing types of

> crimes, members of the armed forces will normally be concerned only with those offenses constituting 'war crimes'.

499. War Crimes

> The term 'war crime' is the technical expression for a violation of the law of war by any person or persons, military or civilian. Every violation of the law of war is a war crime.

500. Conspiracy, Incitement, Attempts, and Complicity

> Conspiracy, direct incitement, and attempts to commit, as well as complicity in the commission of crimes against peace, crimes against humanity, and war crimes are punishable. Department of the Army Field Manual, "The Law of Land Warfare", F.M. 27-10, July, 1956.

The United States Department of the Air Force Pamphlet, "International Law - The Conduct of Armed Conflict and Air Operations" (AFP 110-31), 19 Nov., 1976 acknowledges crimes enumerated in the Nuremberg Principles with a detailed discussion of their derivation ~~inter alia,~~ from the Hague Conventions of 1907,c.f. 36 Stat 2277; TS 539; 1 Bevans 631 and the Geneva Gas Protocol of 1925, TIAS 8061; 94 LNTS 65 discussed in more detail below.

> All of the major war criminals, including Herman Goering, the Air Minister, were convicted, among other crimes, of the devastation of towns not justified by military necessity in violation of the law of war. AFP 110-31, p.5-6.[4]

The Air Force Pamphlet acknowledges that the Hague Regulations requirement "that attacks be limited to military objectives results from several requirements of international law. The mass annihilation

[4] In ~~U.S.~~ v Oh~~lendorf.~~ 4 U.S. Trials Before the Nuremberg Military Tribunal 466-467 (1948), the Tribunal concluded that a bombing of a legitimate military target such as a railroad track with incidental loss of civilian life was,...

> [E]ntirely different both in fact and in law, from an armed force marching up to those same railroad tracks, entering the houses abbutting thereon, dragging out the men, women and children and shooting them. As cited in AFP 110-31, p. 5-6.

of enemy people is neither humane, permissible, nor miltarily necessary." AFP 110-31, 5-9.

The prohibitory laws of war whose violations carry criminal sanctions are extensively described below. The Air Force teaching pamphlet adds:

> In addition to the grave breaches of the Geneva Conventions of 1949 [IV Relative to the Protection of Civilians in Time of War, 6 UST 3516; TIAS 33 65; 75 UNTS 287 (1956), which further elaborated acts prohibited by the Nuremberg Principles], the following acts are represntative of situations involving individual criminal responsibility;...
>
> (4) Aerial bombardment for the deliberate purpose of killing protected civilians or destroying protected areas, buildings or objects;
>
> (5) Wilful or wanton destruction and devastation not justified by military necessity;...
>
> (8) Plunder or pillage of public or private property. AFP 110-31, p. 15-4.[5]

[5] As of 1976, the Air Force Manual concluded that nuclear weapons are not illegal per se because "nuclear weapons can be directed against military objectives as can conventional weapons." AFP 110-31, p. 6-5. That statement is not accurate in light of current knowledge and does not serve to legally justify the manufacture or deployment of nuclear weapons. As shown in the Statement of Facts, present documentation and common understanding demonstrate conclusively that nuclear weapons inevitably target civilians. Actual effects of nuclear weapons include not only the blast but also uncontrollable radiation poisoning, both short and long term, firestorms and the electromagnetic pulse. Effects of nuclear weapons can no longer be properly calculated in terms of the blast alone. (Declaration of Ann Fagan Ginger, Paragraph 29-30).

d. Nuremberg crimes: Derivation and Development.

Crimes Against Peace, War Crimes and Crimes Against Humanity were codified in the Nuremberg Charter but represented restatements of long established and binding customary laws of war. In the words of the Judgment of the Nuremberg Tribunal:

> It was urged on behalf of the defendants that a fundamental principle of law— international and domestic— is that there can be no punishment of crime without a pre-existing law. "Nullum crimen sine lege, nulla poena sine lege." It was submitted that ex post facto punishment is abhorrent to the law of all civilized nations, that no sovereign power had made aggressive war a crime at the time that the alleged criminal acts were committed, that no statute had defined aggressive war, that no penalty had been fixed for its commission, and no court had been created to punish offenders.
>
> In the first place, it is to be observed that the maxim "nullum crimen sine lege" is not a limitation of sovereignty, but is a general principle of justice. To assert that it is unjust to punish those who in defiance of treaties and assurances have attacked neighboring States without warning is obviously untrue, for in such circumstances the attacker must know that he is doing wrong, and so far from it being unjust to punish him, it would be unjust if his wrong were to go unpunished. Trials of Maior German War Criminals, Judgment 22 HMSO 444 (1950).

The Nuremberg Tribunal rejected the ex post facto argument in 1950. Clearly, the continuing development and codification of these laws makes a similar result obvious today.

1. Historical Development of crimes against Peace, war Crimes and Crimes against Humanity.

The definitions of elements of Crimes against Peace, War Crimes and Crimes against Humanity were sufficiently developed in 1945 to form the basis for criminal prosecutions.

The Declaration of Saint Petersburg of 1868 expressed customary principles of international law defining "military necessity" later

"embodied in Article 23(e) of the Regulations, annexed to the 1899 Hague Convention II and the 1907 Hague Convention IV. . .:

> — that the only legitimate object which States should endeavor to accomplish during war is to weaken the military forces of the enemy;
> — that this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men or render their deaths inevitable.Roberts, Adam and Guelff, Richard, eds. Documents on the Laws of War. Clarendon, Exford, 1982, p. 29.

The 1907 Hague Convention IV and Regulations. Respecting the Laws and Customs of War on Land, a United States treaty, 36 Stat 2277, TS 539, 1 Bevans 631 (1910), provides for sanctions:

> "A belligerent party which violates the provisions of said Regulations, shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces." Roberts and Guelff, supra. p.46.

The 1946 Nuremberg Judgment held:

> "The crimes defined by Article 6, section (b) of the Charter were already recognized as War crimes under international law. They were covered by Articles 46, 50, 52, and 56 of the Hague Convention of 1907, and Articles 2, 3, 4, 46 and 51 of the Geneva Convention of 1929. [These rules applied even to those who were not parties to the Convention because], by 1939 these rule laid down by the Convention were recognized by all civilized nations and were regarded as being declaratory of the laws and customs of war which are referred to in Article 6 (b) of the Charter. Trial of the Maior German War Criminals: Proceedings of the IMT. 22 HMSO, London, 1950, p. 467.
>
> "The foundations of the law of war were themselves laid at the beginning of this century:
>
> A) The rules to be followed by the belligerents are to be sought not only in treaties, but also in the public conscience, in "international ethics",
>
> B) The sole aim of belligerents must be to weaken the military forces of the enemy.

> C) The choice of means to attain that goal is not unlimited. Bassiouni, M.C., International Criminal Law. Crimes. Vol. 1. Transnational Publishers, Inc. Dobbs Ferry, New York, 1986, p. 213.

The Draft Hague Rules of Aerial Warfare of 1923

represent presently existing customary law in certain relevant parts including:

> Article 22
>
> Aerial bombardment for the purpose of terrorizing the civilian population, of destroying or damaging private property not of a military character, or of injuring non-combatants, is prohibited.
>
> Article 24
>
> (1) Aerial bombardment is legitimate only when directed at a military objective, that is to say, an object of which the destruction or injury would constitute a distinct military advantage to the belligerent.. . as cited in AFP 110-31, p. 5-3.

The 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating. Poisonous or Other Gases and of Bacteriological Methods of Warfare. TIAS 8061, 94 LNTS 65 (1929), 25 AJIL (1931) Supplement was ratified by the United States on April 10, 1975. It provides for no penal sanctions but "binds alike the conscience and the practice of nations" to prohibit

> "the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices. " Roberts & Guelff, supra. pp. 139-140.

As a practical matter the Geneva Gas Protocol carries with it criminal sanctions and needs no further act of Congress. The criminal codes of both Michigan and the United States already contain statutes prohibiting conspiracy to commit first degree murder by poisoning. MCL 750.157a ; MSA 28.354 (1), MCL 750.316; MSA 28.548 and 18 USC 1117, 18 USC 1111.

In The Paris Peace Pact. (Kellogg-Briand Pact), 46 Stat 2343, T.S. No. 796, 94 LNTS 57, August 27, 1928,

> The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.Grenville, J.A.S., Manor International Treaties. Metheun, London, 1974, p.108.

2. Post World War II Specifications of Nuremberg Crimes.

Since World War II, there have been further codifications of the Laws of War incorporating elements of Crimes against Peace, War Crimes and Crimes against Humanity, beyond the actual codification of the Nuremberg Principles themselves.

The High Contracting Parties of the Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War ,supra, August 12, 1949,supra, including the United States, are under an obligation to:

> Article 146 "[S]earch for persons alleged to have committed or to have ordered to be committed, such grave breaches,and shall bring such persons regardless of their nationality, before its own courts.
>
> Article 147.
>
> Grave breaches. . . shall be those involving any of the following acts, if committed against persons of property protected by the present Convention: wilful killing, torture or inhuman treatment, wilfully causing great suffering or serious injury to body or health, . . . and extensive destruction of property not justified by military necessity and carried out unlawfully or wantonly" 1949 Geneva Convention IV, as cited in Roberts & Guelff, supra. p. 323.

The Geneva Conventions apply to armed conflict of the parties whether or not a formal war is declared (Article 2). In addition, no denunciation of the Convention shall:

> [I]mpair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the laws of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience. (Article 158).

The 1977 Protocol I Additional to the 1949 Geneva Conventions obligates Parties to similar means of implementing its provisions as cited in Article 146 of the Geneva Conventions above. The 1977 Protocol I Additional elaborates upon grave breaches for which punishment is required:

> Article 85
>
> 3. ...
>
> (a) making the civilian population or individual civilians the object of attack?
>
> (b) launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss to life, injury to civilians or damage to civilian objects;...
>
> (d) making non-defended localities and demilitarized zones the object of attack
>
> 4. ...
>
> (d) making the clearly recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples...the object of attack.

Roberts & Guelff, supra. p. 437-438.

As stated in the Boyle Declaration attached:

> The United States government adopted the Four Geneva Conventions of 1949 with the view of the Department of Justice expressly in mind. At the time the Justice Department stated: "A review of the existing legislation reveals no need to enact further legislation in order to provide effective penal sanctions for those violations of the Geneva Convention which are designated as grave breaches." Hearing Before the Committee on Foreign Relations on the Conventions for the Protection of War Victims, U.S. Senate, 84th Cong., 1st Sess 58

(1955). Declaration of Francis A. Boyle, Paragraph 32. See also Paust, My Lai and Vietnam: Norms. Mvths. Leader Responsibility. 57 Mil L. Rev. 99 (1972).

The provisions of the 1949 Geneva Convention IV and the 1977 Protocol I Additional cited above [and below] are considered self-executing in the United States because they "can readily be given effect without further legislation." Hartman, Enforcement of International Human Rights Law in State and Federal Courts. 7 Whittier L. Rev., 741, 745 (1985), quoting Restatement of Foreign Relations Law 131(2) (Tent. Draft No'. 6, 1985).

The 1977 Geneva Protocol I Additional further specified laws of war regarding methods and means of warfare.

> Article 35
>
> 1. In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.
>
> 2. It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering.
>
> 3. It is prohibited to employ methods or means of warfare which are intended, or may be expected to casue widespread, long-term and severe damage to the natural environment.
>
> Article 36
>
> In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employsment would, in some or all cricumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party. Roberts & Guelff, supra. p.409.

[6] The United States attempted to place nuclear weapons outside the provisions of the 1977 Geneva Protocol I Additional by the following "understanding " upon signature:

The Convention on the Prohibition of Military or Anv Other Hostile Use of Environmental Modification Techniques was ratified by the United States on May 30, 1978 and states:

> Article I
>
> 1. Each Party to the Convention undertakes not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party.
>
> 2. Each State Party to this Convention undertakes not to assis, encourge or induce any State, group of States or international organization to engage in activities contrary to the provisions of paragraph 1 of this article.
>
> Article II
>
> As used in article I, the term 'environmental modification techniques' refers to any technique for changing— through deliberate manipulation of natural processes— the dynamic, composition or structure of the Earth, including its biota, lithosphere, hydrosphere and atmosphere, or of outer space.

Robert & Guelff, supra. pp. 379-380.

The plain language of the treaty does not exclude any type of weapon. Indeed, as shown in the Statement of Facts, since even

> It is the understanding of the United States of America that the rules established by this Protocol were not intended to have any effect on and do not regulate or prohibit the use of nuclear weapons. Roberts & Guelff, supra, p. 462.

If the "understanding" of the United States is incompatable with the essential purpose of the treaty, ratification may be invalid. (See section V (B)(1)(f) below). The "understanding" of course can not nullify the laws of war as described above and below nor exempt any specific weapon or tactic from application of the laws of war. The laws of war, including specific prohibitions, apply to all weapons and tactics of war including nuclear weapons as recognized by the Air Force Pamphlet cited above and further discussed below, c.f. Meyrowitz, Elliott L. Prohibition of Nuclear Weapons: The Relevance of International Law. Transnational, 1990, pp 36-37.

relatively mild radiation releases not accompanied by a nuclear detonation are now known to change and manipulate the biota, this treaty prohibit the use of any nuclear weapon. In addition, of course, the use of a number of nuclear weapons likely to result in a nuclear winter would be prohibited.

The Genocide Convention Implementation Act. 18 USC 1091-1093 implements the Genocide Convention of 1948, U.N. Doc. A/810 (1948) GA Res. 260 A (III), ratified by the United States in 1986, Res. 132 Cong. Rec,, S 1377, Feb. 19, 1986, and provides criminal sanctions for acts "attempted or committed for the purpose of killing, causing serious bodily injury to, permanent impairment to, or prevents births within a national, ethnic, racial or religious group or a substantial part thereof." 18 USC 1091 (a) (1-3). In addition the Act prohibits acts intended to "subject the group to conditions of life that are intended to cause physical destruction of the group in whole or in substantial part." 18 USC 1091 (a) (4). See also 1988 U.S. Code Cong. & Adm. News, pp. 4156 ff. (Declaration of Ann Fagan Ginger, Paragraph 27). Conspiracy to commit genocide is a punishable crime. Article III, 1948.

The conventional laws of war are plain in incorporating and confirming elements of Crimes against Peace, War Crimes and Crimes against Humanity defined by the Nuremberg Charter.

e. Plans and preparations to use Certain Weapons and Tactics of War Prohibited by the Laws of War and are Conspiracies to Commit Crimes Against Peace, War Crimes and Crimes Against Humanity.

Certain "General principles of law recognized by civilized nations" Statute of the ICJ, Article 38 c., supra. may be codified in treaties. But even without treaties, some principles are well

established norms of customary international law. "The international law of armed conflict is generally characterized as prohibitive law forbidding certain manifestations of force rather than positive law authorizing other such manifestations." AFP 110-31, p. 6-1. Common plans and conspiracies to wage a war in violation of these general principles are crimes in themselves (Declaration of Peter Weiss, Paragraph 14).

Binding general principles of law include absolute prohibitions against plans and preparations for a war which involves any of the following:[7]

1) Indiscriminate weapons and tactics

2) Weapons and tactics that cause Unnecessary- Suffering

3) Poisonous or Analogous Weapons, materials, Devices

4) Weapons or tactics of Aggression or in Violation of Neutrality

5) Weapons and tactics that cause widespread, long-term severe damage to the environment

6) Reprisals that are disproportionate to their provocation or violate the laws of war in 1-5 above.

The general rule established by the 1907 Hague Convention IV in the "Martens Clause" states:

> "the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations as they result from the usages established among civilized peoples, from the laws

[7] These rules have been enumerated in this form by the Lawyers Committee on Nuclear Policy, "Statement on the Illegality of Nuclear Warfare", New York 1990, attached to this brief. In addition, much research and formal argument has been carried out by the attorneys in many cases including A.H.J, van den Beisen and P. Ingelse and published in 20.000 Plaintiffs v The State of the Netherlands. Writ of Summons, by Foundation 'Ban the Cruise Missiles', Ars Aequi Libri, Amsterdam, 1986.

of humanity and the dictates of public conscience.[11] Roberts & Guelff. supra, at 45.

1. Any Weapons or Tactics of War that Cause Indiscriminate Harm as Between Combatants and Civilians are Prohibited.

As cited above, the Declaration of St. Petersburg established that "the only legitimate object which States should endeavor to accomplish during war is to weaken the military forces of the enemy," Roberts & Guelff, supra, 30-31. The Nuremberg Charter, supra and the Nuremberg Judgment, 6 F.R.D.69 (1946), plainly make acts which cause indiscriminate harm to civilians,crimes for which there is individual responsibility. Planning and preparation for a war in "violation of the laws or customs of war" and involving "plunder of public or private property" and "wanton destruction of cities, towns or villages or devastation not justified by military necessity" are Crimes against Peace and War Crimes, Planning and preparation for a war which will necessarily involve Crimes against Humanity such as "murder, extermination,... and other inhumane acts committed against any civilian population,..., are indictable conspiracies. (Declaration of Francis A. Boyle, Paragraph 12).

Genocide encompasses the "commission of acts with the specific intent to destroy in whole or in substantial part, a national, ethnic, racial or religious group." Plans and preparations for a war which by its design includes genocide are proscribed by the 1948 Genocide Convention and constitute conspiracy to commit Crimes against Peace and Crimes against Humanity.

Without qualification, without exemption of any weapon such as a nuclear weapon, the Air Force International Law manual acknowledges that, "The civilian population as such, as well as individual civilians, shall not be made the object of attack. Acts or threats of

violence which have the primary object of spreading terror among the civilian population are prohibited.[11] (AFP 110-31, p. 5-7)

The 1977 Geneva Protocol I Additional prohibits weapons or tactics that make civilians or civilian objects or property the objects of an attack. Article 85 as cited above. Roberts & Guelff, p. 437-438. Planning or preparation to violate this customary law of war is a Crime against Peace, a War Crime and Crime Against Humanity categorized "grave breaches" by the Geneva Conventions and the Protocol I Additional.

The effects of the use of even one 200 kiloton nuclear weapon as described above exhibit that nuclear weapons in general and ALCMs, SRAMs, gravity bombs, and all nuclear cruise missiles, in particular, are uncontrollable and inevitably and knowingly inflict gross and indiscriminate damage on civilians. The specific intent to target civilians can not be wished away by general denials because each of the named parties knows that neither firestorms nor radiation poisoning can be confined to hny named military target. The evidence is overwhelming and indisputable in this regard.

2. The Us* of Weapons or Tactics that Cause Unnecessary or Aggravated Devastation and Suffering is Prohibited.

The Declaration of St. Petersburg established the principle which prohibits "employment of arms which uselessly aggravate the sufferings of disabled men" . Roberts & Guelff, supra, p. 31. Article 25 (e) of the 1907 Hague Regulations respecting the Laws and Customs of War on Land expressly forbid employment of "arms, projectiles or material calculated to cause unnecessary suffering."

The 1907 Hague Regulations respecting the Laws and Customs of War on Land state; "It is especially forbidden to kill or wound an

enemy, who having laid down his arms, or having no longer means of defense, has surrendered at discretion." Article 23 (c), Roberts & Guelff, p. 52.

The 1977 Geneva Protocol 1 Additional , Article 35 (2) prohibits employment of "weapons, projectiles, material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering."

The Nuremberg Judgment, as cited above, relied on the 1907 Hague Conventions as a reliable statement of the Laws of War and made it clear that the defendants were liable for violations of its provisions. Any plans or preparations to wage a war in violation of this principle are Crimes against Peace and War Crimes.

It is well understood that radiation poisoning and genetic

mutation compound the torment of untreatable injuries, starvation and disease to combatants and civilians alike and have no purpose short of torture. "The legality of new weapons or methods of warfare is determined by whether the weapons' effects violate the rule against unnecessary suffering or its effects are indiscriminate as to cause disproportionate civilian injury or damage to civilian objects." AFP 110-31, p.6-7. Violations of this principle in their planning stages are Crimes against Peace and War Crimes.

3. It is Prohibited to Violate the Neutral Jurisdiction of Non-Participating Countries or to Attack Countries not Involved in war.

Under the Nuremberg Charter, Crimes against Peace are specifically "planning or preparation, initiation or waging of a war of aggression in violation of international treaties, agreements or

assurances including participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under."

The principle had been established in the 1907 Hague Regulations

respecting the Laws and Customs of War on Land, Article 25, that it is prohibited to "attack or bombardment, by whatever means, of towns, villages, dwellings or buildings which are undefended." Article l of the Fifth Hague Convention states: "The territory of neutral Powers is inviolable."

The principle is a foundation of international law. The United Nations Charter, Article 2, paragraphs 3 and 4, rests on several basic premises inculding:

> 3. All Members shall settle their disputes by peaceful means in such a manner that international peace and security, and justice are not endangered.
>
> 4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner, inconsistent with the purposes of the United Nations.

Any first strike with any weapon or any plans or preparations to use weapons or tactics of aggression including any nuclear weapon is strictly prohibited by this principle. Any plans or preparations for a war of aggression or a war in violation of international treaties, aggreements or assurances is a Crime against Peace. Nuclear weapons use is in violation of both prongs. Because nuclear weapons cannot be confined to belligerents because radio-active fallout inevitably travels with prevailing winds to many countries other than those involved in conflict.

4. It is Prohibited to Use Aspfcyziating, Poisonous or other Gases and "All Analogous Liquids, Material or Devices".

The Geneva Gas Protocol of 1925, cited above, codified the firm rule of law against the use of "poisons or analogous liquids, material

or devices."

The "inhumane acts" committed by the German War Criminals for which they were judged guilty of crimes against humanity included murder by gassings and poisonings. The Nuremberg Judgment establishes with excruciating and detailed evidence the methods used by the Nazis which led without exception to conviction. The Nuremberg Judgment 22 HMSO pp 453 ff. Those who manufactured the prussic acid for extermination in gas chambers were convicted along with military leaders for crimes against peace, war crimes and crimes against humanity. UK v Tesch. supra, Law Reports of the Trails of Maior War Criminals, Vol. I, p.93.

Nuclear weapons in general and those at issue here in particular have, per se. all the prohibited characteristics of weapons which poison directly through radiation, through burning of synthetics in fires started by the blast and firestorms and through generations by the damage done to genetic materials. The broad language of the Geneva Gas Protocol and the specific application of the principle in the Nuremberg Judgment prohibit any conspiracy to commit acts of poison, such as those contemplated by those named here.

5. Weapons or Tactics that Cause Widespread, Long-Term and Severe Damage to the Environment are Prohibited.

The 1977 Geneva Protocol I Additional codified the customary law of war which prohibits the use of weapons or means or warfare "which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment." Article 35 (3), 55 Roberts & Guelff, supra, p.409.

The Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques specifically

prohibits any party from "engaging in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury to any other State Party." Article I l. Robert & Guelff. supra. p.379.

The plain meaning of a war crime, "wanton destruction of cities, towns or villages, or devastation not justified by military necessity" and/or of a crime against humanity. "Extermination and other inhuman acts" even without further definition as cited above, includes the wide-spread, long-term and severe damage to the environment that any nuclear weapon inflicts.

A nuclear winter is only the extreme example of such an environmental damage. Lingering radioactive poisons and contamination have already damaged the enviornment. IPPNW, Radioactive Heaven and Earth, Apex, New York, 1991. Even if such present damage to the environment can not be specifically subscribed to the named parties here, there is no doubt that all named parties are that the nuclear weapons that they produce and deploy are intended to and will destroy the environment. The plans and preparations for use of such weapons are prohibited and knowledge of the certain detrimental effects of radioactivity on the environment is evidence of specific intent to wage a war which violates this principle.

6. Reprisals that are Disproportionate to their Provocation or Violate the Laws of War in 1-5 Above are Prohibited.

In the law of war reprisals for violations of any of the prohibitions in 1-5 above must be proportional to their provocation. "The principle of proportionality is a well recognized legal limitation on weapons or methods of warfare.. ." AFP 110-31, p, 6-1.

The Declaration of St. Petersburg and Article 22 of the Hague

Regulations provides written evidence that the only legitimate object of war is "to weaken the military force of the enemy" by means which "are not unlimited."

As clearly elaborated in the 1907 Hague Convention respecting the Laws and Customs of War in the Martens Clause, both "inhabitants and beligerents remain under the protection and the rule of the principles of the law of nations". That is, no reprisal against a violation of the laws of war outlined in above can itself violate one or more of those laws. To put it another way, the rules of war cannot be ignored in retaliation.

The 1977 Geneva Protocol I Additional codifies this principle. For example, prohibited are any acts that make cultural or historical objects or " objects indispensible to the survival of the civilian population" from being the "the object of reprisal. " Article 53 and 54. Robert & Guelff.supra, p.417. "Attacks against the natural environment by way of reprisals are prohibited." Article 55 (2). Roberts & Guelff, supra. p. 418.

War crimes are defined by acts which exceed that which is "militarily necessary." To overcome the unlawful opposition, "no more force can be used than is necessary to accomplish the object." Luther v Borden, 48 U.S. (7 How.) at 45-46, 12 L Ed. at 600. "There must be some reasonable connection between the destruction of property and the overcoming of the enemy forces." cf. US Military Tribunal as cited in AFP 110-31, p. 15-5.fn 40.

The rule of proportionality clearly prohibits the use of nuclear weapons in response to an attack with conventional, biological or chemical weapons. Military necessity and proportionality in the contect of a planned nuclear war are discussed in more detail below.

Suffice it to say in this section that the use of nuclear weapons in response to nuclear weapons involves escalating annihilation that can have no relation to any military objective. Law can not be abandoned under a concept of total war. Planning for a nuclear war is planning for extermination of much or all of human life on this planet, not an objective associated with weakening the military forces of the enemy.

f. Violations of Any of the Laws of War Listed Above Constitute Crimes Against Peace, War Crimes or Crimes Against Humanity all of which have a Special immutable Status as Crimes Against All Humanity.

All the prohibitions above are now understood as criminal under the Nuremberg Principles. Those prohibitions are of a fundamental character "recognized by the community of nations as of universal concern, [including]...genocide, war crimes", as ius cogens. The

American Law Institute Restatement (Third) Foreign Relations Law of the United States 404...

> "[S]ome crimes are so universally condemned that the perpetrators are the enemies of all people." Demianiuk v Petrovskv. 776 F 2d 571 (CA 6th Cir, 1985), 79 ILR 545.

Article 53 of the Vienna Convention of the Law of Treaties of 1969 reads:

> "[A] treaty is void, if at the time of its conclusion, it conflicts with a peremptory norm or general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of states as a whole as a norm from which no derogation is permitted, and which can be modified only by a subsequent norm of general international law having the same character."
>
> L. Alexidze elucidates further:
>
> [T]he peremptory character of a rule[of ius cogens1 should be reognized by states expressis verbis or such a character can be presumed due to

> its vital social and moral value for the functioning of the whole contemporary international legal order and any derogation from a rule [of jus cogens] by the mutual consent of states on the local level, aimed at worsening the commonly recognized legal standards of civilization is null and void." Hague Recueil, 1981 III, p. 261.

There is no debate that offenses included in this category of universally condemned crimes are at least those defined in the Nuremberg Charter. Crimes against Peace, War Crimes and Crimes against Humanity are universally accepted as of the category of ius cogens.

> "A major distinguishing feature of such rules is their relative indelibility. They are rules of customary law which cannot be set aside by treaty of acquiescence but only by the formation of a subsequent customary rule of contrary effect. The least controversial examples of the class are the prohibition of aggressive war, the law of genocide, the principle of racial non-discrimination, crimes against humanity and the rules prohibiting the trade in slaves and piracy." Brownlie, Ian, Principles of Public International Law. 4th ed., 1990, p.

The phrase "no derogation" in Article 53 of the Vienna Convention on the Law of Treaties cited above was interpreted by the International Court of Justice in an Advisory Opinion requested by the United Nations General Assembly regarding Reservations to the Genocide Convention. Objections were made by some states regarding the reservations to the Convention made by other states.

The International Court of Justice held:

> "a state which has made a reservation which has been objected to by one or more parties to the convention but not by others, can be regarded as being a party to the Convention if the reservation is compatible with the object and purpose of the Convention." ICJ Reports, 1951, p. 15. .

The level of evidence which is required to prove offenses of this character may be high but is overwhelmingly met under the facts of

this case. The 200 kiloton weapons propeled by Williams International engines and those nuclear weapons presently being prepared for use at Wurtsmith Air Force Base threaten catastrophe to any country or population at which they are aimed and any use of even a small number of those nuclear weapons threatens the earth itself.

g. Any Plans or Ferparation for Any Use or Threat of Use of Nuclear Weapons is an Indictable Conspiracy to Commit Nuremberg Crimes Because Nuclear veapons are Illegal Per Se.

The properties of any nuclear detonation including firestorms, uncontrollable and indiscriminate radiation poisoning, and destruction of all modern human support systems from the electromagnetic pulse can not be removed from nuclear weapons. Since anv use of a nuclear weapon is illegal, it follows that in and of themselves nuclear weapons are illegal. Because any conceivable use of nuclear weapons violates one or more of the binding laws of war, any use of nuclear weapons is criminal even without a treaty specifically prohibiting the use of nuclear weapons. (Declaration of Francis A. Boyle, Paragraph 24; Declaration of Peter Weiss, Paragraph 12).

Individuals are indictable in state and federal courts for conspiracy to commit because they participate in planning to use, or in planning to threaten use of nuclear weapons. Crimes against Peace,

War Crimes and Crimes against Humanity. (Declaration of Peter Weiss, Paragraph 15; Declaration of Francis A. Boyle, Paragraphs 25-29). The United States and Michigan have responsibility to repress the inevitable breaches of the Geneva Conventions, supra. and the Genocide Convention, supra. which would occur with any planned use of the nuclear weapons manufactured and deployed by those named in this request. Inevitable violations of the prohibitory norms of war discussed above are also indictable as conspiracies to commit Crimes

against Peace, War Crimes and Crimes against Humanity. (Declaration of Peter Weiss, Paragraph 14).

On these grounds in part, the Tokyo District Court held that the bombings of Hiroshima and Nagasaki violated international law:

> It is right and proper that any weapon contrary to the custom of civilized countries and to the principles of international law should be prohibited even if there is no express provision of the laws and regulations. Only where there is no provision in the statutory law, and as long as a new weapon is not contrary to the principles of international law, can a new weapon be used as a legal means of hostility. .. Therefore, we cannot regard a new weapon as legal only because it is a new weapon, and it is still right that a new weapon must be exposed to the examinations of positive international law. The Shimoda Case. Jap. Ann. Int'l Law (1964), p. 327.

1. Nuclear Weapons Treaties Move Toward Disarmament but do not Legalize Nuclear weapons.

"Any treaty specifically outlawing nuclear weapons, desirable though it may be, would be merely confirmatory of existing laws." (Declaration of Peter Weiss, Paragraph 12). A number of treaties have been signed which expressly aim toward a Conference on General and Complete Disarmament and elimination of the incentive to the produce and test all kinds of weapons including nuclear weapons, such as: the Non-Proliferation Treaty of July 1, 1968, cited in the introduction here, Judge Nagendra Singh & Edward McWhinney, Nuclear Weapons and Contemporary International Law. Martinus Nijhoff, 1989, pp. 461-466; The Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and under Water, August 5, 1963, Singh & McWhinney, supra. p.435-437. The Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil thereof, February 11, 1971, Singh & McWhinney, supra. pp. 467-471; The United States of America

and Union of Soviet Socialist Republic Treaty on the Limitation of Anti-Ballistic Missile Systems, May 26, 1972 and the Protocol to the Treaty between the United States of America and the Union of Soviet *Socialist* Republics on the Limitation of Anti-Ballistic Missile Systems, July 3, 1974, Singh & McWhinney, supra. pp 493- 495; Treaty on Limitation of Underground Nuclear Tests (Threshold Test Ban Treaty), July 3, 1974, and Protocol, Singh & McWhinney, supra, p.496-497; The Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles, December 8 1987, Singh & McWhinney, pp. 568- 592.

As has been extensively discussed in the section above, treaties are only one of the ways that international law is determined by courts. As with deliberate torture, Crimes against Peace, War Crimes and Crimes against Humanity under color of official authority violate universally accepted principles of customary international law with or without a treaty to further define them. Trial of Maior German War Criminals. 22 HMSO 445 (1945), Filartiga v Pena-Irala. 630 F 2d 876, 878 (2d Cir 1980).

2. Nuclear Weapons us* Declared Criminal by the UN General Assembly.

The United Nations General Assembly Resolution 1653 is an "authoritative statement of the international community," that "creates an expectation of adherence and 'insofar as the expectation is gradually justified by state practice, a declaration may by custom become recognized as laying down rules binding upon state." Filartiga v Pena-Irala. 630 F 2d 876, 885 (1980).

The Declaration reads:

The General Assembly,

Mindful of its responsibility under the Charter of the United Nations in the maintenance of international peace and security, as well as in the consideration of principles governing disarmament,

Gravely concerned that, while negotiations on disarmament have not so far achieved satisfactory results, the armaments race, particularly in the nuclear and thermo-nuclear fields, has reached a dangerous state requiring all possible precautionary measures to protect humanity and civilization from the hazard of nuclear and thermo-nuclear catastrophe,

Recalling that the use of weapons of mass destruction, causing unnecessary human suffering, was in the past prohibited, as being contrary to the laws of humanity and to the principles of international law, by international declarations and binding agreements such as the Declaration of St. Petersburg of 1868, the Declaration of the Brussels Conference of 1874, the Convention of the Hague Peace Conferences of 1899 and 1907, and the Geneva Protocol of 1925, to which the majority of nations are still parties,

Considering that the use of nuclear and thermo-nuclear weapons would bring about indiscriminate suffering and destruction to mankind and civilization to an even greater extent than the use of those weapons declared by the aforementioned international declarations and agreements to be contrary to the laws of humanity and a crime under international law,

Believing that the use of weapons of mass destruction, such as nuclear and thermo-nuclear weapons is a direct negation of the high ideals and objectives which the United Nations has been established to achieve through the protection of succeeding generations from the scourge of war and through the preservation and promotion of their cultures,

1. Declares that:

(a) The use of nuclear and thermo-nuclear weapons is contrary to the spirit, letter and aims of the United Nations and, as such, a direct violation of the Charter of the United Nations;

(b) The use of nuclear and thermo-nuclear weapons would exceed even the scope of war and cause indiscriminate suffering and destruction to mankind and civilization and, as such, is contrary to the rules of international

law and to the laws of humanity;

(c) The use of nuclear and thermo-nuclear weapons is a war directed not against an enemy or enemies alone but also against mankind in general, since the peoples of the world not involved in such a war will be subjected to all the evils generated by the use of such weapons;

(d) Any State using nuclear or thermo-nuclear weapons is to be considered as violating the Charter of the United Nations, as acting contrary to the laws of humanity and as committing a crime against mankind and civilization...

In addition, United Nations General Assembly Resolutions 33/71 of Dec. 14, 1978 and Resolution 35/152-D of Dec. 12, 1980 reiterate that "the use of nuclear weapons would be a violation of the Charter of the United Nations and a crime against humanity."

An agreement to use illegal weapons is a indictable criminal conspiracy. An agreement not to use nuclear weapons is evidence that a customary rule of law specifically prohibiting their use has been or is being established. In the latter view, state practice has already justified laying down a specific rule of customary international law that nuclear weapons can not lawfully be used. The expectation of adherence to General Assembly resolutions has resulted in no use of nuclear weapons in war since 1945.[8]

3. Defenses Against Nuremberg Crime Charges.

a. Following orders/Color of State Law.

An order to use nuclear weapons issued by the President of the

[8] At least one indication of further adherence to the customary international law that nuclear weapons can not be lawfully used legally occurred by the Government of the United Kingdom during the Gulf war. The Government of the United Kingdom permitted the United States to use bases in the United Kingdom for B-52 staging and flights. " In announcing Britain's decision to allow stationing of B-52s on its soil, British Defense Secretary Tom King, stress that London had received an absolute assurance that they will only use conventional munitions operating from that base." New York Times, February **1, 1991**, p.A4.

United States would not be legal and if such an order were issued, could not be legally followed. In the Helsinki Declaration of 1985, President Reagan and President Gorbachev both stated, "A nuclear war cannot be won and must never be fought." French President Mitterand has said that "nuclear weapons are weapons of non-use." UN Comprehensive Study on Nuclear Weapons, 1990.supra, p. 136. The Soviet Union, the declared, if former, adversary has officially pledged not to use nuclear weapons first. Each of these Presidents is or was Commander and Chief of the Armed Forces of his country and responsible for an order to use nuclear weapons.

The statements of the Presidents are legally binding on the state. In Nuclear Tests ("Australia v France) . Judgment. ICJ Reports 1974, p.253, the International Court of Justice held that France was "legally bound by its own declaration of intention as to future state conduct." Singh & McWhinney, supra. p. 216.

> "The law of war presupposes that its violation is to be avoided through control of the operations of war by commanders who are to some extent responsible for their subordinates. In re Yamashita. 327 U.S. 1, 15 (1946).

The Officers and Directors of Williams International and the Commanders of Wurtsmith Air Force Base have clear and present choices. "The fact that a person acted pursuant to order of his Government or of a superior does not relive him from responsibility under international law, provided a moral choice was in fact possible to him." Nuremberg Principle IV, Yearbook of the ILC, 1950, Vol. II, p. 374.

> An order requiring the performance of a military duty may be inferred to be legal. **An act performed** manifestly beyond the scope of authority or **pursuant to an order that a man of ordinary sense and understanding would know to be illegal/ or in a wanton manner, in the discharge of a legal duty,**

is not excusable.(emphasis added). U.S. v Calley. 22 USCMA 534, 48 CMB 19 (1973).

Even if an order to use nuclear weapons were considered legal under United States law, following such an order would be an indictable offense under international law. "The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law." Nuremberg Principle II, Yearbook of the ILC 1950, Vol. II, p. 374.

b. Reprisals.

The law of reprisal is now generally governed by the United Nations Charter. No act of reprisal under Chapter VII can be taken without first exhausting all peaceful means of resolving the dispute under Chapter VI.

Reprisals by definition are "the commission of acts, which, although illegal in themselves may, under specific circumstances of the given case, become justified because the guilty adversary has himself behaved illegally, and the action is taken in the last resort in order to prevent the adversary from behaving illegally in the future." U.S. v Ohlendorf. 4 Trials of War Criminals Before the Nuremberg Tribunals 493 (1950)

In this vein, the argument has been made that there may be legal uses for nuclear weapons and that the legality can be judged only after a particular use. McDougal and Feliciano, Law and Minimum World Public Order (1961) p. 7778. Such a proposition flies in the face of present common knowledge of inevitable effects of unavoidable and uncontrollable radioactive fallout and genetic damage both immediately after and generations after any use of any nuclear weapon. Statement of Facts, c.f.LCNP, supra,p.28.

More specifically war theorists contend nuclear weapons can lawfully be used in retaliation against the use of nuclear weapons. However, the evidence that War Crimes and Crimes against Humanity would be committed on a "vast scale" in any nuclear exchange is overwhelming. Such a theory of justified reprisal against nuclear weapons with nuclear weapons operates so outside of the realm of the apocoloypatic realities of a nuclear war that its proponents can only be regarded as insane.

The Nazi hierachy used just such an argument at the Nuremberg Tribunals. The Nuremberg Judgment held:

> The truth is that war crimes were committed on a vast scale , never before seen in the history of war. They were perpetrated in all the countries occupied by Germany, and on the high seas, and were attended by every conceivablecircumstance of cruelty and horror. There can be no doubt that the majority of them arose from the Nazi conception of "total war," with which the aggressive wars were waged. **For in this conception of "total war", the moral ideas underlying the conventions which seek to make war more humanbe are no longer regarded as having force or validity. Everything is made subordinate to the over-mastering dictates of war. Rules, regulations, assurances and treaties all alike are of no moment;** and so freed from the restraining influences of International Law, the aggressive war is conducted by the Nazi leaders in the most barbaric way. Accordingly War Crimes were sommitted when and wherever the Fuhrer and his close associates thought them to be advantageous. They were for the most part the result of cold and criminal calculations, (emphasis added) The Trial of Maior German War Criminals. Judgment. 22 HMSO 449 (1950).

1. Use of Nuclear Weapons can Never be Military Necessary.

Nuclear weapons can never be legally used in reprisal even in response to the use of nuclear weapons because they can never be militarily necessary:

> Military necessity is the principle which justifies measures of regulated force not

> forbidden by international law, which are indispensable for securing the prompt submission of the enemy with the least possible expenditures of economic and human resources.[1] AFP 110-31, pp. 1-5, 1-6. However "reprisals are forbidden under all circumstances, against persons or objects [such as civilians, hospitals, religious or cultural objects]... in accordance with the 1949 Geneva Conventions." AFP 110-31, p. 10-4.

The United States has long taken the position that:

> "Military necessity, as understood by modern civilised nations, consists in the necessity of those measures which are indispensible for securing the ends of war, and which are lawful according to the modern law and usages of war. Lieber, Franz, General Oder 100. Instructions for the Government of the Armies of the United States in the Field, s.14 (1862). Singh & McWhinney, supra. p.59.

Under all and any conceivable circumstances, nuclear weapons per se target primarily persons and objects protected by the Geneva Conventions because it is simply not possible to contain or direct the effects of radioactive fallout and firestorms. Singh & McWhinney, supra. p. 172. A nuclear response to a nuclear attack amounts to genocide directed at a people or country as a people or country. Genocide can never be lawfully committed.

2. Reprisals with Nuclear Weapons can never be proportional to the provocation.

In addition, reprisals must be proportional to the attack. "Effective but disproportionate reprisals cannot be justified by the argument that only an excessive response will forestall further transgressions." AFP 110-31, p. 10-5.

> The principle of proportionality is a well-recognized legal limitation on weapons or methods of warfare which requires that injury or damage to legally protected interests must not be proportionate to legitimate military advantage. Protected values include:
>
> (1) The nature, degree, extent and duration of individual injuries involved in the prohibition

against unnecessary suffering

(2) Excessive injury to protected civilian persons or damage to civilian objects; and

(3)Uncontrollable effects against one's own combatants, civilians or property. AFP 110-31, pp **6-1, 6-2**

Limits on reprisals are both qualitative and quantitative.

Hostages Trial. 8 Law Reports of Trials of War Criminals, p. 34, at p 65. Even without a definite standard, first use of nuclear weapons under any circumstances violates the principle of proportionality because nuclear weapons cause unnecessary suffering, excessive injuries to civilians and property and the effects are uncontrollable The qualitatively different properties of radiation poisoning are now

well understood. An accumulation of such poisoning through a nuclear exchange can not be accomplished within the bounds of the law. In light of Chernobyl, the recent understandings of the prolonged suffering of Hiroshima and Nagasaki victims and the effects on the planet of nuclear weapons production and testing, it can no longer be even theoretically thought that a nuclear war can ever be legally justified.

> It is time to recognize that no one has ever succeeded in advancing any persuasive reason to believe that any use of nuclear weapons even on the smallest scale, could reliably be expected to remain limited. M. Bundy, et al, [11] Nuclear Weapons and the Atlantic Alliance", 60 For Aff 753, 757 (1982).

c. Nuclear Weapons Cannot Be used in Self-Defense.

The United States has attempted to justify development and

deployment of nuclear weapons through a theory of self-defense. The question of whether nuclear weapons ever could be a weapon of self-defense is a legal question for the courts:

> It was further argued that Germany alone could decide, in accordance with the reservations made by many of the Signatory Powers at the time of the conclusion of the Kellogg-Briand Pact, whether preventitive action was a necessity, and that in making her decision her judgment was conclusive. But whether action taken under the claim of self-defense was in fact aggressive or defensive must ultimately be subject to investigation and adjudication if international law is ever to be enforced. Trial of Gernman Maior War Criminals. 22 HMSO 436.

The ICJ recently defined the meaning of the right to "collective self-defense" as used in Article 51 of the United Nations Charter:

> In the view of the Court, under international law in force today— whether customary international law or that of the United Nations system— States do not have a right of "collective" armed response to acts which do not constitute an 'armed attack' . . . [because there exists] " no rule in customary international law permitting another state to excercise the right of collective self-defense on the basis of its own assesment of the situation." Military and Paramilitary Activities Judgment. ICJ Reports 1986, p. Ill, para. 211. p. 104, para. 195. See Singh & McWhinney, supra, pp. 58-103.

Even if a legal action to counter aggression is taken under the rubric of the United Nations Charter, Chapter VII, "rival belligerents in both cases would be required to observe the laws of war particularly in the field of prohibited weapons and practices." The Hostages Trial, 8 War Crimes Trials, p. 34 at p. 39. "Thus, if an armed attack with conventional weapons occurs against a member of the United Nations, the Security Council or the individual member could not by way of reprisals or in self-defence resort to the prohibited weapons of war, and the use of conventional weapons alone would be justified." Singh & McWhinney .supra, pp. 166, 168

Nuclear weapons manufactured at Williams International and

deployed at Wurtsmith Air Force Base can not be lawfully used in self-defense, or collective self- defense or in reprisal even against a nuclear attack. All "militarily necessary" action must be within the laws of war and proportional to an attack. Any aggressive first strike or any reprisal with nuclear weapons is therefore absolutely forbidden by prsent law.

d. Deterrence is a political theory not a legal defense.

Deterrence is not a legal defense. Rather, it is a political theory that nuclear weapons must be continually built and stockpiled in order to prevent an enemy nuclear power from using nuclear weapons against the United States. (Declaration of Peter Weiss, Paragraph 6 and 7) . "Effective deterrence" requires the unlawful willingness to use nuclear weapons. Can "the keeping of peace or the prevention of war...be made dependent upon the fear of horrific, indiscriminate destruction which justifies the stockpiling of such weapons at enormous expense, in the hope that they will merely act as a deterrent but will not, in fact, be used?" Singh & McWhinney, supra, p. 200. "Deterrence can only gain credence as a theory if it is accompanied by non-proliferation and disarmament. If peace is the ultimate objective, there can be no doubt that disarmament must be given priority and take precedence over deterrence." Singh & McWhinney, supra, p.202.

Sovereign equality of all nations is one of the essential foundations of international law. The United Nations Charter is "based on the principle of sovereign equality of all its Members." U.N. Charter, Article 2, 1. Under the Charter of the United Nations, the United States can not justify building and deploying nuclear weapons which force a new hegemony of the nuclear states over the non-

nuclear states "through genocidal instruments of sheer terror." Richard Falk, IALANA Conference, Berlin, November 7, 1990. A political rationalization such as deterrence is in legal terms unacceptable extortion or terrorism and can in no way be used in any court of law as a defense to building and deploying nuclear weapons.

"John H. Fried, a former Special Legal Consultant to the Nuremberg Crimes Tribunals, argued...that the first use of nuclear weapons is prohibited by already existing international law.. . Nuclear weapons, by their very nature, destroy the traditional definition of war, namely 'organized violence between military forces[1]...Because of the vast death and destruction that would be produced on both sides in a nuclear war, nuclear war has no rational war aim; its only aim is destruction." Meyrowitz, Elliott, Prohibition of Nuclear Weapons. Transnational, NY, 1990, pp 73-74.

Because there is no conceivable legal use for nuclear weapons, that is, no use that does not violate the laws of war, any planning or preparation for use is also illegal and criminal under the Nuremberg Charter which makes criminal in itself planning and preparation for Crimes against Peace, War Crimes and Crimes against Humanity criminal.

> [I]f article 2 (4) of the United Nations Charter prohibits both the threat and use of force except in cases of legitimate self defense under article 51, and if the actual use of nuclear weapons would grossly violate the international laws of humanitarian armed conflict under most conceivable circumstances, the United States cannot lawfully threaten to use nuclear weapons in accordance with any theory of nuclear deterrence without violating international law. Furthermore, if the Nuremberg Principles absolutely proscribe Crimes against Peace, Crimes against Humanity and War Crimes, the United States cannot lawfully threaten to commit such heinous offenses in the name of nuclear deterrence. Boyle, Francis, "The Relevance of international Law to the Paradox of Nuclear Deterrence," 80 NW. U.L. Rev. 1407 (1986), cited in Meyrowitz, supra. at 81.

3. Conspiracy to Commit Nuremberg Crimes as Violations of state and Federal Statutes.

An agreement with another to commit an illegal act, and any act to further the agreement, is in itself illegal. The crime to plan to commit one murder or many murders is separate from the crime of commiting one murder or many murders. Likewise, planning and

preparing to commit Crimes against Peace, War Crimes, and Crimes against Humanity are crimes in themsleves separate from the underlying offense.

Conspiracy is defined in the state of Michigan Criminal Code:

> Any person who conspires with one or more persons to commit an offense prohibited by law, or to commit a legal act in an illegal manner is guilty of the crime of conspiracy... MCL 750.157a; MSA 28.354(1).

Conspiracy is defined in the United States Criminal Code as:

> "two or more persons conspir[ing] to commit any offense against the United States" 18 USC 371.

The underlying crimes of Crimes against Peace, War Crimes and Crimes against Humanity as to their elements, their incorporation into Michigan law and United States law and their application to the facts

presented are discussed with specificity above.

a. Cases interpreting the Michigan conspiracy statute.

The crime of conspiracy,

> "a partnership in criminal purposes," U.S. v Kissel. 218 US 601, 608; 31 S Ct 124; 54 L Ed 1168 (1910), is a mutual understanding or agreement, express or implied, between two or more persons to commit a criminal act or to accomplish a legal act by unlawful means. While the offense has its origins in common law, it is now specifically proscribed by statute... MCL 750.157a; MSA 28.354(1). People v Carter. 415 Mich 558, 567 (1982).

Many overt acts, including actual design and production of

weapons intended for mass annihilation and 24 hour hair trigger preparations accomplishing that horrific end are circumstantial evidence of specific criminal agreements. "The elements of a conspiracy are satisfied immediately upon entry by the parties into a mutual agreement; no overt acts need to be established." People v Bettistee. 173 Mich App 106, 117 (1988).

A formal agreement exists in this case in the form of contracts but proof of a formal agreement is not required. "It is sufficient if the circumstances, acts, and conduct of the parties establishes an agreement in fact. Furthermore, conspiracy may be established, and frequently is established by circumstantial evidence." People v Atlev. 392 Mich 298, 311; 220 NW 2d 465 (1974).

Prosecution does not need to wait until the conspirators complete their purpose. The aims of the parties named here are fraught with the gravest dangers. It is fortunate that a conspiracy charge "does not depend upon the accomplishment of the underlying goals, [because]

> Group association for criminal purposes often, if not normally, makes possible the attainment of ends more complex than those which one criminal could accomplish. . . In sum, the danger which a conspiracy generates is not confined to the substantive offense which is the immediate aim of the enterprise. Carter. supra. at 569-570.

As in this case, conspiracy cases often involve defendants who are not aware of all the details of a complex plan. Defendants are not successful in arguing that they were only responsible for a part of the plan, nor does it matter whether they knew every, detail:

> Conspiracy implies concert of design and not participation in every detail of execution and it is not necessary that each conspirator should have taken part in every act, or know the exact part performed or to be performed by others in

> furtherance of the conspiracy. People v Scotts. 80 Mich App 1; 263 NW2d 272 (1977).-

The courts are lenient toward the prosecution in permitting a showing of "circumstances, acts and conduct of the parties without knowledge of or participation in all the details." People v Tenerowicz.
266 Mich 276, 285; 253 NW 296, 300 (1936).

A defendant does not have to know about the inception of the conspiracy in order to be a member, if he enters the agreement at a later date. People v DeLano. 318 Mich 557;28 NW 2d 909 (1947), cert, den. 334 U.S. 818; S Ct 1082; 92 L Ed 1748 (1948). People v Harry Fleish, 321 Mich 443; 32 NW2d 700 (1948).

The underlying wrongs or unlawful acts contemplated by the conspiracy statute are broad and include both statutory crimes and common law crimes:

> A conspiracy to commit a crime was an indictable offense at common law, and such conduct is made a felony by this section of the statute, (citations omitted). The common law condemned a conspiracy directed toward illegal ends, whether the object of the agreement was to violate the common law or statute law... The gist of the offense is the agreemnt to accomplish violation of the law. . . People v Smith. 296 Mich 176; 295 NW 605, 606-607 (1941), People v Cyr. 113 Mich App 213; 317 NW 2d 857 (1982).

In this request the underlying crimes include statutory law or its constitutional equivalent (U.S. Const Art VI, Sec.2) in the form of treaties, executive agreements and criminal code sections. Even if some of the Nuremberg crimes are considered customary international law crimes, they are customary law of ius cogens, which cannot be written away by treaty and to which all human beings are bound with or without a treaty.

" The gist of a criminal conspiracy is the specific mutual agreement

to perform the crime in question; the conspiracy statute provides punishment for the actual advance planning and agreement to perform the substantive criminal acts." People v Gilbert. 183 Mich App 741, 749 (1990).

b. Cases Interpreting the Federal Conspiracy statute.

The underlying crimes of Crimes aginst Peace, War Crimes and Crimes against Humanity are equivalent in force and effect to federal statutes. "The essential element of a conspiracy is the agreement to accomplish an unlawful act." U.S. v Wardy. *ill* F2d 101, 107 (2d Cir.1985), cert, denied, 475 U.S. 1053, 106 S.Ct. 1280, 89 L.Ed. 2d 587 (1986).

> Federal jurisdiction does not depend on proof that the objective of the conspiracy has been or could have been achieved. Jurisdiction is established by proof that the accused planned to commit a substantive offense which, if attainable, would have violated a federal statute, and that at least one overt act has been committed in furtherance of the conspiracy. U.S. v Giordano. 693 F 2d 245 (1982).

As with the Michigan court interpretation of the Michigan conspiracy statute;

> [T]he government does not have to prove that the defendant was intimately familiar with each and every detail of the conspiracy but that the defendant had knowledge of the agreement and was associated with the plan. Evidence that the defendant had knowledge of the conspiratorial agreement and associated with the plan in order to promote its success is sufficient to sustain a conspiracy conviction where the conspiracy has been adequately established by independent evidence. (citations ommitted). U.S. v. Fernandez-Roaue, 703 F 2d 808, 815 (1983)

"A conspiracy may be established through circumstantial evidence,...which need only tend to show a tacit understanding to carry out the prohibited conduct. " U.S. v Romero, 897 F 2d 47, 50 (2nd Cir. 1990).

Those named here do not have to know each target or the various combinations of targets for the nuclear missiles they build and deploy for use.

> [T]here need only be some evidence from which it can be reasonably inferred that the person charged. . .knew of the existence of the scheme. . . and knowingly joined and participated in it. Romero, supra. at 50.

> [A] conspirator can be held responsible for the substantive crimes committed by his co-conspirators to the extent that those offenses were reasonably foreseeable consequences of acts furthering the unlawful agreement, even if he himself did not participate in the substantive crimes. Pinkerton v U.S.. 328 U.S. 640, 647, 66 S Ct 1180, 1184, 90 L Ed 1489 (1946). Whether a particular crime is foreseeable and in furtherance of the conspiracy is a factual matter for the jury. United States v Bruno. 873 F. 2d 555, 560 (2d Cir.) cert, denied U.S. , 110 S. Ct. 125, 107 L Ed 2d 86 (1989).

Nor is it necessary that those named here know the identity of each civilian victim. By analogy, U.S. v Feola. 420 U.S. 671, 694-96, 95 S. Ct. 1255, 1268-70, 43 L.Ed.@d 541 (1975) held "Such a knowledge is irrelevant because conspiracy to murder a federal officer requires only the conspiracy to murder, not the specific identity of the victim.

In Romero. supra. a defendant claimed "he was merely a 'hired gun', unaware of the nature of the 'business transactions' taking place. On the record in the case, the jury was entitled to reject that claim as incredible. By remaining in the closet to protect those 'business transactions,' he joined the narcotics conspiracy, and the reasonably foreseeable acts of his co-conspirators are attributable to him.

Romero, supra, at 52.

c. Conspiracy is a Specific Intent Crime.

The tests for whether there is specific intent to agree and specific intent to commit the underlying and illegal acts are described

as follows

> If one acts for the purpose of causing a certain result he intends that result whether it is likely to happen or not. On the other hand he intends a consequence which he knows is bound to result from his act whether he desires it, regrets it or is quite indifferent to it. And to avoid philosophical imponderables as to what is or is not . "bound to happen" it is customary to speak of consequences "substantially certain to be produced. Stated in terms of a formula: Intended consequences are those which (a) represent the very purpose for which an act is done (regardless of likelihood of occurrence), or (b) are known to be substantially certain to result (regardless of desire).

Perkins, Rollin M., Ronald N. Cases and Materials on Criminal Law and Procedure. 6th edition, Mineola, N.Y. 1984, p.472.

That those named here have the necessary specific intent to kill civilians in large numbers, is shown:

> It would appear, therefore, that as resort to nuclear weapons would actually result in the terrorization of the civilian population on account of the area of destruction, coupled with the inevitable poisonous and genetic effects which are known to the state manufacturing these weapons, there use in aerial bombardment would contravene one of the fundamental principles of the laws of war. Even if the intention to terrorize was absent, the knowledge that terrorization would inevitably result from the use of nuclear weapons could not be denied...**It is submitted that in light of the facta not known and taking actus reus* which includes knowledge of the consequences of the use of these weapons, as decisive, since intention or mens rea in such circumstances would be presumed, it would appear that resort to thermo-nuclear weapons would be a 'war crimes.**[1] According to Article 6(c) of the Charter of Nuremberg,...the definition of crimes against humanity includes, •extermination of civilian populations before or during war[1]. (Emphasis added). Singh & McWhinney, supra. p.151-152.

VI. APPLICATION OF THE LAW TO THE NAMED PARTIES[1] ACTS AND AGREEMENTS

Much of the application of the facts to the law has been addressed in sections above. What follows is a brief summary of the main points in the law in light of the facts presented.

A. COMMON KNOWLEDGE THAT NUCLEAR WEAPONS ARE ILLEGAL PER SE.

Much evidence has been presented that for at least ten years there has been common understanding of effects of one nuclear detonation, actual uncontrollable blast wave, fires and firestorms and short and long-term radiation poisoning. (Declaration of Ann Fagan Ginger, Paragraph 10). While those named here may not have read the authorities discussed in this Petition, nevertheless no one,particularly those whose business it is to make or deploy nuclear weapons can now be ignorant of the actual catastrophes that would result from any use; no one can be ignorant of their gross illegality.

Every Officer and Director of Williams International and every Commander of Wurtsmith Air Force Base knows or should most certainly know that nuclear cruise missiles target and poison civilians, even thousands of civilians, causing horrible burns, painful death, genetic mutations, cancers. The accuracy of a nuclear cruise missile is irrelevant.

The named Officers and Directors of Williams International and the named Commanders of Wurtsmith Air Force Base can be charged with understanding the effects of one nuclear cruise missile. Each knows that if any one of the weapons they make or deploy were aimed at a so-called target such as Williams International or Wurtsmith Air Force Base, much of Lake Huron and southern Michigan would be rendered useless and uninhabitable. No party named here could say that such bombs were

justifiably aimed at the military targets of Williams International and/or Wurtsmith because each of the parties knows that thousands of civilians who live in and around Oscoda and Walled Lake would be killed and much of Lake Huron and southeast Michigan would be uninhabitable. No less is different for any other place in the world.

Many of the petitioners have generally made the arguments presented here known to the named individuals (Declaration of C. Peter Dougherty, Paragraph 46; Declaration of Ardeth Platte, Paragraph 11) by way of documents presented on site or in court proceedings.

Furthermore, the Commanders of WAFB can certainly be held to knowledge of the Air Force pamphlet on international law as cited above.

B. SPECIFIC INTENT TO CONSPIRE TO COMMIT NUREMBERG CRIMES

That the parties specifically intended to agree can be inferred by the existence of contracts between Williams International and DOD to design and build nuclear cruise missiles and by the existence of the hierarchical command structure to carry out the nuclear mission of Wurtsmith Air Force Base.

In general, the nuclear cruise missile, SRAMs and nuclear gravity bombs have been designed, built and deployed for the specific illegal purpose of waging a nuclear war. The specific intent to build and deploy these weapons to fight and prevail in a illegal nuclear war is thus present whether or not such a war is ever fought. In the alternative, the parties named here know that consequences in gross violation of the laws of war and humanity are absolutely, not only substantially, certain to result. Whatever the publicly stated desi s

may be cannot detract from the known realities of nuclear weap ***J*** inevitable and uncontrollable effects.

The named parties can be charged with conspiracy to commit Nuremberg Crime under international law since that law is incorporated into state and federal laws. Likewise, the named parties also can be charged with conspiracy to commit the underlying Nuremberg Crimes or conspiracy to commit deliberate murder as a simple matter of applicable statutes. MCL 750.157a; MSA 28.548(1); 18USC 371.

C. CRIMES AGAINST PEACE

Crimes against Peace include planning and preparation for a war of aggression or a war in violation of international treaties, agreement or assurances. As described more fully above, nuclear war is aggressive by nature. An example of that nature is the radioactive fallout produced, which is uncontrollable and attacks any country to which it is blown.

The known and general objectives of the United States nuclear war plan are to prevail in a nuclear war and to dominate escalation of any conflict. The United States has specifically refused to state that it will not use nuclear weapons first in direct violation of the basic principle of proportionality.

In its latest post cold-war statement and with the dissolution of the Warsaw Pact, NATO claims that construction and deployment of nuclear weapons is required as "last resort". Reprisal must be proportional and militarily necessary.

In the context of nuclear weapons, such a phrase as "last resort" can only be interpreted as a plan for total war which would inevitably and with the knowledge of all the parties involved result in catastrophic annihilation over much if not all of the world.

1. Civilians are intended and inevitable targets of **nuclear weapons.**

The fundamental norm, established in both conventional and customary international law is that civilians cannot be targeted as

such. In a nuclear war the question of the stated target becomes absurd. Whether or not a target was or was not aimed at, does not negate the specific prohibited intent to vaporize 35 square miles and let loose uncontrollable fires and clouds of radioactivity. Indeed with 200 kiloton weapons it is not possible without the utmost cynicism to declare whole cities military targets. With such logic, of course, the whole world and all the uninvolved parties in it become targets negating entirely the law of war and indeed the rule of law itself.

2. Unnecessary Suffering.

One need go no further than to read the stories of the victims of the bombings in Hiroshima and Nagasaki to understand in precise terms the suffering that weapons 16 times the power of those bombs would unleash. In modern terms no military victory could ever be achieved by used of nuclear weapons, since victory can not be defined as annihilation.

3. Poison

The prohibition against poisonous weapons or tactics is time-honored and basic to the rule of law. It is incorporated into every murder statute in every state and in the United States Code. Nuclear weapons produce immediate acute radiation poisoning and certain death by less acute radiation poisoning. Radiation poisoning causes cancers and genetic damage.

4. Severe, long term and widespread damage to the environment

Even a relatively small radioactive release not involving a nuclear explosion in Chernobyl caused very serious long term damage to the environment. Cancers and environmental degradation from the fallout of above ground nuclear testing, the serious pollution problems resulting from underground testing, the difficulty in disposing of highly

hazardous radio-active waste are already grave problems and give ominous warnings of the far greater, probably irreversible effects of any nuclear exchange or any further use of nuclear weapons.

D. PLANNING AND PREPARATION FOR WAR CRIMES AND CRIMES AGAINST HUMANITY

The evidence is clear that War Crimes and Crimes against Humanity would occur in any use of nuclear weapons and on a vast scale in any nuclear exchange. No doubt these crimes would result from the abandonment of law itself in a concept of total war. From at least the time since Williams International Corporation began manufacturing nuclear cruise missile engines and the time that Wurtsmith Air Force base deployed nuclear weapons, their known purpose has been to annihilate large areas of the earth if not the earth itself. The quantity of destruction does not serve to place these plans and preparations outside of the law. Instead it becomes imperative to prosecute these crimes as conspiracies now before they the underlying occur.

1. **Plunder of Public or Private Property, Wanton Destruction** of **Cities, Towns and Villages, Devastation not Justified by Military Necessity.**

The use of any nuclear weapon contemplated by the parties here or any exchange of nuclear weapons involving those manufactured or deployed by the parties here attacks the fabric of life itself. The instantaneous destruction of large areas in a fireball would bear no relation to the stated destruction of any military target. The destruction of all human support systems including hospitals, water supplies, food, housing would leave severely injured survivors with no relief from prolonged pain and suffering except death itself. For those who did not die there could be no assistance because all means of support will have been destroyed.

2. Murder, Extermination, Inhuman Acts Against Civilians, Persecutions on Political, Racial or Religious Grounds.

Murder delivered by radioactive poison would be pervasive in even the use of one nuclear cruise missile. That victims would be hundreds, thousand or millions of civilians is certain. That their names may not be known is immaterial. Remotely delivered violence such as that contemplated by the parties here are inhuman acts of disgusting proportions.

The war plans inevitably involve aiming, nuclear weapons at enemy peoples. Genocide is planned when Communists as a political group or Russians or Cubans as people are the subject of attack. Any of these weapons aimed at particular areas of the world plan to destroy those peoples. The specific intent is supplied by the certain result.

The overriding principles of limiting warfare to the enemy's military, proportionality, avoiding unnecessary suffering and environmental damage, are all completely abrogated by the use of nuclear weapons•

The threat to use nuclear weapons, as demonstrated herein, is also illegal.

Therefore, there is probable cause to believe that the named parties did agree to plan and participate in a common plan to commit

Crimes against Peace, War Crimes and Crimes against Humanity.

VII. PRAYER FOR RELIEF

As citizens of the United States and of Michigan, petitioners here are acutely aware of the clear and present danger that nuclear weapons pose to themselves, their communities, and the people of the world. They are also aware that mere possession of these weapons, along with their threatened use, and actual use, is prohibited by many laws. Because they see the danger and the illegality of these weapons, and because they know of the actions of the Officers and Directors of Williams International Corporation and the Commanders of Wurtsmith Air Force Base that further the threat, they bring this Petition before their prosecutorial representatives. This is an unusual petition, responding to an unusually great threat. This request is, in a very real way, a classic example of citizens of grievances. The "grievances," being illegal acts, is brought to their state and federal prosecutors. The redress petitioners seek is investigation and prosecution of those named herein for conspiracy to produce, deploy, and plan to use or threaten to use nuclear weapons in violation of international and domestic law.

Petitioners await the government's response.

Respectfully submitted,

THE NUREMBERG CAMPAIGN, a project of
MICHIGAN FAITH AND RESISTANCE

BY: Signature
ANABEL DWYER (P41193)
1325 Lilac
East Lansing, Michigan 48823
(517) 332-4863

AND: Signature
DEBORAH A. CHOLY (P34706)
One Kennedy Square, state 1816
Detroit, Michigan 48226
(313) 962-1177

DATED: August 6, 1991

CITIZENS' PETITION TO STATE AND FEDERAL AUTHORITIES

IN RE: REQUEST FOR INVESTIGATION/PROSECUTION OF OFFICERS AND DIRECTORS OF WILLIAMS INTERNATIONAL CORPORATION AND COMMANDERS OF WURTSMITH AIR FORCE BASE

DECLARATIONS, EXHIBITS AND SUPPORTING DOCUMENTS

AUGUST 6, 1991

TABLE OF CONTENTS

CITIZENS' PETITION TO
STATE AND FEDERAL AUTHORITIES

IN RE:

REQUEST FOR INVESTIGATION/
PROSECUTION OF OFFICERS
AND DIRECTORS OF WILLIAMS
INTERNATIONAL CORPORATION
AND COMMANDERS OF WURTSMITH
AIR FORCE BASE.

_____

DECLARATION OF DANIEL AXELROD
PURSUANT TO 28 U.S.C. 1746
AND MCR 2.119(B)

DANIEL AXELROD states as follows:

1. I am a professor of Physics and Research Scientist in Biophysics at the University of Michigan, Ann Arbor, Michigan. I hold a Ph.D. in Physics from the University of California at Berkeley (1974), and have done post doctoral work with the National Institute of Health at Cornell University in Biophysics.

2. I am an expert in optics and the interaction of electromagnetic waves, in particular, light waves with metal surfaces. I am a member of several professional associations and am currently (1991-92) Associate Editor of the Journal of Fluorescence. I have been qualified as an expert in trial courts on the technical aspects of the cruise missile.

3. The principles upon which the cruise missile is guided are based on the same physical principles and much of the same technology is used generally in the field of optics. The principles of aerodynamics of cruise missiles and how the engine works are common to all field of physics. Furthermore, while the cruise missile in

particular is based on radar and computer guidance more than some other nuclear weapons delivery systems, the physics o: nuclear weapons delivery systems and nuclear weapons are based on common principles.

4. I am co-author, with Dr. Michio Kaku, of "To Win a Nuclear War", South End Press, 1987. In connection with the book, and since its publication, I have made myself familiar with many aspects of the cruise missile, reviewing much of the literature, including recently declassified government documents. In addition to the book, I have authored dozens of articles, papers and chapters or sections in technical text books and journals on various topics in physics. My complete resume is available upon request.

5. I offer this declaration in support of the request for prosecution of the Commanders of Wurtsmith Air Force Base, Headquarters of the Strategic Air Command 40th Air Division, 379th Bombardment Wind in Oscoda, Michigan and the Officers and Directors of Williams International Corporation, who are the designers, testers and manufacturers of the cruise missile engine in Walled Lake, Michigan.

6. The cruise missile is a small pilotless drone. The kind of cruise missile that we generally speak of carries a nuclear warhead. It is guided by a computer that's on board, and it flies on a one-way mission, explodes at the target, and is, therefore, expendable.

7. The flying range of today's cruise missile is much longer than any cruise missiles in the past, and the guidance system for the cruise missile makes it much more accurate in hitting a target.

8. The long range is made possible by a very unique engine, which is developed by Williams International. It is a remarkable engine in that it has a very high thrust for its weight. It is a very powerful engine, ever though it is very light. The engine is an air breathing engine: when it burns its fuel, it does not have to carry

any oxygen with it. It uses air much like a car engine does. The significance of that is that the cruise missile as a whole does not have to carry a lot of weight in oxygen. A conventional rocket carries a lot of extra weight because of the oxygen it has to carry. The cruise missile, with this special kind of engine, can travel over a very long range on the order of, e.g., between Denver and Lansing, while requiring only modest amounts of fuel, in comparison with conventional rockets.

9. The second aspect of the cruise missile, which makes it very unique in an almost revolutionary new development over anything in the past, is the guidance system. The guidance system basically looks at the ground by radar as it is traveling and compares what it sees with an image it already has in its computer memory, and when it finds that it is a little bit off course, it then corrects its course, e.g. a cruise missile was flying from Denver to this region, it would stand a very good chance of directly hitting the state capitol building. When working correctly, the cruise missile will generally strike within 100 feet of its preprogramed target.

10. Due to its light weight, the cruise missile then is very mobile. It can be launched from almost any location in the world. It could be launched from ground launchers positioned and moved around easily anywhere, and from submarines, from torpedo tubes in submarines, and from bombers. It also means that it can be easily hidden because it is only approximately 20 feet long and 2 feet in diameter.

11. The cruise missile'is designed to be able to fly at very high altitudes, then drop very low, to treetop level, where it cannot be detected by continual radar, because the radar reflections, called "ground clutter." Radar is a certain type of electromagnetic

radiation which travels out in a wave from an antenna and hits an object in its path. The .radar wave reflects off the object (e.g., a cruise missile) and returns back to a receiver. Because the cruise missile flys so low and is relatively small, its radar reflection can be confused with ground reflections typically present near the earth's surface. It could be confused with the reflection of a flock of birds, for example.

The air launched cruise missile is launched from B-52s, up to 1500 nautical miles from its target, well out of range of the target area's radar.

12. Another feature of the cruise missile which makes it hard to detect is its engine, designed by Williams International Corporation. That engine, the F-107, and its progeny is extremely quiet as it flies at treetop level. The exhaust from the engine is also very cool, making it difficult to pick up a reading from infrared detectors.

13. The guidance system of the weapon is known as TERCOM, an acronym for terrain contour matching. What the cruise missile does, as it flies over a target area, is look at the altitudes of the hills and mountains on the ground and recognizes what the altitudes are. It looks at it by radar. Then it compares what it sees with a previously recorded picture in its computer memory, so it has an image of what it sees and an image of what it is supposed to see on its correct flight path. If those two images are not the same, the computer moves those images to match each other. The amount of motion in the computer to match those two images is converted to a motion of the fins in the back of the cruise missile. If it finds it is flying slightly in the wrong direction of a little off center, it makes the correction in the computer's memory and translates that correction to a correction in the attitude of the fins, which makes the cruise missile fly the

preplanned course, enabling it to strike within one hundred feet of its target.

14. The computer system on the cruise missile is preprogrammed, i.e., that the flight path that it is to take is recorded in its memory, so that as it flies, it can compare where it is as to where it should be. Once it starts flying, that program cannot be changed. The cruise missile cannot be recalled, and it cannot change its flight path. If the computer develops a malfunction, the guidance system of the cruise missile will not work properly, and the computer in the cruise missile will follow a course that was not originally intended.

15. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. I am prepared to testify under oath and answer questions on these and related matters.

(insert signature here 7-29-91)

DANIEL AXELROD

CITIZENS' PETITION TO
STATE AND FEDERAL AUTHORITIES

IN RE:

REQUEST FOR INVESTIGATION/
PROSECUTION OF OFFICERS
AND DIRECTORS OF WILLIAMS
INTERNATIONAL CORPORATION
AND COMMANDERS OF WURTSMITH
AIR FORCE BASE.

DECLARATION OF FRANCIS A. BOYLE
PURSUANT TO 28 U.8.C. 1746
AND MCR 2.119(B)

FRANCIS A. BOYLE states as follows:

1. I am a professor of law at the University of Illinois, at Champaign, Illinois. I hold both a Juris Doctor and a Ph.D. in Political Science from Harvard University.

2. I am an expert in International Law and foreign policy. I have studied, read and written extensively in these areas, and have been qualified as an expert witness in several courts across the country. I have also taught in the field of criminal law. My resume is attached to this declaration and incorporated by reference.

3. I offer this declaration in support of the request for prosecution of the Commanders of Wurtsmith Air Force Base, Headquarters of the Strategic Air Command 40th Air Division, 379th Bombardment Wind in Oscoda, Michigan and the Officers and Directors of Williams International, who are the designers, testers and manufacturers of the cruise missile engine in Walled Lake, Michigan.

4. The statute of the International Court of Justice provides that questions of international law shall be determined by resort,

inter alia, to "the teachings of the most highly qualified publicists of the various nations. . ." Id.. Art. 38(1)(d). As an integral part of the U.N. Charter, which is a treaty and thus equivalent to a federal statute as Supreme Law of the Land, 59 Stat 1031 (1945), this rule of evidence is applicable in federal and state courts. The Supreme Court has expressed the same opinion in The Paauette Habana. 175 U.S. 677, 700 (1900):

> "International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction as often as questions of rights depending upon it are duly presented for their determination. For this purpose, where there is no treaty and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations, and as evidence of these, to the works of jurists and commentators who by years of labor, research and experience have made themselves particularly well acquainted with the subjects of which they hear."

Cf. Fed. R. Crim. P 26.1 (Ordinary Rules of Evidence do not apply to determination of foreign law.)

5. I am aware from reading, including Jane's Weapon Systems (1988-89) and writings of William M. Arkin and Richard W. Fieldhouse that there are presently deployed for use at Wurtsmith Air Force Base 242 air-launched cruise missiles (ALCMs), 60 short range attack missiles (SRAMs) and 150 nuclear gravity bombs (B43, 61, 83).

6. Each ALCM deployed at Wurtsmith Air Force Base carries a 200 kiloton nuclear warhead. Each SRAM deployed at Wurtsmith Air Force Base carries a 170 kiloton nuclear warhead.

7. I am aware from reading, including the sources cited in paragraph 5, that Williams International Corporation has designed, tested and produced cruise missile engines to deliver at least 2313 200 kiloton nuclear warheads for ALCMs and ground launched cruise

missiles (GLCMs). In addition, I am aware that Williams International Corporation is presently designing, testing and manufacturing over 300 engines for Tomahawk cruise missiles (TLAM-N), each of which is designed to deliver a 200 kiloton nuclear warhead.

8. The World Health Organization, the United Nations Comprehensive Studies on Nuclear Weapons and The United States Office of Technology Assessment have all concluded that, at a minimum, each 200 kiloton nuclear weapon has 16 times the explosive power of the Hiroshima bomb. Outside the 35 square miles of the detonation point, the blast, the heat wave, firestorms and the neutron and gamma rays will kill tens of thousands and many will be severely wounded. Poisonous gases and fumes will be released when synthetic materials combust from collapsing buildings. The electro-magnetic pulse will destroy all unshielded electric and electronic equipment within a radius of up to thousands of miles. These effects are only some of those immediately following an explosion. Radioactive fallout from the use of even one 200 kiloton nuclear weapon will cause increases in cancers and genetic mutations..

9. I am also aware from reading and study that just 200 nuclear cruise missiles dropped on military targets in Europe or any other heavily populated area would result in 5 to 8 million immediate civilian casualties, and 1.2 million longer term civilian injuries as a result of radiation.

10. Exercises and preparation and plans for use of some or all of the SRAMs, ALCMs and nuclear gravity bombs are carried out every day at Wurtsmith Air Force Base as part of its A-l Alert nuclear status. The Commanders of Wurtsmith Air Force Base direct preparations and plans for use of all the nuclear weapons deployed at

Wurtsmith Air Force Base.

11. The Officers and Directors of Williams International Corporation have and continue to agree to design, test and produce engines to propel thousands of nuclear warheads. It is public knowledge that thousands of Williams International engines are an integral part of thousands of nuclear weapons as cited in paragraph 7 above.

A. Counterforce Nuclear Strategy

12. International law, as part of U.S. law, includes the laws of war. Under the Fourth Hague Convention, various types of weapons are absolutely prohibited under all circumstances. For example, no nation may use a weapon which causes unnecessary suffering to human beings. Second, the use of poison or poison weapons is flatly prohibited by the Hague Regulations, by the Geneva Protocol of 1925, and by the U.S. Army Field Manual 27-10 on the Law of Hand Warfare (1956). The United States is bound as a party to obey each of these agreements. Third, a nation may not adopt methods or tactics of warfare that fail to distinguish between combatants and non-combatants. Because of the inevitable effects of the explosion of a nuclear weapon, each of these rules prohibits their use. Other provisions of international law, moreover, prohibit destruction of the natural environment, another inevitable consequence of the explosion of any nuclear weapon.

13. The Charter of the Nuremberg Tribunal made explicit that violations of the laws of war are criminal and that individuals are punishable for committing war crimes. In additions, the Nuremberg Charter defined crimes against peace and crimes against humanity. The former basically consist of waging a war of aggression or a war in violation of a treaty or other international obligation. The latter

concept encompasses genocide and other gross attacks on people, including the wanton destruction of cities. Establishing the present validity of this request for prosecution, the Nuremberg Charter articulates inchoate crimes as well, such as the planning or preparation and conspiracy to commit a crime against peace, a crime against humanity or a war crime.

14. Article 2(4) of the United Nations Charter prohibits both the threat and use of force except in cases of legitimate self-defense under Article 51. Since the actual use of nuclear weapons would grossly violate the international laws of humanitarian armed conflict under most conceivable circumstances, the United States cannot lawfully threaten to use nuclear weapons in accordance with any theory of nuclear deterrence without violating international law. Furthermore, since Nuremberg Principles absolutely proscribe crimes against peace, crimes against humanity and war crimes, the United States government cannot lawfully threaten to commit such heinous offenses in the name of nuclear deterrence.

15. These provisions apply equally in times of formal peace as in times of war.

16. The various scenarios developed by the United States government for the use of nuclear weapons cannot be accomplished without violating international law, including law of war. The plans for targeting of U.S. nuclear weapons are found in the Single Integrated Operational Plan (SIOP) which lists the targets to be destroyed in the Soviet Union in the event of a nuclear war. Right now there are approximately 10,000 nuclear warheads targeted for delivery on all major population centers, military command centers and nuclear weapons sites in the Soviet Union. The remaining 15,000

nuclear weapons are targeted for delivery on major populations centers, military command centers and weapon sites throughout the remainder of the world. To employ these weapons, as is currently planned, on or near any cities would clearly violate the Nuremberg Principles, in that the concept of a crime against humanity specifically prohibits the wanton destruction of cities.

17. I am aware from my reading and study, including from the work of Professors Daniel Axelrod and Michio Kaku, that United States nuclear policy includes serious planning for the possibility of a first strike and escalation dominance. The cruise missile engines designed, tested and manufactured at Williams International to deliver nuclear warheads and the ALCMs, SRAMs and gravity bombs deployed for use at Wurtsmith Air Force Base are an integral part of those plans.

18. Any first use of nuclear weapons such as nuclear cruise missiles of any type, SRAMs or nuclear gravity bombs would, for that reason alone, violate the United Nation Charter and another Hague Convention of 1907, this one prohibiting the opening of hostilities without a formal declaration of war. Nevertheless, it is also public knowledge that NATO policy is to use nuclear weapons first to block any invasion of Europe by conventional weapons. But any such ,use of nuclear weapons would be an unnecessary and disproportionate response.

19. In addition it is public knowledge that it is United States policy to use nuclear weapons to dominate horizontal escalation anywhere in the world.

20. Even if the United States nuclear policy is only one of deterrence, however, and not of first strike or first use, it is still reasonable to contend that the strategy of Mutual Assured Destruction constitutes the planning, preparing and conspiring to commit Nuremberg

crimes and genocide. In addition, a policy of deterrence requires a willingness to use nuclear weapons. The policy of deterrence constitutes plans and preparation for crimes against peace, crimes against humanity, war crimes and genocide.

21. To the extent that any of the weapons deployed at Wurtsmith Air Force Base or designed, tested or manufactured at Williams International are designed to play any part in a surprise preemptive first strike, any threat to launch a preemptive first strike or any aggressive first use involving the participation of Commanders at Wurtsmith Air Force Base or the Officers and Directors of Williams International is absolutely prohibited.

22. To the extent that any nuclear weapons deployed at Wurtsmith Air Force Base, or designed, tested or manufactured at Williams International, are aimed at or near any population center under all circumstances even in retaliation for any attack at or near U.S. population centers, the weapons and the plans or preparations for any such use are prohibited.

23. To the extent that any nuclear weapons deployed at Wurtsmith Air Force Base and/or designed, tested or manufactured at Williams International are part of any deterrence plan which requires use or threatened use, the weapons and the plans or preparation for any such use are prohibited.

24. There are no other rationales proposed for the use of nuclear weapons at Wurtsmith Air Force Base. There are no other rationales proposed for the use of nuclear weapons designed, tested and manufactured at Williams International. In fact, the weapons designed, tested and manufactured at Williams International and deployed at Wurtsmith Air Force Base cannot be used without violating

international law.

B. Jurisdiction

25. Since nuclear war is inherently criminal under international law, the weapons and aircraft and any parts of the delivery systems designed to facilitate it and carry it out are instruments of crime.

26. War crimes, crimes against humanity and crimes against peace are crimes for which there is universal jurisdiction. Jurisdiction lies in both federal and state district courts for war crimes. Universal jurisdiction means that any court in the United States competent to hear criminal cases can try a defendant accused of conspiracy to commit crimes against peace. War crimes, or crimes against humanity whether or not the defendant is a citizen of the United States, or whether or not the acts in furtherance of the crime were committed in the United States.

27. The judgment of the Nuremberg International Military Tribunal meted out severe punishment in 1946 against individuals who, acting in full compliance with domestic law but in disregard of the limitations of international law, had committed war crimes as defined in its Charter. That Charter of the Nuremberg Tribunal has been enacted as a law of the United States. 59 Stat 1544 (1945).

28. All courts within the United States are required by the United States Constitution to apply international law. Under general conspiracy statutes of any state within the United States and of the United States, "agreements to violate the law" include violations of international law.

29. Military personnel have often been tried in civilian courts in the United States for violations of the laws of war. Mitchell v Harmony. 54 U.S. (12 HOW) 115, 14 LEd 581 (1851); Luther v Borden,

48

U.S. (7 HOW) 1, 12 LEd 75 (1848)? Terril v Rankin, 65 Ky (2 Bush) 453, 462 (1867).

30. [r]As long ago as 1804, the United States Supreme Court held that even an order from the President could not justify or excuse an act that violated the laws and customs of war. Little v Barreme, 6 U.S. (2 Cranch) 169, 2 LEd 243 (1804). 'From the very beginning of its history this court has recognized and applied the law of war..."' Ex Parte Quirin, 317 U.S. 1, 33, 63 S Ct 2, 13, 87 LEd 3, 12 (1942). Since the laws and customs of war are already part of United States domestic law, international treaties and executive agreements that incorporate these rules do not require implementing legislation by Congress.

31. For example, the Regulations annexed to the Hague Convention IV are either self-executing or have already been executed by Congress. Thus the Supreme Court expressly ruled in In Re Yamashita. 327 U.S. 1, 8 (1945) that Congress had adopted 'the system of military common law applied by military tribunals so far as it should be recognized applicable by the Courts, and is further defined and supplemented by the Hague Convention'. The Nuremberg Tribunal has also expressly held that the Hague Regulations are binding as a matter of customary international law. The Nuremberg Trial. 6 F.R.D. 69, 130 (1946).

32. 'It is the official position of the United States Department of Justice that the Four Geneva Conventions of 1949 are self-executing. The United States government adopted the Four Geneva Conventions of 1949 with the views of the Department of Justice expressly in mind. At the time the Justice Department stated: 'A review of existing legislation reveals no need to enact further

legislation in order to provide effective penal sanctions for those violations of the Geneva Convention which are designated as grave breaches.'[M] Hearing Before the Committee on Foreign Relations on the Geneva Conventions for the Protection of War Victims, U.S. Senate, 84th Cong., 1st Sess. 58 (1955).

33. In the present day, there has been a breakdown in the Constitutional principle of checks and balances which implements the separation of powers; most notably, neither the Congress nor the Courts have been willing to force the Executive branch to act within the laws. The rule of law itself is in danger of complete disintegration, if the greatest and most flagrant crimes of our time are not stopped. In addition, there will be no place or time to try any of those responsible for nuclear war crimes or crimes against humanity after a nuclear war is over. In our system of justice, inchoate crimes including planning, preparation and conspiracy are designed to prevent the underlying crimes against peace, war crimes and crimes against humanity from occurring. Basic and binding principles of law and humanity require that we end the most serious crimes of all including those committed by those whose prosecution is requested here.

34. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. I am prepared to testify under oath and answer questions on these and related matters.

DATED: August 1, 1991

Signature of Francis Boyle

RESUME OF FRANCIS A. BOYLE

EDUCATION

University of Chicago, A.B. (1971) in Political Science- One of seven students elected to Phi Beta Kappa as a Junior; winner as a Junior of the Sigma Xi Certificate of Merit and Prize in Biology for The Differential Effects of Three Simulated Systems of Inbreeding on the Frequency of the t(w) Allelle in Wild Populations of Mus Musculus on nomination of Richard C. Lewontin; graduated in three years; 3.89 GPA.

Harvard Law School, J.D. Magna Cum Laude (1976). Third year paper designated "Honor Paper1' by Richard R, Baxter, and deposited in H.L.S. Library. A+ f s in Federal Income Taxation (Surrey), Soviet Economic Law and Law of Foreign Trade (Berman), United Nations Law (Sohn), Sociology of Law (Fuller) and Jurisprudence (Unger) •

Harvard Graduate School of Arts and Sciences, Department of Government, A.M. (1978) and Ph.D. (1983) in Political Science. Awarded Harvard Fellowship for all four years of residence. Offered Russian History (Keenan), Soviet Politics (Ulam), Political Philosophy (Shklar), ^ and International Relations (Hoffmann) on Ph.D. General Examination. Dissertation entitled Realism, Positivism, Functionalism and International Law under the supervision of Stanley Hoffmann.

Associate and Executive Committee Member, Harvard University Center for International Affairs (1976-78).

EMPLOYMENT

Teaching Fellow, Harvard University Department of Government (1976-78).

Attorney with Bingham, Dana, & Gould (Boston: 1977-78) in tax and international tax. See, e.g., Hart v. U.S., 585 F.2d 1025 (Ct. CI. 1978) (en banc); Globe v. U.S., 620 F.2d 841 (Ct. CI. 1980). Member of the Massachusetts Bar.

Assistant Professor (1978-81), Associate Professor with tenure (1981-84), full Professor (from 1984), University of Illinois College of Law, Champaign, 111. 61820.

Professor, U.S.S.R. Summer University for Jurists (August 1989).

PUBLICATIONS

World Politics and International Lav (Duke University Press: 1985; 2 prtg. 1987). Designated "An Outstanding Academic Book of 1985-86" in Political Science by Choice Magazine, published by the Association of College and Research Libraries, American Library Association; subject of Roundtable Panel Discussion at the 1987 International Studies Association Convention, entitled World Politics and International Law: The Functionalism of Francis Anthony Boyle.

Defending Civil Resistance Under International Law (Transnational Publishers: 1987; special ed. 1988).

The Future of International Law and American Foreign Policy (Transnational Publishers: 1989). This book will be translated into Russian and published by Progress Publishers, Institute of State and Law, Moscow.

The Foundations of World Order (for Duke University Press in 1992).

The Irrelevance of International Law, 10 Cal. West. Int'l L.J. 193 (1980).

International Law in Time of Crisis, 75 Nw. U.L. Rev. 769 (1980), republished in 2 Nat'l LT Rev. R e p . 537 (1981). See also The Entebbe Hostages Crisis» 29 Nether. Int'l L. Rev. 32 (1982); 22 Indian J. Int'l L~. 199 (1982;; and in Terrorism, Political Violence and World Order 559 (H. Han ed. 198577

The Law of Power Politics, 1980 Univ. 111. L. F. 901.

International Law as a Basis for Conducting American Foreign Policy, 8 Yale J. World Pub. Ord. 103 (1981), republished as U . S . Department of Defense, Current News: Special Edition, No. 979 (Mar. 23, 1983). See also 75 A m . Soc'y Int'l L. Proc. 270 (1981).

Nuclear Weapons and International Law: The Arms Control Dimension, 21 U.S.M.A. West Point Senior Conference Proceedings: The Nuclear Debate 147 (1983); and in 4 N .Y.L .Sch. J. Int'l & Comp. L r 257 (1983). See also 76 A m . Soc'y Int'l L. Proc. 322 (1982).

American Foreign Policy Toward International Law and Organizations: 1898-1917, 6 L o v . L.A. Int'l & Comp. L.J. 185 (1983). See also 76 A m . Soc'y Int'l L. Proc.' 130, 135, 144 (1982).

International Law and Organizations as an Approach to Conflict Resolution in the Middle East, in Contemporary Issues in International L a v : Essays in Honor of Louis B. Sohn 51D (1984). See also Middle East International, Sept. 3, 1982, at 11; 4 Arab Stud. 336 (1982);

T e r r o r i s m , Political Violence and World Order 511 (H. H a n ed. 1984); 77 Am. Soc'y Int'l L. Proc. 223 (1983); 79 A m . Soc'y Int'l L. Proc. 217 (1985); Mideast Monitor, July, 1985.

International Lawlessness in the Caribbean Basin, Crime and Social Justice, Nos. 21-22, at 37 (1984); International Progress Organization (IPO), The Reagan Administration's Foreign Policy 89 (9. Kochler ed. 1985). See also Australia Int'l L. News, Sept., 1984; 78 Am. Soc'y Int'l L. P r o c . 144 (1984); 78 A m . J. Int'l L. 172 (1984).

Conclusions and Judgment of Brussels Tribunal, N.Y. Times, O c t . 7, 1984, at 77; and in IPO, The Reagan Administration's Foreign Policy 459 (H. Kochler ed. T§85)•

The Iranian Hostages Crisis, 63 Revue De Droit International 1 (Geneva: 1985).

Memorandum in Opposition to the Ratification of the Proposed U.S.-U.K.

Supplementary Extradition Treaty (Aug. 30, 1985), in United States and United Kingdom Supplementary Extradition Treaty: Hearings on Treaty Doc. 99-8 Before the Senate Committee on Foreign R e l a t i o n s , S.HRG. 99-703, 99th Cong., 1st Sess. 511 (1985).
Statement on Behalf of U.S.A., in On Trial: Reagan's War Against Nicaragua 153 (.1985).

Defending Nonviolent Civil Disobedience Against the Reagan Administration Under International Law, Crime andSocial JusticeT No. 24, at 110 (1985). See also 81 Am. Soc'y Int'l L. Proc. 452 (1987).

The Relevance of International Law to the "Paradox" of Nuclear Deterrence, 80 Nw. Ul L. Rev. 1407 (1986); and in 11 Recht En Kritiek, H No. 3 (Dutch trans. 1985). See also 1 Swords and Ploughshares, No. 3 I] (May 1987) (U.I. ACDIS Bull.).

The Legal Distortions Behind the Reagan Administration's Chemical and Biological Warfare Buildup, 3T5 St. Louis Univ. L.J. 1175 (1986), reprinted in U.S. Department of Defense, Current News: Special Edition: CHEMICAL WEAPONS, No. 1586 (28 May 1987).

Preserving the Rule of Law in the War Against International Terrorism, 8 Whittier L. Rev. 735 (1986).

New Directions for International Legal Studies Toward the End of the Twentieth Century, 80 Am. Soc'y Int'l L. Proc. 457 (1986).

Determining U.S . Responsibi1ity for Contra Operations under International Law, 51 Am. T~. Int' 1 L. 55 (1987). see also Nicaragua Must Survive, b U.I. ACDIS Bull., No. 3 (Winter 1985-86).
Military Responses to Terrorism, 81 Am. Soc'y Int'l L. Proc. 288 (1987).
The Geneva Declaration on Terrorism, Am. Branch, Int'l L. Ass., Int'l Prac. Notebook, July 1987.
International Crisis and Neutrality: U.S. Foreign Policy Toward the Iraq-Iran War! In Neutrality: Changing Concepts and Practices 59 (A. Lj Leonhard ed. 1988).
Create the State of Palestine!, American-Arab Affairs, No. 25, at 86 Summer 1988); 7 Scandinavian J. Development Alternatives, Nos. 2 & 3, at 25 (June-Sept. 1988); 4 Palestine Y.B. Int'l L. 15 (1987-88). See pi also Sada Aiwatan, Nov. 26-Dec. 2, 1988.
The Hypocrisy and Racism Behind the Formulation of U.S. Human Rights Foreign Policy, Social Justice, No. 35, at 71 (Spring 1989).
International Law, Citizen Resistance and Crimes by the State — The Defense Speaks^ 11 Houston Int'l L.J. 345 (1989).
(Memoranda of Law on the U.S.-Israel Land-Lease and Purchase Agreement of 1989 (Ex. Comm. 89-57), American-Arab Affairs, No. 30, at 125 (Fall 1989).
Testimony in Support of S. 993, 101st Cong., 1st Sess., The Biological

Weapons Anti-Terrorism Act of 1989 (July 26, 1989), in Hearing Before the Senate Committee on the Judiciary, Si HRG. 101-416, Serial No. J-101-32, at 100 (1989).
Memorandum on the Yaron Case, 5 Palestine Y.B. Int'l L. 254, 257 (1989).
Afterword to D. Forsythe, The Politics of International Law: U.S. Foreign Policy Reconsidered 157 (1990).
The Creation of the State of Palestine, 1 European J. Int'l L. 301 (1990). See also International Law and Solutions to the Arab-Israeli Conflict, S3 Am. Soc'y Int'l L. Proc. 122 (1989); 84 Am. J. Int'l L. 879 (.1990); Soviet Immigration to Palestine Violates International Law, 7 Mideast Monitor, No. 2~J Summer 1990); George Bush on Jerusalem, American-Arab Affairs, No. 32, at 121 (Spring 1990).
Transcript of a Mock Arbitration of Israeli-Palestinian Disputes Before the American Bar Association Annual Meeting in Chicago (Aug. 7, 1990), in 6 A.B.A. International Litigation Quarterly, No. 4, at 101, 112 (Dec. 1990).
The Criminality of Nuclear Weapons, Nuclear Age Peace Foundation, Waging Peace Series, No. 27 (April T991). See also 8 Scandinavian J. Development Alternatives, No. 2, at 37 (June 1989); 82 Am. Soc ! y Int'l L. Proc. 555 (1988).
International Law and the Use of Forces Beyond Regime Theory, forth-coming in Ideas and Ideals: Essays on Politics In Honor of Stanley Hoffmann (1991).
See also 1973 Harv. L. Sch. Y.B. 14; 75 Am. Soc'y Int'l L. Proc. 227 C1981) (Morgenthau); 97 Harv. L. Rev. 1259 (1984) (Ferguson); AAUG Newsletter, Jan.-Feb.-Mar. 1985 (Sharon); PHRC Newsletter, Jan.-Mar. 1987 (L.A. 8 case), Oct.-Nov. 1987 (PLO); Palestine Perspectives, Mar./Apr. 1988, at 4 (Landau Report); Am. Branch, Int'l L. Ass., Int'l Prac. Notebook, Jan. 1981 (SALT 2), Jan. & July 1984 (Grenada), Jan. 1985 (South Africa), April 1985 (Sanctuary), Oct. 1985 (Star Wars), Dec. 1986' (Libya); LCNP Newsletter, Fall 1988 (MacBride); A.B.A. Student Lawyer, Oct. 1989, at 9 (interview).
Book Reviews 75 Am. J. Int'l L. 402 (1981); 76 id. at 872 (1982); 77 at 961, 980 & $81 (1983); 79 at 1093 & 1141 (1985)f~B2 at 650 (1988); 83 at 403, 643 (1989); 16 I.J.L.I. 134 (1988); 11 C0PRED Peace Chron., No. 5 (1986); 9 Pol. & Life Sci., No. 1 (Aug. 1990).

PROFESSIONAL ACTIVITIES
Ad Hoc Guidelines Committee and Membership Committee, American Society of International Law (1978-80). See ASIL Newsletter, Aug.-Oct. 1978.
ASIL Lieber Group on Laws of War (since 1979).
Executive Committee, University of Illinois Program in Arms Control, Disarmament and International Security (ACDIS) (1979-91).

U.S. State Dep't., Scholar-Diplomat Program, Bur. Poli-Mil. Affairs (1981).
Council and Board of Directors, Lawyers' Committee on Nuclear Policy from 1981).
Human Rights Committee, A.B.A. Young Lawyers Division (1981-83).
Associate, University of Illinois Center for African Studies (from 1981).
AFSC, Advisory Committee on Human Rights in Lebanon (1982-83). See Lebanon: Toward Legal Order and Respect for Human Rights (1983), in T Palestine Y.B. Int'l L. 218 (1984).

Fulbright Nominee, Federal University of Brazil, Minas-Gerais (1983) (declined).

Lecturer, Nuclear Weapons and International Law, 21st Senior Conference on "Nuclear Deterrence," U.S. Military Academy at West Point (1983).
Board of Directors, International Third World Legal Studies Association (1983-87).

Consultant, Amnesty International (from 1983).
Judge, Frov. Dist. Court, World Federalist Ass., Nuclear Weapons Tribunal (1984-88).

Chairman, International Panel of Jurists, IPO Brussels Conference on Reagan Administration's Foreign Policy (1984).

Attorney for U.S.A., before the Permanent Peoples' Tribunal, in Nicaragua v. U.S.A. (Brussels: 1984).

Associate, University of Illinois Center for Latin American Studies (from 1984).

Counsel, Concerned Academics for Peace and Justice in the Middle East (1984-86).
Witness, London Nuclear Warfare Tribunal (1985).

Lecture Tour of Libya (1985).
Advisory Board, American Bibliographical Center, in Political Science (from 1985).
Counsel and Advisory Board, The Council for Responsible Genetics (from 1985).
Certificate of Recognition, Association of Arab-American University Graduates (1986).
Lecture Tour of Soviet Union on Nuclear Weapons and. International Law for Lawyers 1 Committee on Nucle"ar Policy and Association ol Soviet Lawyers (1986).

Vice-President and Board of Directors, Human Rights Research Foundation (from 1986).

Counsel, Irish Association for Legal Justice (Belfast: from 1986).
Attorney, Ali Aidi v. Yaron, 672 F. Supp. 516 (D.D.C. 1987) (Sabra-

Shatilla massacre)•

Rapporteur, IPO Geneva Declaration on Terrorism (1987).

Board of Directors, Palestine Human Rights Campaign (from 1987).

Consultant, United Nations Committee on the Exercise of the Inalienable Rights of the Palestinian People (from 1987).

Legal Adviser to the Palestine Liberation Organization on the creation of the State of Palestine (1987-89).

Associate, Univ. of 111* Program in South and West Asian Studies (from 1987).

Executive Committee, American Federation of Teachers AFL-CIO Local 2287 (1988-91).

Board of Directors, Amnesty International USA (from 1988).

Associate, University of Chicago Center for Middle East Studies (from 1989).

Litigation Committee, Int'l Ass. of Lawyers Against Nuclear Arms (from 1989).

Counsel, Biological Weapons Anti-Terrorism Act of 1989, Pub. L. No. 101-298 (1990).

Consultant, Nuclear Age Peace Foundation (from 1990).

Witness, Special International Tribunal on the Violation of Human Rights of Political Prisoners and Prisoners of War in United States Prisons and Jails, New York City (1990).

Counsel, H. Res. 86, 102d Cong., 1st Sess. (1991) (impeaching George Bush).

CITIZENS' PETITION TO
STATE AND FEDERAL AUTHORITIES

IN RE:

REQUEST FOR INVESTIGATION/
PROSECUTION OF OFFICERS
AND DIRECTORS OF WILLIAMS
INTERNATIONAL CORPORATION
AND COMMANDERS OF WURTSMITH
AIR FORCE BASE.

DECLARATION OF C. PETER DOUGHERTY
PURSUANT TO 28 U.S.C. 1746
AND MCR 2.119(B)

C. PETER DOUGHERTY states as follows:

1. I am a Roman Catholic priest, presently serving in the Diocese of Lansing, Michigan.

2. My educational background is as follows:

   a. 1957 BA in Philosophy, Sacred Heart Seminary, Detroit, Michigan

   b. 1961 Bachelor's in Theology, St. John's Provincial Seminary, Plymouth, Michigan

   c. 1961 Ordained as Catholic Priest, Archdiocese of Detroit, Michigan

   d. 1966 MA in Guidance Counseling, University of Detroit, Detroit, Michigan

   e. 1973 MA in Psychology with Certificate in Psychotherapy and Marriage Counseling, University of Detroit, Detroit, Michigan

3. My work experience is:

   a. 1961-66 Parish Priest, All Saints' Parish, Detroit, Michigan

   b. 1966-68 Guidance Director, Port Huron Catholic High School, Port Huron, Michigan

   c. 1968-70 Principal, Port Huron Catholic High School, Port Huron, Michigan

   d. 1966-70 Director, Guadalupe Mexican Center, Mission Parish to the Hispanic People, Port Huron

e. 1966-67 Campus Minister, St. Clair County Community College

f. 1970-75 Campus Minister, Holy Trinity Chapel, serving Eastern Michigan University, Ypsilanti, Michigan

g. 1975-82 Member, Abrahamic Community Emergency Shelter and Social Justice Center, East Lansing, Michigan

h. 1971-present Priest with a Peace and Justice Ministry, Diocese of Lansing, Lansing, Michigan

i. 1981-present Member, Covenant for Peace, a Christian organization social change group, Lansing, Michigan

j. 1989-present frequent sacramental ministry at St. Catherine's Church, Concord, Michigan

k. 1990-present frequent sacramental ministry at Sacred Heart Chapel, Jackson, Michigan

1. 1991-present, Companion Program Coordinator, Loaves and Fishes Emergency Shelter, Lansing, Michigan

4. Since 1975 I have engaged in direct action against nuclear weapons and have been arrested and jailed as follows:

a. about 1976 in Chicago, Illinois
sentence - 2 days in jail - time served

b. about 1977 Electric Boat Company
sentence - I did not return for arraignment

c. 1977 at K.I. Sawyer AFB
ban and bar letter

d. August 9, 1982 at K.I. Sawyer AFB near Marquette, Michigan (15 days in jail for refusal to pay bond)
sentence - 18 months probation, with 45 days suspended sentence

e. October 22, 1983 at Wurtsmith AFB
ban and bar letter

f. December 2, 1983 at Williams International in Walled Lake, Michigan
sentence - 30 days in jail

g. April 20, 1984 at Williams International in Walled Lake, Michigan
sentence - violation of injunction - spent 21 days in jail

h. April 4, 1985 at Williams International in Walled Lake, Michigan
sentence - violation of injunction - spent 63 days in jail

i. 1985 at SAC Headquarters, Omaha, Nebraska - ban and bar letter

j. August 6, 1986 at Wurtsmith APB
sentence - 21 days in jail

k. June 27, 1987 at Pershing II headquarters in Schwebesh-Gmund, W. Germany
sentence - I did not return for trial

1. August 10, 1987 at Williams International in Walled Lake, Michigan
sentence 120 hours community service

m. January 6, 1988 at Williams International
sentence - 120 hours community service

n. April 7, 1988 at Williams International in Walled Lake, Michigan
sentence - 30 days in jail

o. August 8, 1988 at Williams International in Walled Lake, Michigan
sentence - 30 days in jail

p. April 21, 1989 at Federal Building in Lansing, Michigan
sentence - 45 hours community service

q. May 6, 1989 at Naval Base in King's Bay, Georgia
sentence - 7 days in jail and 100 hours community service

r. October 29, 1989 at K.I. Sawyer AFB
charges dropped

s. August 4, 1990 at Wurtsmith AFB
sentence - 60 days in jail plus $1,000.00 fine - out on appeal

t. June 21, 1991 at Nevada Nuclear Test Site - case is still pending

5. Since 1975 I have continuously engaged in study and research regarding U.S. nuclear weapons policy and capability, devoting particular attention to Williams International, Inc., of Walled Lake, Michigan, since about January, 1982. The following paragraphs are based on that research, with specific sources indicated in

parentheses. I offer this declaration in support of the request for prosecution of the Commanders of Wurtsmith Air Force Base, Headquarters of the Strategic Air Command 40th Air Division, 379th Bombardment Wind in Oscoda, Michigan and the Officers and Directors of Williams International, who are the designers, testers and manufacturers of the cruise missile engine in Walled Lake, Michigan.

6. Williams Research was founded in 1954 by Sam B. Williams. The name was changed to Williams International Corporation in 1981. (Williams International promotional literature).

7. Williams International has its headquarters at 2280 W. Maple Road, Walled Lake, Michigan 48390, telephone (313) 624-5200. It is on sixty-nine (69) acres, with three hundred thousand (300,000) square feet of building space. It has a warehouse-office facility at 2121 Easy Street, Walled Lake, Michigan consisting of twenty-three thousand six hundred fifty (23,650) square feet It has storage facilities at 2077 Easy Street, Walled Lake, Michigan and at 2089 Easy Street, Walled Lake, Michigan, each consisting of ten thousand fifty (10,050) square feet. Williams has a branch at 3450 Sam Williams Drive, Ogden, Utah 84401 with one hundred seventy thousand (170,000) square feet of building space on forty-six (46) acres. Telephone (801) 627-0550. (Dun & Bradstreet Business Credit Services, and Williams International promotional literature).

8. Williams International is a privately held and "closely held" corporation. It does not have to report financial results. (Aviation Week & Space Technology, September 2, 1985).

9. In 1988, Williams International had issued two hundred fifty (250) shares of common stock. Its stockholder's equity was eighty-five million seven hundred eighty thousand three hundred sixty-one

(85,780,361.00) dollars. (1988 Michigan Annual Report - profit Corporations).

10. Williams International reported the following assets:

1979 - $ 21,000,000.00
1983 - $ 72,000,000.00
1988 - $145,000,000.00

(Michigan Annual Report - Profit Corporations).

11. Williams International reported sales of about two hundred million ($200,000,000.00) dollars in 1989. (The Detroit News, December 18, 1988).

12. The officers and Directors of Williams International are as follows:

Sam B. Williams President-Treasurer
Eugene L. Klein Executive Vice-President
Lawrence L. Cruzen Senior Vice-President
Robert J. Haas Senior Vice-President
Robert C. Katz Senior Vice-President
Clyde E. Williams, Jr. Secretary
Thomas J. Williams, Jr. M.D.

Operational but not corporate officers:

David V.B. Carr Vice-President Operations
Angelo C. Farro Vice-President Operations
Leonard D. Frescoln Vice-President Finance
Donald A. Gries Vice-President Engineering
David C. Jolivette Vice-President Public Relations
John F. Jones Vice-President Technical Director
Raymond C. Preston Vice-President Business Development & Washington Operations
Williams R. Quasney Vice-President Programs & Product Services
(Dun & Bradstreet Business Credit Services)

13. Williams International has one thousand two hundred fifty (1,250) employees; nine hundred thirty (930) are in Walled Lake, Michigan, three hundred twenty (320) are in Ogden, Utah. (Dun & Bradstreet Business Credit Services).

14. The Williams Investment Co. (Inc) in Walled Lake, Michigan, owns fifty (50%) percent interest in the Walled Lake, Michigan

headquarters property, which is leased to Williams International. (Dun & Bradstreet Business Credit Services).

15. Eighty-five (85%) percent of all business at Williams International is defense related. (The Detroit News, December 18, 1988). Williams is the number one nuclear weapons contractor in Michigan, it is 46th in the nation as of FY 1987 (Nuclear Free America based on DOE reports).

16. Sam B. Williams received the Collier Award from the National Aeronautic Association in 1979, awarded annually "for the greatest achievement in Aeronautics or astronautics in America." The Collier Trophy citation reads: "To Sam B. Williams, Chairman and President, Williams Research Corporation, for conceiving and developing the world's smallest high efficiency turbofan engine which was selected to power U.S. cruise missiles." (Williams International promotional literature).

17. Williams Research Corporation received the Federation Aeronautique Internationale Award in 1979 for development of the F-107 cruise missile engine, (Williams International promotional literature).

18. Williams International Corporation has designed, tested and produced engines for the following cruise missiles:

a. Five hundred sixty (560) Ground Launched Cruise Missiles, each with a nuclear warhead of two hundred (200) kilotons, powered by the F 107-WR-101 engine. The INF Treaty has ended deployment of this weapon;

b. One thousand seven hundred fifty-three (1,753) Air Launched Cruise Missiles (AGM-86 B) with the F 107-WR-101 engine. All have a nuclear warhead of two hundred (200) kilotons. Production

was completed in 1984.

c. Seven hundred sixty (760) Tomahawk (TLAM-N) Sea Launched Cruise Missiles with the F 107-WR-402 engine and a nuclear warhead of two hundred (200) kilotons. These are part of the total of four thousand (4,000) Sea Launched Cruise Missiles both conventional and nuclear still under production. The engine contracts are now competitively awarded by the Navy to both Williams International and Teledyne CAE.-

(Institute for Peace and International Security; Teal Group Defense & Aerospace Companies Briefings, June, 1989).

19. Through a 1978 Memorandum of Agreement with the Navy, Williams International was paid approximately thirty-six thousand ($36,000.00) dollars for management costs for each of the 708 F107 Tomahawk cruise missile engines built by Teledyne for the Navy through 1989. (Letter of Undersecretary of the Navy H. Lawrence Garrett, III, to Senator Carl Levin, April 11, 1989).

20. The cruise missile likely will be Williams' legacy. The company as of 1988 had produced more than three thousand five hundred (3,500) turbo fan jet engines for the missiles and earned about six hundred million ($600,000,000.00) dollars in research and procurement contracts from the Defense Department since 1973. (The Detroit News, December 18, 1988).

21. In a letter to the Federal Bureau of Investigation, the Defense Logistics Agency indicates that a demonstration at Williams International "could disrupt cruise missile engine production...also prevent delivery of cruise missile engines to the government.

Williams International is currently delivering engines under U.S. Government contract N0019-82-C-3208 which is assigned the highest DOD

priority rating. (Letter of the Defense Logistics Agency Plant Representative Office to the FBI, November 1, 1983).

22. The Williams International F 107 small turbofan engine powers the Boeing AGM-86 Air Launched Cruise Missile and the General Dynamics BGM-109 Sea Launched Cruise Missile known as the Tomahawk. (Defense & Aerospace Companies Briefing, Teal Group Corporation, October 1990). The engine produces an approximately 600 poound thrust, weighs 146 pounds and measures 12 inches in diameter. (Pictures attached as Exhibit A).

23. Between fiscal year 1980 and fiscal year 1989, at least, Williams International has won over eighty-three (83%) percent of all contracts for Tomahawk cruise missile engines procured by the Navy. (Letter of Undersecretary of the Navy, H. Lawrence Garrett, III, to Senator Carl Levin, April 11, 1989).

24. Williams International was awarded the following current firm fixed-price contracts to produce new Tomahawk Sea Launched Cruise Missile engines and remanufacture one hundred (100) government-furnished ones. The contract also includes fixed-price options for a maximum number of cruise missile engines for 1992-1995 as follows:

FISCAL YEAR	AMOUNT	TYPE NUMBER
1991	$44>477,436	F107-WR-402 318 (remanufactured) 100
1992	$30,512,676	F107-WR-402 292
1993	$26,966,200	F107-WR-402 200
1994	$38,202,540	F107-WR-402 282
1995	$39,467,310	F107-WR-402 282

(Aerospace Daily, January 18, 1991)

25. Some of the recent'Williams International cruise missile engine contracts include:

January 1990: a $39.8 million Navy contract for 230 F107-402 Tomahawk cruise missile engines. (Wall Street Journal, January 2, 1990; Defense & Aerospace Companies Briefing,

Teal Group Corporation, October 1990);

August 1989: a $10,714,200 Navy contract for advance acquisition for long-lead items for fiscal year 1990 Tomahawk cruise missile engines. (Wall Street Journal and Dow Jones News Wire, August 15, 1989);

February 1988: a $63.4 million Navy contract for 450 Tomahawk F107-WR-400 cruise missile engines. (Wall Street Journal, February 26, 1988; Defense & Aerospace Companies Briefing, Tel Group Corporation, June 1989);

April 1987: a $86.2 million Navy contract for Tomahawk cruise missile engines. (Wall Street Journal, April 10, 1987).

26. A 1978 Navy Memorandum of Understanding with Williams International guaranteed Williams International a minimum of 240 Tomahawk cruise missile engines per year, plus twenty-five percent (25%) of any additional requirements up to one thousand two hundred (1,200) engines per year. (Letter of Undersecretary of the Navy H. Lawrence Garrett, III, to Senator Carl Levin, April 11, 1989).

27. The Williams International turbofan engine for the cruise missile accounts for one hundred fifty thousand ($150,000.00) dollars of each missile's one million five hundred thousand ($1,500,000.00) dollar unit cost. (The Detroit News, December 18, 1988).

28. The total production cost of the Tomahawk Sea Launched Cruise Missile, through 1993, was estimated to be eleven billion ($11,000,000,000.00) dollars. (Aviation Week & Space Technology, February 22, 1988).

29. By 1992, four (4) battleships, twenty-four (24) cruisers, thirty-seven (37) destroyers and eighty-three (83) attack submarines will be converted to carry the nuclear Tomahawk. (William Arkin, Bulletin of Atomic Scientists, October 1984).

30. Of all Tomahawk cruise missile engines, about nineteen percent (19%) carry nuclear warheads of two hundred (200) kilotons each.

31. The Tomahawk has been identified as a strategic weapon by the Defense Department. (William Arkin, Bulletin of Atomic Scientists, October 1984).

32. Block III upgrades for the Navy Tomahawk Sea Launched Cruise Missile was developed by McDonnell Douglas Missile Systems Co. The Williams International 402 turbofan engine replaces its previous engine, providing a 19 percent increase in thrust and a two percent (2%) decrease in fuel consumption. ("U.S. Navy Tests Improved Tomahawk Missile," PR Newswire, February 13, 1991).

33. Williams International will get another two hundred million ($200,000,000.00) dollars in revenues over the next five (5) years as the Navy completes its planned purchase of Tomahawk Sea Launched Cruise Missiles equipped with conventional and nuclear warheads, according to Pentagon spokesman Robert Holsapple. (The Detroit News, December 18, 1988).

34. Relevant cruise missile engine contracts by the Navy with Williams International for the years 1986, 1987 and 1989, prepared by Nuclear Free America, Baltimore, Maryland, are attached to this affidavit as Exhibit B.

35. Williams International is the sole contractor to the Air Force in a project to build a new generation of air launched cruise missiles expected to have greater range and so-called "stealth" features called the Advanced Cruise Missile. David Jolivette, Vice-President for Public Relations at Williams, acknowledged that Williams makes the engine. (Letter of Undersecretary of the Navy, H. Lawrence Garrett, III, to Senator Carl Levin, April 11, 1989; The Detroit News, December 18, 1988).

36. The Williams F112 engine is used to power the U.S. Air

Force's Advanced Cruise Missile. (Defense & Aerospace Companies Briefing, Teal Group Corporation, October 1990).

37. The Air Force has plans to acquire approximately one thousand five hundred (1,500) Advanced Cruise Missiles. (Bulletin of Atomic Scientists, June 1987).

38. As of December 1989, the advanced cruise missile test program had completed twelve (12) successful test flights. (Aviation Week & Space Technology, March 19, 1990).

39. Full-rate production of the advanced cruise missile begins in 1992. (Aviation Week & Space Technology, March 19, 1990).

40. The advanced cruise missile will have a substantial improvement in range, accuracy and flexibility. ("Program Acquisition Costs By Weapons Systems," Department of Defense, February 4, 1991).

41. A 1985 Congressional Research Service study noted that "these stealth capabilities would make strategic Sea Launched Cruise Missiles much more threatening as potential first strike weapons, given their potential for flying undetected and unimpeded to their targets." (The Defense Monitor Vol. XVI, Number 6, 1987).

42. All advanced cruise missiles are to carry the two hundred (200) kiloton W80-1 nuclear warhead. (Bulletin of Atomic Scientists, June 1987).

43. High-energy content fuel burned in an advanced Williams International F112 turbofan engine is expected to give the Advanced Cruise Missile greater range. (Popular Science, September 1986).

44. It was announced on April 29, 1991 that Williams International won a nineteen million one hundred twenty-nine thousand ($19,129,000.00) contract from the Air Force to provide additional long-lead efforts for ninety (90) F112 Wr-100 engines for the Advanced

Cruise Missiles. (Detroit Free press, April 29, 1991).

45. The program acquisition costs for the Advanced Cruise Missile (AGM-129) F112-WR-100 engine are as follows:

FY	NUMBER	COST	INITIAL SPARES	R,D,T,E	TOTAL
1991	85	$454,200,000		$ 51.8M	$506.0M
1992	120	$501,800,000	$15.9M	$108.7M	$626.4M
1993	102	$450,100,000	$15.4M	$ 86.0M	$551.5M

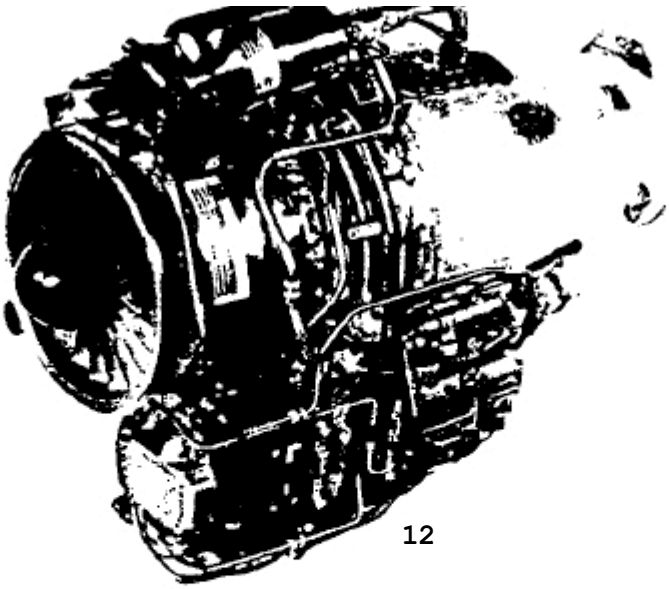
("Program Acquisition Costs By Weapons Systems," Department of Defense, February 4, 1991).

46. I have attempted to present evidence that these contracts for these engines are intended for nuclear cruise missiles, and are illegal under international law.

I have done that in court proceedings where Williams employees were witnesses and in court proceedings where officials of WAFB were witnesses. I have also prepared and delivered at least one document outlining the issues raised in this petition to the gates of Williams International Corporation in May, 1991.

47. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. I am prepared to testify under oath and answer questions on these and related matters.

C. PETER DOUGHERTY (signature)



12

F107 FANJET

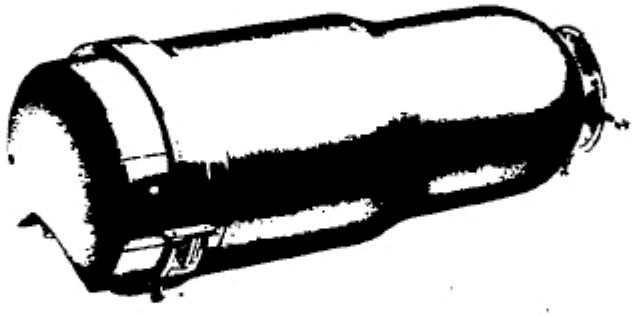


Figure 3.28 Top, **Air-launched Cruise Missiles (AGM-86B)** being mounted on 0-52 bomber. Missile in top foreground shows opening for **W80** nuclear warhead, shown ac bottom.

EXHIBIT A

2 Pages of Tables showing Department of Defense Contracts for Nclear Weapons and Nuclear Weapons Systems based on data froim FY 1986

CITIZENS' PETITION TO
STATE AND FEDERAL AUTHORITIES

IN RE:

REQUEST FOR INVESTIGATION/
PROSECUTION OF OFFICERS
AND DIRECTORS OF WILLIAMS
INTERNATIONAL CORPORATION
AND COMMANDERS OF WURTSMITH
AIR FORCE BASE.

DECLARATION 07 CAROL SUE GILBERT, O.P.
PURSUANT TO 28 U.S.C. 1746
AND MCR 2.119(B)

CAROL SUE GILBERT, O.P., states as follows:

1. I am a resident of Oscoda, Michigan, and have been since February, 1990.

2. I am a member of the Order of Preachers (Dominicans), Congregation of the Sacred Heart, Grand Rapids, Michigan and have been since 1965.

3. I hold a BA degree (1965) from Aquinas College, Grand Rapids, Michigan and have engaged in graduate studies in sociology at Central Michigan University, Mt. Pleasant, Michigan.

4. I have a permanent teaching certificate from the state of Michigan for grades 7 through 9 and high school English and Sociology.

I taught between 1969 and 1977 in Melvindale, Michigan and Saginaw, Michigan. In 1978 I conducted an after school learning center in inner city Saginaw, at sacred Heart School.

5. Between 1978 and 1987, I worked as a full time volunteer for Advocacy for Justice, Saginaw, Michigan, and between 1981 and 1987, I was co-founder and director of the Saginaw Home for Peace and Justice, promoting advocacy for the homeless and powerless, and working for an end to nuclear weapons.

6. Since 1987, I have worked as a full time volunteer organizing lectures, retreats and actions with Michigan Faith and Resistance.

7. Since approximately 1978, I have engaged in ongoing research and study of nuclear weapons technology and policy, including systematic, independent research, attending several conferences including the 1978 United Nations Special Session on Disarmament and speaking, writing and organizing public protests regarding this issue. The following paragraphs are based on my research and experience, with specific sources indicated in parentheses. I offer this declaration in support of the request for prosecution of the Commandants of Wurtsmith Air Force Base, Headquarters of the Strategic Air Command 40th Air Division, 379th Bombardment Wind in Oscoda, Michigan and the Officers and Directors of Williams International, who are the designers, testers and manufacturers of the cruise missile engine in Walled Lake, Michigan.

8. Between 1985 and 1989, I spent many months in jail and/or prison for simple, non-violent acts of civil resistance at nuclear weapons sites including Williams International, Inc., and Wurtsmith Air Force Base (WAFB).

9. Since approximately February, 1990, I have personally observed operations at WAFB on a nearly daily basis, where I spend time in prayer and reflection every day that I am at home. I haven't missed more than a few days at a time until May, 1991, when I was gone for approximately six (6) weeks, until June 26, 1991.

10. Sixteen (16) B-52GS and sixteen (16) KC-135s with a total of forty-three (43) crews, twenty-three (23) for B-52s and twenty (20) for the tankers are stationed at WAFB. (Oscoda Press, 2/4/87).

11. Also assigned to WAFB are four (4) T-37 trainers. (Id.)

12. Aircraft and missiles at WAFB represent a one billion four hundred sixty million ($1,460,000,000.00) dollar expenditure. (Id.)

13. WAFB has one hundred forty-six million ($146,000,000.00) dollars worth of other capital fixed assets including building, utility systems and housing; one hundred million ($100,000,000.00) dollars worth of equipment; nine million six hundred thousand ($9,600,000.00) dollars in various inventories. (Id.)

14. WAFB is the .largest employer in Iosco County with an annual civilian and military payroll of sixty-four million five hundred thousand ($64,500,000.00) dollars. (Oscoda Press, 10/19/83).

15. WAFB generates about one hundred million ($100,000,000.00) dollars in wages, taxes and businesses in the state. (Oscoda Press, 11/9/83).

ACCIDENTS

16. "Flash" type explosives were found in a dorm laundry at WAFB on August 2, 1989.

17. Six (6) people died in a KC-135 crash on October 19, 1988, which was the first fatal crash since 1966.

18. An A-7 jet fighter carrying one thousand (1,000) rounds of live ammunition crashed upon landing at WAFB on June 6, 1984.

19. One thousand five hundred (1,500) gallons of fuel spilled at WAFB on April 10, 1985.

20. A B-52G on exercise from WAFB crashed into Little Traverse Bay in Charlevoix, Michigan in January, 1971, two (2) miles from a small B.W.R. reactor.

21. WAFB sought a kill permit from the Michigan Department of Natural Resources when between six (6) and fourteen (14) deer jumped

the fences and reached the alert facility and the weapons storage area. "Due to the sensitive nature of these two (2) highly restricted areas, a hunt by sportsmen cannot be allowed." (Oscoda Press, 9/28/88).

SECURITY

22. Nuclear weapons are assembled from components kept separately in the bunkers, including:

a. A high explosive element;

b. fusion materials including deuterium or tritium;

c. Critical masses of fissile uranium 238 and plutonium 239.

23. Each aspect of the weapons assembly is handled by different teams whose primary mission is to practice assembly of the weapons.

24. Security is provided by a daily pass number and a pass check.

25. The command post in the war readiness room is in the basement of the Wing Headquarters building.

26. Operational readiness inspections are held.

27. Authority to use the nuclear weapons rests with the National Command Authority (NCA) consisting of the President and the Secretary of Defense or their "duly deputized alternates and successors."

28. The chain of command to launch a nuclear attack passes from the NCA via voice and written commands validated by codes and authenticators, to primary command centers, including airborne command centers.

29. Primary and alternate command posts are ready to lead the entire military when means of communication to civilians (NCA) fails.

30. The central strategic war plan of the U.S. (Single Integrated Operational System, SIOP) in effect as of October 1, 1983

is SIOP-6.

31. Some of the options under SIOP-6 include escalation both from a conventional war to a nuclear war and escalation from "united nuclear war" to full scale nuclear exchange with the goal of conducting a protracted nuclear war. (Kaku and Axelrod, 1987, p. 261-271).

32. The Joint Strategic Target Planning Staff (JSTPS) coordinates the nuclear forces to strike targets under preplanned "options" available to the NCA (Arkin & Fieldhouse, Nuclear Battlefields, 1984, p.84-87).

33. 374th Bombardment Wing Commander Kenneth Boykin was a computer program manager in the Operations Plan Directorate at SAC headquarters responsible for managing the development of computer planning software to incorporate the ALCM and B-52 offensive avionic system into SAC - Joint Strategic Planning Staff Single Integrated Operations Plans planning system" (Oscoda Press, 7/12/89).

34. In these areas the ALCM are essential components daily maintained at WAFB and elsewhere for actual use.

35. The threat of use is kept ready and real. (Kaku & Axelrod, To Win a Nuclear War. 1987, p. 266-270; 308) through constant practice.

36. On June 2, 1986, the Air Force spent eleven million two hundred thousand ($11,200,000.00) dollars for a security fence around the flight line and base perimeter at WAFB and an expansion of the alert aircraft apron for two more planes. (Oscoda Press, 6/2/86).

37. Full base perimeter patrols cost one hundred thousand ($100,000.00) dollars and six thousand five hundred (6,500) man hours. (Oscoda Press, 7/30/86).

38. Storage bunkers for the ALCMs at WAFB cost two million five hundred thousand ($2,500,000.00) dollars. (Oscoda Press, 8/8/84).

EXERCISES

39. B-52s at WAFB take off and land often in a touch and go pattern many times every day.

40. B-52s at WAFB are capable of getting into the air within four (4) minutes of an Alert. (Oscoda Press, 7/3/85).

41. Every B-52 and KC-135 crew spends seven (7) days once every three (3) weeks on alert duty restricted to being available for immediate response. (Oscoda Press, 2/5/86).

42. Nine (9) alert sirens on WAFB are tested each Friday at noon. (Oscoda Press, 2/8/84).

43. Exercises involving B-52 and missile assembly and loading crews at WAFB and by other crews stationed at WAFB include competitions in ALCM weapons loading (Oscoda Press, 8/21/85); bombing competitions (Oscoda Press, 11/20/85); test launchings of the ALCM (in Utah - Oscoda Press, 9/7/83); ALCM tests, six (6) per year, at the Primrose Lake Weapons Testing Range in the Arctic Circle.

44. WAFB participates in the annual "Global Shield" SAC exercise where aircraft and missile crews are tested under simulated wartime conditions during a ten (10) day exercise. (Oscoda Press, 5/2/90) (7th year - Oscoda Press, 6/10/87).

45. The Air Force National Security Team conducts annual visits.

POLLUTION

46. Contamination at WAFB, primarily TCE, rated third worst in the state resulting in threat of suit by the Michigan Attorney General for both cleanup and pollution investigation expendi-tures. It is believed that the contamination is caused by the solvent used to clean

the planes. (Oscoda Press, 5/8/91).

47. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. I am prepared to testify under oath and answer questions on these and related matters.

CAROL SUE GILBERT

CITIZENS' PETITION TO
STATE AND FEDERAL AUTHORITIES

IN RE:

REQUEST FOR INVESTIGATION/
PROSECUTION OF OFFICERS
AND DIRECTORS OF WILLIAMS
INTERNATIONAL CORPORATION
AND COMMANDERS OF WURTSMITH
AIR FORCE BASE.

DECLARATION OF ANN FAGAN GINGER
PURSUANT TO 28 U.S.C. 1746
AND MCR 2.119(B)

ANN FAGAN GINGER states as follows:

1. I am a lawyer, teacher and writer in Berkeley, California. I hold a Juris Doctor degree from the University of Michigan School of Law and Master of Law degree from the University at California - Berkley. My resume is attached to this declaration and incorporated by reference.

2. I am a Professor of Peace Law at San Francisco State University and University of San Francisco Law School. I am an expert in international law and constitutional law and have written, taught, practiced and lectured in these areas in the United States and at international conferences in London, England; Barcelona, Spain; Buenos Aires, Argentina; Panama City, Panama; Mexico City, Mexico.

3. I have been qualified as an expert witness in several courts across the country. I have also advised many lawyers in human rights and civil resistance cases. I have testified before the United Nations Fourth Committee on Decolonization and several city councils on the laws of war and peace and human rights.

4. I am the Executive Director of the Meikeljohn Civil Liberties Institute in Berkeley, California. In that capacity, I served as editor of: The Civil Liberties Docket, a compilation of 9,000 cases, 1955-1969, involving claimed denials of constitutional liberties; The Human Rights Docket. 1979, describing 1500 cases involving denials of human rights; and The Peace Law Docket, compiling 350 United States and international cases from 1945-1990 including war crimes trials.

5. I offer this declaration in support of the request for prosecution of the Commanders of Wurtsmith Air Force Base, Headquarters of the Strategic Air Command 40th Air Division, 379th Bombardment Wing in Oscoda, Michigan, and the Officers and Directors of Williams International, designers, testers and manufacturers of the cruise missile engine in Walled Lake, Michigan, for violations of international law.

6. Expert opinion on international law is permitted in court and expert evidence on international law is applicable in federal and state court. fC.f.. The Paquette Habana. 175 U.S. 677, 700, 20 S Ct 290, 40 L Ed 32 (1900); the statutes of the International Court of Justice, Art. 38(1)(d), 59 Stat 1031 (1945); Fed R. Crim. P 26.1 (Ordinary Rules of Evidence do not apply to determination of foreign law)).

7. I am aware from reading, including Jane's Weapon Systems (1988-89) and writings of William M. Arkin and Richard W. Fieldhouse, Nuclear Battlefields. Ballinger, 1985; Cochran, Thomas & William M. Arkin, Nuclear Weapons Databook. Vol. 1, Ballinger, 1984, that there are presently deployed for use at Wurtsmith Air Force Base 242 air-launched cruise missiles (ALCMs), 60 short range attack missiles (SRAMs) and 150 nuclear gravity bombs.

8. I am aware from reading, including the sources cited in paragraph 7, each ALCM deployed at Wurtsmith Air Force Base carries a 200 kiloton nuclear warhead. Each SRAM deployed at Wurtsmith Air Force Base carries a 170 kiloton nuclear warhead.

9. I am aware from reading, including the sources cited in Paragraph 7, that Williams International Corporation has designed, tested and produced cruise missile engines to deliver at least 2313 200 kiloton nuclear warheads for ACLMs and ground-launched cruise missiles (GLCMs). In addition, I am aware that Williams International Corporation is presently designing, testing and manufacturing over 300 engines for the advanced cruise missile (ACM) and over 500 engines for Tomahawk (TLAM-N), each of which is designed to deliver a 200 kiloton nuclear warhead.

10. The World Health Organization, Effects of Nuclear War on Health and Health Services. 2nd ed., geneva WHO, 1987, the United Nations Comprehensive Studies on Nuclear Weapons. A.45.150, 1980, Sales No. E.81.I.11, A/45/373, 1990, and the United States Office of Technology Assessment, The Effects of Nuclear War. Wash.D.C., USGPO, 1979, have all concluded that, at a minimum, each 200 kiloton nuclear warhead if exploded would immediately vaporize every living being within 35 square miles. Each 200 kiloton nuclear weapon has 16 times the power of the Hiroshima bomb. Outside the 35 square miles, the blast, the heat wave, firestorms and the neutron and gamma rays would kill tens of thousands and many more would be severely wounded. Poisonous gases and fumes would be released when synthetic materials combust from collapsing buildings. The electro-magnetic pulse would destroy all unshielded electric and electronic equipment within a radius of up to thousands of miles. These effects are oniy some of

those immediately following an explosion. Radioactive fallout from the use of even one 200 kiloton nuclear weapon would cause increases in cancers and genetic mutations.

11. I am also aware from reading and study that just 200 nuclear cruise missiles dropped on military targets in Europe or any other heavily-populated area would result in 5 to 6 million immediate civilian casualties and 1.2 million civilian injuries as a result of radiation.

12. Exercises and preparation and plans for use of some or all of the SRAMs, ALCMs and nuclear gravity bombs are carried out every day at Wurtsmith Air Force Base as part of its A-l Alert nuclear status. The commandants of Wurtsmith Air Force Base direct preparations and plans for use of all the nuclear weapons deployed at Wurtsmith Air Force Base. Nuclear weapons at Wurtsmith Air Force Base are a military target and expose civilians and Lake Huron to the present danger of accidental radioactive release and contamination.

13. The Officers and Directors of Williams International Corporation have contracted to and continue to contract to design, test and produce engines to propel thousands of nuclear warheads. It is public knowledge that thousands of Williams International engines are an integral part of thousands of nuclear weapons as cited in paragraph 8 above. Williams International Corporation is a military target located in a heavily populated area.

A. International Law Applicable to the Facts Cited in Paragraphs 5-13 Above:

14. International law, whether customary international law or set forth in treaties, executive agreements or statutes, is part of the body of United States law binding on all federal and state courts within the United States through Article VI of the United States

Constitution, and Article I, Section 8, Clause 9, and Article III, Section 2, and numerous court decisions.

15. The Laws of War and Peace are part of the body of international law binding in all federal and state courts within the United States.

16. The basic document of international law is the United Nations Charter, a ratified treaty of the United States. The United Nations Charter requires all Members to seek peaceful solutions to all conflicts [Article 2 (3), Chapter VI] and prohibits the threat or use of force against the territorial integrity or political independence of any member state [Article 2 (4)].

17. The United Nations Charter is based on the principle of sovereign equality of all its members [Article 2 (1)].

18. The Nuremberg Principles are embodied in an Executive Agreement signed by the United States in 1945 which has the status of a treaty in United States law. After World War II, the United Nations General Assembly unanimously adopted the Nuremberg Principles, which are now universally considered to be binding international law. The Nuremberg Principles are incorporated into the Air Force Manual on International Law and the Conduct of Armed Forces and Air Operations and the other armed services manuals and apply in times of peace and in times of war and to civilians and military personnel. The Nuremberg Principles define three types of underlying crimes: crimes against peace, war crimes and crimes against humanity. Conspiracy to commit, and complicity in committing a crime against peace, a war crime, or a crime against humanity are also crimes. Any court in the world has jurisdiction over those accused of these crimes because they are crimes against all humanity.

19. Crimes against Peace include planning, preparation, initiation or waging a war of aggression or a war in violation of international treaties, agreements or assurances.

20. War crimes include violations of the laws or customs of war, including but not limited to murder, plunder of public property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

21. Crimes against humanity are atrocities and offenses including but not limited to murder, extermination, deportation, imprisonment, torture, rape or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated. [Central Council Law No. 10, 3 Official Gazette Control Council for Germany 5-55 (1945)].

22. The Geneva Conventions of 1949, ratified by the United States, prohibit the wanton destruction of civilians or their support systems. The Hague Conventions of 1907 and the Geneva Convention of 1925, both treaties ratified by the United States, prohibit any poisonous materials including gases or chemicals or any analogous

materials, which reasonably includes nuclear weapons. The Hague Conventions of 1907 prohibit any weapon or tactic that causes unnecessary suffering. Any aggressive war or methods or weapons of war which can not be confined to the combating parties are prohibited by the Hague Conventions of 1907 and the United Nations Charter.

23. International conventions and assurances including binding customary international laws of war prohibit: the use of poisonous gases or substances? the use of weapons or tactics which cannot distinguish between civilians and combatants; the use of weapons or

tactics that cause unnecessary suffering; the use of any weapons or tactics that cause widespread, long-term and severe damage to the environment. Any military action including reprisals against violations of the first five rules must be proportional to the provocation and for a legitimate military objective.

24. The United States Department of the Air Force Manual, International Law; The Conduct of Armed Forces and Air Operations (AFP 110-31) summarizes thoroughly the laws of war described in Paragraphs 17 through 21 above as of the date of publication, 1976. The Air Force Manual described the international law of armed conflict as "prohibitive law forbidding certain manifestations of force rather than positive law authorizing other such manifestations." AFP 110-31, p. 6-1. The prohibitive and binding rules of law, which if violated can result in criminal convictions, include the rule that "the civilian population as such, as well as individual civilians, shall not be made the object of attack. Acts or threats of violence which have the primary object of spreading terror among the civilian population are prohibited." AFP 110-31, p. 5-7.

25. I am aware that in 1976 the military including the Air Force considered nuclear weapons development and deployment legal because it was thought that nuclear weapons could be "directed against military objectives as can conventional weapons". Military and civilian leaders now know with absolute certainty that nuclear weapons cannot be directed against only military objectives.

26. Nuclear weapons per se are prohibited as are any or all conceivable uses of nuclear weapons because nuclear weapons inevitably, uncontrollably violate all the prohibitive laws of war. Neither can nuclear weapons ever be militarily necessary because

military necessity by law includes only the weakening of enemy forces, not their total annihilation. The Nuremberg Tribunals made it clear that the Nazi concept of "total war" can not be used to vitiate the laws of war. Insofar as the Air Force Manual (AFP 110-31, 1976) describes prohibitive norms of international law, it is accurate and current. Insofar as it justifies any use of nuclear weapons, it is an improper interpretation of the law.

27. The Genocide Convention Implementation Act, 102 Stat. 3045, 18 USC 1091-1093,(1988), implements the Genocide Convention of 1948, UN Doc A/810(1948) GA Res 260 A(III), ratified by The United States Res.132 Cong.Rec. S1377, February 19, 1986, and provides specific criminal sanctions for acts attempted or committed for the purpose of killing, causing serious bodily injury to, permanent impairment to, or preventing births within a national, ethnic, racial or religious group or a substantial part thereof. 18 USC 1091 (a)(1-3). In addition, the Act prohibits acts intended to "subject the group to conditions of life that are intended to cause physical destruction of the group in whole or in part". 18 USC 1091 (a)(4). See also 1988 U.S. Code Cong, and Adm. News.

28. The Officers and Directors of Williams International Corporation and the Commanders of Wurtsmith Air Force Bases cannot fail to know that the United States has engaged in strenuous, lengthy negotiations with the Soviet Union and other nations to ban nuclear weapons from many regions of the earth, from the stratosphere and from the oceans, and to limit nuclear weapons in the new START Treaty that the U.S. Government has described the horrible consequences for all humankind if these treaties are not signed and obeyed.

29. The Officers and Directors of Williams International

Corporation and the Commanders of Wurtsmith Air Force Base cannot fail to know that any conceivable or planned use of the cruise missile engines they design and build to carry nuclear weapons, and nuclear weapons they are prepared to use, will violate all of the laws of war listed in Paragraphs 19 through 24 above. The Officers and Directors of Williams International and the Commanders of Wurtsmith Air Force Base know with certainty the inevitable and uncontrollable results of the use of even one nuclear cruise missile. They cannot fail to know that no legitimate military purpose can be served by the use or threat of use of these weapons. Their continued work on cruise missile engines in light of this knowledge forms a specific criminal intent to violate the basic and nonderogable prohibitory rules of law listed in Paragraphs 20 through 24 above.

30. The Officers and Directors of Williams International and the Commanders of Wurtsmith Air Force Base know with certainty that the nuclear weapons they produce and deploy will, if used, inevitably destroy in substantial part any group at which they are aimed and therefore they will commit genocidal acts. No other result is conceivable nor can any rationalization be made because of the knowledge of the widespread and severe and long-term damage that nuclear weapons inevitably cause.

31. The laws of war enumerated above are applicable in times of war and in times of peace and are applicable to civilians and military personnel. Criminal charges for violations of those laws can be brought in all courts in the United States.

32. Cruise missile engines designed, tested and manufactured at Williams International to deliver nuclear warheads and the ACLMs, SRAMs and gravity bombs deployed for use at Wurtsmith Air Force Base

are an integral part of plans to annihilate whole peoples and cities and threaten the existence of life itself. Because the policy of deterrence requires a willingness to use nuclear weapons, it constitutes plans, preparation and overt acts for the purpose of committing crimes against peace, crimes against humanity, war crimes, and genocide.

33. I declare under penalty of perjury that the foregoing is true and correct. I am prepared to testify under oath and answer questions on these and related matters.

Ann Fagan Ginger

D E F E N D A N T S • EXHIB XT

ANN FAGAN GINGERR

B.A. University of M i c h i g a n 1945
J.D. University of Michigan Law School 1947
LL.M. University of California-Boalt Hall School of Law 1960

1715 Francisco St.
Berkeley, CA
9^703
(415)
848-0599/849-1331

EXPERT TESTIMONY

United Nations Fourth Committee of the G e n e r a l Assembly on Peace Law and Colonialism (Oct, 13» 1989)

Santa Cruz, California County Board of Supervisors on Lockheed Permit for Trident XI Building (1985)

Portland,Oregon City Council on Nuclear Weapons Free Zone Ordinance(19b1! 1 985)

Commission on Security and Cooperation in E u r o p e , 96th Cong. 1st Sess. On Implementation of the Helsinki Accords (Apr, 3-^ 1979)

U.S« House of R e p r e s e n t a t i v e s Subcommittee on Crime (Feb. 1979)

California Assembly Committee on Labor (1975)

TEACHING AND LECTURING ON CONSTITUTIONAL RIGHTS includes

Human Rights and Peace Law

University of U t a h College of L a w , Feb. 9» 1989

Cleveland State University College of Law, May 1, 1989

Cardozo Law School, Dec. 7, 1988

Environment and Peace Law

Dag H a m m a r s k j o l d Auditorium: Conference, UN, Dec. 9 1988

California State University at Chico

Peace Law (Intersession 1989)

California State University at San Francisco

International Human Rights Law (Summer 1986)

2 d ABA National Institute on Criminal Defense and Prosecution

Jury Selection (Washington, DC 1985)

University of Santa Clara School of Law

— — - Sex Discrimination i n Law (Spring 197*0

University of San Francisco School of Law

Due Process of Law (Spring 197*0

TEACHING AND LECTURING OH INTERNATIONAL LAW includes

California State University at San Francisco

Peace Law (Spring 1990)

University of San Francisco Law School

Peace Law (Spring 1989-)

American Association for the Advancement of S c i e n c e , Pacific Division Symposium on N a t i o n a l Security, June 16, 1989
University of C a l i f o r n i a - B e r k e l e y
Peace Law (Peace & Conflict Studies Department, Fall 1988)
Chancellor's Distinguished Lecturer o n Peace Law (Rhetoric Departmant, Fall 1985)
Columbia University School of
Peace Law, Dec. 5, 1988
Lecturer, American Friends Service Committee, Symposium on the M i d d l e East, B e r k e 1 e y , 19 81
Judge, Philip C. Jessup International Law Moot Court Competition, West Coast region, at University, of S a n t a C l a r a Law School, 19T 9
OTHER TEACHING
University of Puget Sound' S c h o o l of L a w
Labor Law (1979-81)
Administrative Law (1979-80, 1981-82)
Immigration Law (1980-81, 1981-82)
University of C a l i f o r n i a - H a s t i n g s College of Law
Legal Drafting-3rd year seminar (1 97 2 - 7 6)

PUBLICATIONS include
Using Peace L a w to A d v a n c e Human Rights, and An I n t e r n a t i o n a l Database on
Human Rights, HUMAN RIGHTS AND THE FUTURE (UC-Berkeley Peace 4 Conflict Studies 1989 USSR-USA Scholars' Dialogue on Human Rights and the F u t u r e , 1 989)
Finding Peace Law and T e a c h i n g It, 10 Nova Law Journal 521 (1986)
Watching Darrow Work a Jury, 8 29 (1985)
Reform in the Chessgame of the L a w , 1 983 D e t r o i t College fl£J*aw .JjQ.]Lls.iL 1255 (1983)
Introduction to Cynthia Stokes Brown, ALEXANDER HEIKLEJOHN (Meiklejohn Institute 1981)
Carol W e i s s King, NOTABLE AMERICAN WOMEN (Sicherman & Green, eds., Harvard U. Press 19 80)
WTrcr-Needs Affirmative Action, 1 1 * Harv ard Civ.a/Cl3L^JUis.E]Llfi.a-265 (1979)
A Data B a n k on Constitutional Rights? 1 Hastings ConstitutionaL^Latt fl.ua nfc.ejJLx 133 C197 U)
The Use of the Law Against Racism in the U n i t e d State's, 2 InternaJtiflJPflL Association of Democratic L a w y e r s 1 , Review, of _Co.atLeJiiiQr.aca—X^aK 13 (1 976)
Due Process in P r a c t i c e , 25 H a s t i n g s Law Journal. 897 (1 97 1)

The Rights of People and the Role of L i b r a r i a n s (with Celeste McLeod), L.ikc.auL_Ii:ftnsIa» Vol. 19, no. 1 (197o)
Supreme Court Review, 1Q6 8 Ye arbook. Speech Association of America Committee on Freedom of Speech (1968)
Minimum Due Process Standards in Selective Service Cases, 19 Hastings Law ilQiUUial. 1 3 1 3 (1 96 8)
Police Misconduct Litigation (with Louis H. B e l l) , 15 AMJUR TRIALS 555 (196 8)
Litigation as a Form of Political Action, 9 y^XJlS._L-aH_Jte.X.Ae.J£ ''58 (196 3);
reprinted in King A Quick, LEGAL ASPECTS OF THE CIVIL RIGHTS MOVEMENT (196 4)
The House I Live In (with M i l t o n L. M c G h e e) , 6 £flJiaal.l._.UAtt_SLuailtftJCiX. 19'I
(19611)
B O O K S include
PEACE LAW CASEBOOK (law school--draft) (Meiklejohn Institute, 1989)
PEACE LAW ALMANAC (documents), (Meiklejohn Institute, 1989)
PEACE LAW DOCKET 1945-1988 (editor) (Meiklejohn Institute, 1988)
JURY SELECTION IN CIVIL & CRIMINAL TRIALS (2 vols., L a w p r e s s , 1984, 1985)
INTERNATIONAL JURIDICIAL ASSOCIATION BULLETIN (Editor, reprint e d i t i o n) (DaCapo 1982)
HUMAN RIGHTS DOCKET U.S. 1979 (Meiklejohn Institute, 1979)
THE LAW, THE SUPREME COURT, AND THE P E O P L E ' S RIGHTS (Barron's Educational Series, 1974; 2d e d i t i o n , 1977); R u s s i a n e d i t i o n (1981)
CALIFORNIA CRIMINAL LAW PRACTICE II (E d i t o r - i n - C h i e f) (University of
California C o n t i n u i n g E d u c a t i o n of the B a r , 1 96 9 * 2d e d i t i o n , 1976)
THE PENTAGON PAPERS TRIAL: INDE X-C AT AL OG (e d i t o r) (Oceana, 1975)
HUMAN RIGHTS CASEFINDER: The Warren Court E r a (1953-1 969) (editor) (Meiklejohn Institute 1972)
THE RELEVANT LAWYERS (Simon & Schuster, 1972)
CIVIL L I B E R T I E S DOCKET, Vol. 14 (M e i k l e j o h n Civil L i b e r t i e s Institute,
1 970)
CIVIL LIBERTIES DOCKET, Vols. 1 - 1 3 (National Lawyers Guild, 1955-1968)

CALIFORNIA CRIMINAL LAW PRACTICE I (Editor-in-Chief) (University of California Continuing Education of the B a r , 196 '0

CIVIL RIGHTS & LIBERTIES HANDBOOK: Pleadings & Practice (2 v o l s .) (1961 with supplements through 1969)

INTERNAT ION AL AND HUMAN RIGHTS LAW POST-GRADUATE TRAINING

Participant, Conference of International Association of D e m o c r a t i c Lawyers "The C a r i b b e a n as a Z o n e of Peace," Mexico City, 1983

Participant, International Human Rights T e a c h i n g Institute, Columbia University Law S c h o o l , June 1982

Participant, PROCEEDINGS: Conference on I n t e r n a t i o n a l Human R i g h t s Law in State and Federal Courts, 17 University of San F r a n c i s c o Law Review 1, 18, 44 (1 982)

Participant, Ford Foundation Work Session on I n t e r n a t i o n a l Human Rights Publishing B i b l i o g r a p h i e s : New York City, 1978

HONORS include

University of M i s s o u r i Peace Perspective Lecturer, 1990

University of C a l i f o r n i a - B e r k e l e y Chancellor's Distinguished Lecturer of 1985-86

DeWitt Higgs L e c t u r e r , Fifth Annual Earl W a r r e n Memorial Symposium, University of C a l i f o r n i a - S a n Diego, 1983

Decalogue Society of L a w y e r s Law Student Essay Contest, 1945

A D M I S S I O N S TO PRACTICE LAV

Michigan Supreme Court, 19 47

Ohio Supreme Court, 1948

United States Supreme Court, 1957

TJTTTornia Supreme Court, 1972 -

U.S. Court of A p p e a l s , Ninth Circuit, 1972

RELEVANT LITIGATION EXPERIENCE includes

Counsel (or of c o u n s e l) to parties or amici curiae in f e d e r a l and state cases on i s s u e s of c o n s t i t u t i o n a l law and international law:

California v. Barr (Livermore Pleasanton Municipal Court, Jan.-Feb. 1984)

iU££Ji£iJ2£_ihsJfliі&csi£x_ffl£_£3liIflcni.a_iA_ELflkkB.» 138 u.s. 265 (1978)
Gflll£flcnia_Indii.3icJ,al_H£l_£a££_£QmmiaaiQn_ZjL_HQmeiiiak&i:_3J.._Xn.c_l..
509 F.2d 20
(9th Cir. 197D, cert, den., 132 U . S . 1 063 (1976)
Euyerjiax v t_U.niiL£.d-S-t.a.fce_a, 3 9 1 U . S . 309 (1 969)

Dg.L-B.aur.fia-i^—HaiiaULfi.IJl, 300 F.Supp. 500 (HD Calif 1 967), 300 F.Supp.
502
(ND Calif 1968)

AX be r ^ a n ^ . , S ^ A a . ^ 8 ^ , 3 82 U . S . 70 (1 96 5)
Vsgt Y. _United_ S t a t a a . cert, den., 365 U . S . 811 (1961)
Ralev v. Ohio. 360 U.S. '123 (1959)
. Pec£sJ^.fl, 3 55 U . S . 1 1 5 (1957)
Administrative Law Judge, California Agricultural Labor Relations Board,
1 932
PUBLIC SERVICE includes

Chair, City of B e r k e l e y Commission on Peace and Justice (1986-89)» member
(1989-)
Advisory Council, United Nations Association - East Bay (1989-)
Member, Research Council, International Association of Democratic Lawyers
(1981-)

Vice President, American Association of J u r i s t s (1983-)
Member, Consultative Council, Lawyers Committee on Nuclear Policy (1982-
Member, Board of Directors, U.S. affiliate of World Federation of
Scientific Workers (19 88—)
University of M i c h i g a n - L a w School Board of V i s i t o r s (1981-83)
California State Bar Conference of Delegates: Comm. on Revised Federal
"Crmrlnal Code (1975-76)
Chair, American Civil Liberties Union of Berkeley/Albany (1973-7*0
Delegate t o ACLU National Biennial Conference, Milwaukee (1971)
Founder and Executive Director of Meiklejohn Civil Liberties Institute
(1961-)5

CITIZENS' PETITION TO
STATE AND FEDERAL AUTHORITIES

IN RE:

REQUEST FOR INVESTIGATION/
PROSECUTION OF OFFICERS
DIRECTORS OF WILLIAMS
INTERNATIONAL CORPORATION
AND COMMANDERS OF WURTSMITH
AIR FORCE BASE.

DECLARATION OF ARDETH PLATTE, O.P.
PURSUANT TO 28 U.S.C. 1746
AND MCR 2.119(B)

ARDETH PLATTE, O.P., states as follows:

1. I am a resident of Oscoda, Michigan, and have been since February, 1990.

2. I am a member of the Order of Preachers (Dominicans), Congregation of the Sacred Heart, Grand Rapids, Michigan and have been since 1954.

3. I hold a B.A. degree (1959) and Masters degree in Religious Education (1964) from Aquinas College, Grand Rapids, Michigan. I have also done post graduate work in, among other topics, Administration, Political Science and urban education studies at Loyola University, Chicago, Illinois; Western Michigan University, Kalamazoo, Michigan; Central Michigan University, Mt. Pleasant, Michigan; and Mundelein College, Chicago, Illinois.

4. I was a junior high school and high school teacher from 1958 *1966,* and high school administrator and principal at st. Joseph High School and Adult Education, Saginaw, Michigan from 1966 to 1977.

5. I was a member of Saginaw City Council from 1973 to 1985, serving as Mayor Pro Tern from 1983 to 1985.

6. I have been involved with numerous city and statewide boards and organizations dealing with youth, the arts, women, drugs, civil rights and government, and have received numerous community service awards, including being named Michiganian of the Year by the Detroit News (1985) and a nominee to the Michigan Women's Hall of Fame (1986).

7. Between 1978 and 1987, I worked as a full time volunteer for Advocacy for Justice, Saginaw, Michigan, and between 1981 and 1987, I was co-founder and coordinator of the Saginaw Home for Peace and Justice, promoting advocacy for the homeless and powerless, and working for an end to nuclear weapons.

8. Since 1987, I have worked as a full time volunteer organizing lectures, retreats and actions with Michigan Faith and Resistance.

9. Since approximately 1978, I have engaged in ongoing research and study of nuclear weapons technology and policy, including systematic, independent research, attending several conferences including the 1978 United Nations Special Session on Disarmament, and speaking, writing and organizing public protests regarding this issue. The following paragraphs are based on that research and experience, with specific sources indicated in parentheses. I offer this declaration in support of the request for prosecution of the commandants of Wurtsmith Air Force Base, Headquarters of the Strategic Air Command 40th Air Division, 379th Bombardment Wind in Oscoda, Michigan and the Officers and Directors of Williams International Corporation, who are the designers, testers and manufacturers of the cruise missile engine in Walled Lake, Michigan.

10. Between 1985 and 1989, I spent numerous months in jail and/or prison for simple, non-violent acts of civil resistance at

nuclear weapons sites including Williams International, Inc., and Wurtsmith Air Force Base (WAFB).

11. Since approximately February, 1990, I have personally observed operations at WAFB on a nearly daily basis, where I spend time in prayer and reflection every day that I am at home. I haven't missed more than a few days at a time until May, 1991, when I was gone for approximately six (6) weeks, until June 26, 1991. I have attempted to present the issues raised in this petition by preparing and delivering several documents to WAFB in August, 1990.

12. WAFB is a United States Strategic Air Command Base (SAC), directly responsible to SAC Headquarters in Omaha, Nebraska.

13. WAFB is located on five thousand two hundred (5200) acres in Oscoda, Michigan.

14. WAFB is within the 40th Air Division of SAC. Within that Division, housed at WAFB, are the 379th Bombardment Wing, the 525th Bombardment Squadron and the 920th Air Refueling Squadron.

15. WAFB is the intermediate command center of SAC controlling three (3) other SAC bases.

16. The 379th Bombardment Wing includes nineteen (19) B-52Gs and sixteen (16) KC-135 refuelers. (Saginaw News, August 21, 1990).

17. The entire Air Force base is surrounded by eight (8) foot steel mesh fences topped with one (1) foot of barbed wire and the A-l High Alert area is encircled by an inner fence similar to the other, except it has a double barbed wire strand on top.

18. Two (2) B-52GS and KC-135S are routinely kept within public view on the launch pad in the A-l High Alert area at WAFB. "As many as six (6) B-52s may wait on the alert apron at WAFB." (Saginaw News, August 21, 1990).

19. The High Alert Area also houses several nuclear weapons bunkers covered with grass.

NUCLEAR MISSION

20. Building 5109 is a weapons storage area where munitions are warehoused, inspected and maintained at WAFB.

Another definition of WAFB[f]s mission is that "WAFB is to maintain full readiness to conduct strategic bombing operations on a world-wide scale according to the Emergency War Order.

This mission responsibility is executed by the 40th Air Division which supervises and monitors the operation of the 379th Bombardment Wing at WAFB.

The 524th Bombardment Squadron and the 920th Air Refueling Bombardment Squadron support and supplement the mission of the 40th Air Division". Installation Restoration Program Phase I, Records Search WAFB, Michigan, April 1985 - Radion Corporation.

21. The Commander of the 524th Bombardment Squadron is responsible to the 379th Bombardment Wing deputy commander for operations. (Id.)

22. 524th Bombardment Squadron B-52 crews are on a "rotating schedule of alert and flight training to maintain combat readiness."

(130

23. The mission of the 920th Air Refueling Squadron is to support the Strategic Air Command Bomber Force, for instant global response. (Id.)

24. The commander of the 920th Air Refueling Squadron is responsible to the 379th Bombardment Wing deputy commander for operations. (I£.)

25. KC-135 crews assigned to the squadron alternate between

training flights, task force deployment and alert duties to maintain combat readiness. (Id.)

CHAIN OF COMMAND

26. The chain of command at WAFB is as follows:

40th Air Division

379th Bombardment Wing Commander - Col. William Campbell (1991-
Col. Kenneth S. Boykin (1989-1991)

379th BMW vice commander - Col. John Walther, Jr. (May 1991)
(formerly Col. Dennis C. Scruggs, III)

379th BMW senior enlisted advisor - CMSgt. Andrew King

Deputy Commander for Operations - Lt. Col. Hugh E. Smith

Deputy Commander for resources - Col. John S. McAfee

379th Combat Support Group Commander - Col. Jimmie W. Hanes, Jr.

379th CSG Deputy Commander - Lt. Col. Dieter Barnes
(formerly Lt. Col. Clemens E. Uptomore)

379th Strategic Hospital Commander - Lt. Col. Virgil E. Hemphill

524th Bombardment Squadron Commander - Lt. Col. Mark Nilius

AIRCRAFT STATIONED AT WURTSMITH AIR FORCE BASE:

27. Nineteen (19.) B-52Gs (Stratofortress) with an unrefueled range of seven thousand five hundred (7500) miles. These planes' function is to carry out bombing missions around the world.

28. Sixteen (16) KC-135s (Stratotanker) with gross weights of two hundred ninety-seven thousand (297,000) pounds capable of carrying
eighty-three thousand (83,000) pounds of cargo. These plane's function is to provide mid-air refueling capability to the B-52Gs.

NUCLEAR WEAPONS

29. Nuclear weapons first arrived at WAFB with eighteen (18) SAC B-52 bombers in 1960. ("Oscoda Opens Arms to Cruise Missiles," Saginaw News).

30. In 1983 sixteen (16) B-52G bombers speicially modified for nuclear capability arrived at WAFB.

31. Each of the B-52G bombers is equipped with up to twelve (12) nuclear-tipped air-launched cruise missiles (ALCM) on daily alert status. (Saginaw News, 12/8/82).

32. Each B-52G aircraft carries air launched cruise missiles (ALCM) on two (2) six round underwing pylons.

33. Each B-52G also carries nuclear gravity bombs and/or nuclear short-range attack missiles (SRAM) internally. (Saginaw News, 4/29/83).

34. The B-52G rotary launcher in the internal bomb bay is loaded with nuclear gravity bombs and/or SRAM. (See also Cochran, Arkin, Nuclear Weapons Databook, Vol. I, 1984 p. 149).

35. The AGM-86A ALCM was designed to be compatible with the SRAM rotary launcher in the internal bomb bay. (See also the Klaxon, July 19, 1990).

36. A W-80-1 two hundred (200) kiloton weapon (equivalent to three hundred thousand [300,000] tons of TNT) is used on each AGM-86 ALCM.

37. The ALCM is an air-launched strategic weapon intended for highspeed flight at very low altitudes for distance up to two thousand five hundred (2,500) kilometers with a very low radar cross section. (Jane's Weapon Systems 1988-1989, 1766.311, p.721).

38. The SRAM (AGM-69) short range attack missile is a supersonic

air-to-surface nuclear weapon carried by B-52G bombers of the U.S. Air Force.

39. The SRAM carries a W-69 nuclear warhead of one hundred seventy (170) kilotons or either a contact ground-burst or preset altitude airburst type of nuclear explosion. (Jane's, 1988-1989, 1107.311, p.721).

40. Nuclear weapons deployed at WAFB include one hundred fifty (150) gravity bombs, sixty (60) SRAM missiles and two hundred (200) ALCMs after full deployment. (Arkin & Fieldhouse, Nuclear Battlefields, 1985, p.195).

EFFECTS

41. Nuclear weapons at WAFB listed above are kept in a high state of alert, ready for use. (Arkin & Fieldhouse, p.15).

42. Each of the nuclear weapons can obliterate cities. fid., p.37).

43. Missiles cannot be recalled or redirected once launched, while bombers can be recalled before reaching targets and can drop loads and be returned to reload. (Id., p.51).

COST

44. WAFB has more than one billion ($1,000,000,000.00) dollars worth of fixed assets and aircraft, a hospital facility, airport tower, an 11,800 foot runway, one thousand (1,000) residential homes, bowling alleys, gas stations, officers club and flight simulator. (Bay City Times, April 14, 1991).

45. In 1988 the Air Force contributed one hundred forty million ($140,000,000.00) dollars to the local economy, including a civilian payroll of six million four hundred thousand ($6,400,000.00) dollars

and seventeen million ($17,000,000.00) in construction. (Bay City Times, April 14, 1991).

46. Three thousand five hundred (3,500) people (military and civilian) work at the nuclear alert base. (Saginaw News, May 17, 1990).

47. The total number of U.S. proposed closings will cost an estimated five billion seven hundred million ($5,700,000,000.00) dollars over five (5) years with a savings of six billion five hundred million ($6,500,000,000.00) dollars over the same five (5) years. One billion seven hundred million ($1,700,000,c 00) dollars will be saved each year after 1998. (New York Time;. April 13, 1991).

GULF WAR

48. B-52s from WAFB with conventional payloads flew one thousand (1,000) bombing sorties in forty-two (42) days. Most of the aircraft suffered some damage.

49. The 379th Bombardment Wing flew more than five hundred (500) KC-135 missions and off-loaded more than three million five hundred thousand (3,500,000) gallons of fuel in midair. (Oscoda Press 3/27/91).

50. Only seven (7%) percent of all United States explosives dropped on Iraq and Kuwait were "Smart bombs". (New York Times, March 20, 1991).

51. Seventy (70%) percent of the eighty-eight thousand five hundred (88,500) tons dropped on Iraq and Kuwait in forty-three (43) days missed their target. (New York Times, March 20, 1991).

52. Ninety (90%) percent of all smart bombs were successful. (New York Times, March 20, 1991).

53. B-52s routinely on the high alert pad at WAFB, those

routinely equipped with nuclear weapons, were not at WAFB during the Gulf War. All B-52s from WAFB were deployed in the Gulf War. The Bush Administration including Vice President Quayle and Secretary of Defense Cheney expressly did not rule out use of nuclear weapons.

54. Each two thousand (2000) pound bomb dropped by B-52s leaves a crater thirty-six (36) feet deep and fifty (50) feet across. A payload from a single three (3) plane "cell" of B-52s can crater an area one and a half (1 1/2) miles long and one (1) mile wide. (On Guard, Issue 11).

55. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

I am prepared to testify under oath and answer questions on these and related matters.

ARDETH PLATTE, O.P.

CITIZENS PETITION TO
STATE AND FEDERAL AUTHORITIES

IN RE:

CITIZENS' REQUEST FOR INVESTIGATION AND PROSECUTION OF THE COMMANDERS OF WURTSMITH A.F.B. AND THE BOARD OF DIRECTORS OF WILLIAMS INTERNATIONAL INC., FOR CRIMES UNDER INTERNATIONAL LAW.

DECLARATION OF PAUL FRANCIS WALKER
PURSUANT TO 28 U.S.C. 1746
AND MCR 2.119(B)

PAUL FRANCIS WALKER states as follows:

1. I am Director of the Institute for Peace and International Security (IPIS), a non-profit research and educational group, in Cambridge, Massachusetts. I am also a Visiting Lecturer in Peace and Conflict Studies at the College of the Holy Cross, Worcester, Massachusetts. A specialist in national and international security matters, I hold a Ph.D. in defense studies from the Massachusetts Institute of Technology (Cambridge, MA). I also have received an M.A. in international affairs from the Johns Hopkins School of Advanced International Studies (Washington, DC), an Honors Certificate in Russian from the Defense Language Institute of the West Coast (Monterey, CA), and an A.B. from the College of the Holy Cross.

My publications include coauthorship of several books: The Sun Never Sets (South End Press, 1991), Vertrauensbildende Verteidigung (Bleicher Verlag, 1989) Post-Reagan America (World Policy Institute, 1987), Emerging Technologies and Military Doctrine (MacMillan, 1986), Avoiding Nuclear War (Brassey's, 1985), Krieg oder Was Sonst? (Rowohlt, 1984), The Nuclear Almanac (Addison Wesley, 1984), Defense Sense (Ballinger, 1983), Winding Down: The Price of Defense (1979 &c 1982), and Neue Wege der Abrustungsplanung (Nomos/ 1981), among others.

3. I have also published a variety of articles on defense, technology, and foreign policy, some of which are: "...and the dirty little weapons," Bulletin of the Atomic Scientists (May 1991); "High-Tech Killing Power," Bulletin of the Atomic Scientists (May 1990); "New Directions for NATO" (IPIS, December 1988); "Midgetman: Missile in Search of a Mission," Bulletin of the Atomic Scientists (November 1986); "Smart Weapons in Warfare: Facing Up To Hi-Tech Vulnerability," Environment (July/August 1984); "Smart Weapons in Naval Warfare," Scientific American (May 1983); and "Precision-Guided Weapons," Scientific American (August 1981), among others.

4. My professional background includes consulting with the U.S. Arms Control and Disarmament Agency, U.S. Department of Defense, U.S. Department of Commerce, Congressional Research Service, and several U.S. Senate and House offices. I am also a Vietnam-era veteran, having served in Russian intelligence with the U.S. Army Security Agency (Top Secret Q clearance). I was also formerly

Research Director with the Union of Concerned Scientists, and National Education Director with Physicians for Social Responsibility. My complete resume is available upon request.

5. I offer this declaration in support of the request for prosecution of the Commandants of Wurtsmith Air Force Base, Headquarters of the Strategic Air Command 40th Air Division, 379th Bombardment Wing in Oscoda, Michigan, and the Officers and Directors of Williams International Corporation, who are the designers, testers, and manufacturers of the cruise missile engine in Walled Lake, Michigan.

6. General description of cruise missiles: A cruise missile is an unmanned, guided missile which uses aerodynamic lift, similar to an aircraft, to offset gravity, and uses propulsion to counteract drag. It is powered by an air-breathing engine (versus a rocket motor) fueled by jet aviation fuel, is capable of carrying either a conventional or nuclear warhead, and may be guided to its target over hundreds or thousands of miles by a variety of computer-aided systems.

Cruise missiles have been used as military weapons for several decades, first widely deployed by the Soviet Union at sea in the 1950's and 1960's as short-range, land-attack missiles with non-nuclear warheads. The United States has tested and deployed a wide variety of cruise missiles with non-nuclear and nuclear warhead packages for over three decades now. Early versions of the 1950's such as the nuclear-armed "Regulus" and "Snark" were large and bulky, very inaccurate,

and unreliable. The 1967 sinking of the Israeli destroyer, Elath, by two Soviet-made, Egyptian-fired "Styx" over-the-horizon cruise missiles in the Eastern Mediterranean led to heightened interest in developing new cruise missile technologies. (See, for example, my article, "Precision-guided Weapons," Scientific American 245:2 [August 1981], pp. 36-45.)

7. Tomahawk cruise missile: The U.S. Navy began a major cruise missile development program in 1972 entitled "Tomahawk." This effort eventually provided the basic airframe and design for both sea- and ground-launched cruise missiles (SLCMs and GLCMs or "slikkims" and "glikkims"). The U.S. Air Force began their own development of air-launched cruise missiles (ALCMs) one year later.

The Tomahawk sea-launched cruise missile became operable in June, 1984 after twelve years of development and testing. Its prime contractors are General Dynamics-Convair (San Diego) and McDonnell-Douglas (St. Louis), although some two dozen major contractors have participated in its development and production; these include Boeing, Martin Marietta, Teledyne, Williams International, and others.

Tomahawk has now been .deployed in several models on over 100 submarines and ships including battleships, cruisers, and destroyers. It can be launched underwater from torpedo tubes or above the surface on deck launchers.

The nuclear warhead for the Tomahawk is the W-80, developed over a decade (mid-1970's to mid-1980's) by Los Alamos National Laboratory as a modification of the B-61 nuclear gravity bomb. Weighing only 270 pounds, it

produces a yield of of 200 kilotons (the equivalent of 200,000 tons or 400 million pounds of TNT), some thirteen times greater than the nuclear explosions over Hiroshima and Nagasaki.

The most recent program acquisition figures from the Department of Defense for the Tomahawk SLCM are as follows:

Fiscal Year:	FY91	FY92	FY93	3-Yr Totals
Quantity Requested:	400	236	200	836
Total Budget ($ mills)	710.2	499.7	416.8	$1,626.7

[Current $; DoD, Program Acquisition Costs by Weapon System, Feb. 91]

8. Air-launched cruise missile: Another version of the Tomahawk is the air-launched cruise missile or ALCM. First flight-tested in 1976, it is now widely deployed on B-52 and B-l strategic bomber aircraft in both underwing and internal bombbay configurations. The ALCM is slightly larger than the sea-launched versions, but carries the same W-80 nuclear warhead over similar ranges.

9. Ground-launched cruise missile: Still another spinoff of the early Tomahawk designs was the ground-launched cruise missile or GLCM designed to carry a smaller yield nuclear warhead in the 10-50 kiloton range for use primarily in Europe. Several hundred of these were deployed in Europe in the mid-1980's and subsequently eliminated under the terms of the Intermediate-range Nuclear Forces (INF) agreement of December, 1987.

10. Harpoon cruise missile: Harpoon is a smaller cruise missile, initially deployed in 1977, and designed solely as an anti-ship weapon. Capable of being air-, ship-, or submarine-launched, it to date carries only a conventional warhead and has a shorter range, 35 to 120 miles. A new version is called SLAM, stand-off land-attack missile, and is used over a 50-mile range to attack land targets.

11. Advanced cruise missiles: Several research and development programs have been underway for a decade or more to produce much-improved versions of these cruise missiles and, in expectation of R&D success, annual procurements of current-design air- and sea-launched cruise missiles have been curtailed and/or stopped over the past several years. Improvements are expected to engine design and fuel packages, flight ranges, warhead yield-to-weight ratios, stealthiness of airframe, guidance accuracy, and targeting flexibility.

The latest program acquisition figures for the advanced cruise missile (ACM) for the U.S. Air Force are as follows:

Fiscal Year:	FY91	FY92	FY93	3-Yr. Total
Quantity requested:	85	120	102	307
Total budget ($ mills):	506.0	626.4	551.5	$1,683.9

[Current $; DoD, Program Acquistion Costs bv Weapon System, Feb. 91]

12. Strategic role of the cruise missile: The long-range, air-launched, nuclear-

armed cruise missile has played a major role in nuclear weapons policy in at least three interrelated ways:

(a) Hard-target killer: As a highly accurate, relatively invulnerable nuclear weapon, the cruise missile has provided the U.S. Strategic Air Command a weapon which is capable of attacking difficult targets deep in enemy territory. These include buried missile sites, hardened command and control bunkers, buried weapons depots, and other military and political targets of central importance in a nuclear war. In these cases, accuracy counts much more than explosive yield. Cruise missiles have therefore helped overcome the high inaccuracy of gravity bombs dropped from B-52 bombers and, in combination with improved accuracy of ballistic missiles, enhanced the first-strike capabilities of strategic nuclear forces. The latest Defense Department statement on the advanced cruise missile program states that "the highly accurate navigation system provides hard target kill capability." rProgram Acquisition Costs, p. 0551

The ability to strike a variety of protected targets is part of what has been called "flexible response," war-fighting strategies. These are targeting options, less than all-out nuclear destruction for the enemy, which have been discussed and studied for four decades but only in the 1970's and 1980's actually operationalized due to higher accuracy and faster retargeting options with both ballistic and cruise missiles. These strategies remain widely debated and controversial due to key questions such as the following: Is it possible to have limited strikes in a nuclear war? Is it possible to terminate nuclear war if you have knocked out much of the enemy's command and control facilities including the political leadership? Are

limited strikes actually limited, given the long-term and unpredictable nature of radiation and fallout? And, don't you force a hair-trigger response by the enemy during crises by threatening his most valued assets, i.e. protected military targets, with quick destruction? Is this really stabilizing for a nuclear deterrent relationship?

(b) Reduced vulnerability: One of the major obstacles which manned strategic bombers have faced over recent years is their high vulnerability to anti-air missiles once they have penetrated enemy territory. The cruise missile in many instances allows the B-52 and B-l bombers to stand-off outside of enemy territory and fire missiles over the border at targets; this precludes the dangerous task of overflying highly defended targets and risking the whole launch platform, namely, the strategic bomber, in order to drop gravity bombs.

(c) Enhanced deterrent: The U.S. Department of Defense also believes that a secure deterrent force, one intended to assure any attacking enemy of unacceptable nuclear retaliation, requires diversity of forces. Such diversity theoretically complicates the targeting needs of the enemy in any first, second, or later strikes. The so-called "triad" of nuclear forces - submarines, bombers, and missiles - is intended to perform this multi-faceted, deterrent role. Cruise missiles, it is argued, enhance the role of the strategic bomber leg of the triad, and add to the 10,000 possible targets of nuclear weapons in a war with the Soviet Union.

These three roles of the strategic cruise missile have varying results and effects regarding strategic stability. If utilized as a defensive, deterrent weapon, the cruise missile can be a stabilizing factor in the Soviet-American "balance of

terror." Yet, with improving technology affording still greater accuracy and stealthiness to cruise missiles as well as to their strategic bomber launch platforms, cruise missiles can also be used as first-strike and war-fighting weapons which, in combination with a first strike of ballistic missiles and possibly some strategic defense options, will greatly destabilize nuclear balances and possibly force the enemy to fire first in a tense crisis.

Serious questions also remain regarding the necessity for such large numbers of warheads and targets. With the end of the Cold War at hand, the Warsaw Treaty Organization having now officially disbanded, the ongoing withdrawal of Soviet forces from Eastern Europe, and in fact the leasing of the latest model Soviet fighter aircraft to U.S. forces, the Defense Department has begun reconsideration of targeting lists in order to eliminate several thousand now obsolete sites throughout Eastern Europe and the Soviet Union. These reductions ultimately raise serious doubt about the necessity and cost of new nuclear weapons programs which may be more redundant today than previously recognized by military planners.

13. Cruise missiles in the Gulf War: On January 17, 1991, Operation Desert Storm, the coalition first-strike attack against Iraq, began with a massive coordinated air campaign which included an initial barrage of over 100 non-nuclear Tomahawk land-attack missiles (TLAMs) launched from cruisers, destroyers, and battleships in the Persian Gulf and Red Sea. A high-tech "Aegis cruiser, the USS San Jacinto, in the Red Sea fired the first Tomahawk while the battleship, USS

Wisconsin, in the northern Persian Gulf served as the TLAM strike commander and fired 24 TLAMs itself during the war.

Two days later an attack submarine, the USS Louisville, also joined the TLAM attack by firing a Tomahawk while submerged in the Red Sea. In all, 288 TLAMs were fired by nine cruisers, five destroyers, two battleships, and two nuclear-powered attack submarines. The "top shooter" was the destroyer, USS Fife, which fired 58 cruise missiles.

TLAM targets were primarily high-value, heavily defended sites in Baghdad — military headquarters and command centers — which would have been more difficult and costly if attacked by manned aircraft The U.S. Navy has stated that these included "chemical and nuclear weapons facilities, surface-to-air missile sites, command and control centers, and Saddam [Hussein]'s presidential palace." The Navy also claims that "TLAM adds a dramatic new dimension to the offensive firepower of the United States Navy. Any future aggressor will have to contend with the demonstrated capability of U.S. forces to launch complex coordinated missile and air attacks from multiple axes. The TLAM and other precision-guided and high-tech munitions...clearly produced a revolution in the art of warfare." [Department of the Navy, "The United States Navy in 'Desert Shield' 'Desert Storm'," May 15, 1991, pp. 35 & 48]

Shorter-range stand-off, land-attack missiles (SLAMs) were also fired by carrier-based aircraft in the Gulf War to attack high-value targets on land.

The Defense Department has concluded that "Tomahawk was a tremendous success, and its first use in combat fully confirmed the results of previous

extensive operational testing. The value of distributed firepower was demonstrated by Tomahawk launches from surface combatants and submarines....Planned improvements in the Tomahawk missile and mission planning systems will further enhance the capabilities and potential contributions of this formidable weapon." ["The United States Navy../' p. 59]

The full story from the Gulf War, however, still remains to be told. There are indications that Iraq had figured out the flight paths of the Tomahawks, e.g. along a six-lane highway into Baghdad, and began shooting them down after the first two days. Their success rate may be in the end far lower than military authorities now estimate.

14. Cruise missiles in current policy: Military policy falls into two categories: tactical and strategic. The Gulf War has confirmed high expectations within military circles for widespread tactical use of cruise missiles in regional conflicts. As Admiral J.T. Howe, Commander-in-Chief of U.S. Naval Forces Europe, commented shortly after the war: "The use of TLAMs has validated the effectiveness of these weapons for a number of contingencies..." ["The United States Navy..," p. 59] U.S. military policy now is to purchase large numbers (1,000's) of longer- and medium-range, non-nuclear cruise missiles for surprise attack against valued targets in most any region of the world.

In support of this policy, the Defense Department on June 6th unveiled plans to spend more than $ 15 billion for 8,650 new Stealth missiles under development by the Northrop Corporation. Previously code-worded as "Have

Slick" in classified status, this program would provide new, conventionally armed cruise missiles for Navy and Air Force fighters, B-52 and B-2 bombers, as well as for the ground-based multiple-launch rocket system (MLRS, also widely used by the U.S. Army in the Gulf War) with a range of some 100 miles.

In strategic policy, cruise missiles have become both more and less restricted in numbers since the current strategic arms reduction treaty (START) was agreed this summer. START scales back Soviet and American nuclear triads some 20-25% in total warheads. These reductions, which will lower the U.S. strategic nuclear arsenal to some 10,000 warheads and bombs, the Soviet to some 9,000, still leave much room for follow-on reductions. As part of START'S counting rules, however, strategic bombers loaded with air-launched cruise missiles will be counted as having multiple warheads; non-ALCM carrying bombers such as a B-2 loaded with gravity bombs will be counted as one warhead. This places a premium, if one wants to circumvent START numerical ceilings, on deploying bombers without cruise missiles and will likely discourage larger production of ALCMs. Should the new B-2 Stealth bomber be deployed in larger numbers than currently authorized by Congress, START'S counting rules will encourage that it be loaded only with gravity bombs.

On the other hand, sea-launched cruise missiles (SLCMs) are not limited under the START agreement and may encourage further development and deployment of such systems at sea, especially now after their Gulf War success.

The United States currently deploys some 758 nuclear-armed SLCMs out of a total of 3,994 SLCMs at sea. The U.S. also rejected Soviet proposals to cap nuclear-

armed SLCMs at 400 for each side, citing concerns over adequate verification and over the intrusiveness of on-board inspections.

Cruise missiles, both air- and sea-launched, will continue therefore to play major roles in strategic policy and, as technological improvements happen, will be increasingly capable of accurate, first-strike attacks on critical targets. They will no doubt be subject to negotiation and further limits in the START II talks next year.

15. Effects of a 200-kiloton explosion: The W-80 nuclear warhead on board the air- and sea-launched cruise missile has a nominal yield of 200 kilotons. This is powerful by 1945 standards when some 75,000 people were killed outright in each city, Hiroshima (estimates range from 42,550 to 165,900 dead and missing) and Nagasaki (estimates range from 21,672 to 73,884 dead and missing), by a weapon with only 7% this yield. It is less powerful than some other nuclear warheads which provide five times or more yield than this.

An oversimplified yet concise way to describe the power of such warheads is to look at "lethal radius," the distance from the explosion in which everything with a given "hardness" will be destroyed. For example, most people will be highly vulnerable to light atmospheric overpressures from a nuclear explosion. If three pounds per square inch (PSI) is assumed, the lethal radius of a 200-kiloton explosion is 2.3 miles. This means that the lethal area for unprotected human beings is 16.6 square miles around the point of detonation (the lethal radius of course will vary according to several variables, including height of burst, wind, weather, and physical geography).

For the city of Detroit, for example, this would mean that a 200-kiloton nuclear bomb dropped on Tiger Stadium would immediately kill everybody unprotected within a 2.3 mile radius; this covers almost as far as Livernois Avenue to the west, Wayne State University and the Edsel Ford Freeway to the north,

beyond Route 375 to the east, and across the river to the University of Windsor in the south. Off course, non-lethal damage would extend far beyond this area and cover hundreds of square miles, while radioactive fallout would drift downwind causing longer-term physical and human damage.

16. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. I am prepared to testify under oath and answer questions on these and related matters.

PAUL FRANCIS WALKER

Date:

CITIZENS' PETITION TO
STATE AND FEDERAL AUTHORITIES

IN RE:

CITIZENS' REQUEST FOR INVESTIGATION

AND PROSECUTION OF THE COMMANDERS OF WURTSMITH A.F.B. AND THE BOARD OF DIRECTORS OF WILLIAMS INTERNATIONAL INC., FOR CRIMES UNDER INTERNATIONAL LAW

DECLARATION OF PETER WEISS

PETER WEISS states as follows:

1. I an a graduate of St. John's College and Yale Law School and have been a member of the bar of New York since 1953. I an also admitted to practice before the Supreme Court of the United States, the United States Courts of Appeal for the Second and Fourth Circuits and the United States District Courts for the Southern and Eastern Districts of New York.

2. I am currently of counsel to the firm I founded in 1969, Weiss, Dawid, Fross, Zelnick & Lehman. Previously I was a partner in another New York firm, Langner, Parry, Card & Langner (now Ladas & Parry). Both are leading firms in the field of intellectual property.

3. For over 35 years, I have been engaged in the active practice of law, dividing my time between intellectual property law, with a heavy emphasis on international practice, and pro bono lecturing, teaching and litigation in the fields of human rights and peace law. I have been a speaker at annual meetings of the American Society of International Law, of which I have long been a member, have led classes and seminars at various law schools, including Yale, Harvard, Columbia, Iowa and Denver, and

taught international law, as an adjunct professor, at CUNY Law School, New York.

4. Some twenty years ago, I initiated the international litigation program in human rights and peace law at the Center for Constitutional Rights, of whioh I am currently a Vice President. I am a co-founder of the Lawyers Committee on Nuclear Policy, of which I am currently Chairman, and of IALANA, the International Association of Lawyers on Nuclear Arms, of which I am currently a Co-President.

5. I have written a number of articles and book chapters on legal subjects, including the law of nuclear weapons, and have testified as an expert on international law in trials of anti-nuclear protesters.

6. In view of the clear prohibition against weapons of mass destruction in international law, there has never been any justification for the manufacture, deployment, possession and use of nuclear weapons. Such justifications as have been attempted - usually by lawyers employed by or advising the Pentagon - have been based on strategic considerations of deterrence and retaliation, rather than on legal principles. In plain language, these legal "realists" have been saying "As long as the Soviets have nuclear weapons, and threaten to use them against us, we must have them too." In the words of former Ambassador Jeanne Kirkpatrick, "international law is not a mutual suicide pact." In other words, the law of survival takes precedence over the law of nations.

7. Whatever semblance of rationality this "realistic"

position may have had in the past has been swept away by the collapse of the Soviet empire and the end of the cold war. The arguments previously marshaled in support of the criminality of nuclear weapons by an impressive array of international legal scholars are therefore all the more valid today, particularly as the United States has never renounced the first use of nuclear weapons as a military option.

8. These arguments, as summarized in the Statement on the Illegality of Nuclear Warfare of the Lawyers' Committee on Nuclear Policy, Revised Edition 1990,- are as follows:

IT IS PROHIBITED TO

(1) Use weapons or tactics that cause indiscriminate harm as between combatants and noncombatants, and military and civilian personnel

(2) Use weapons or tactics that cause unnecessary or aggravated devastation or suffering

(3) Use weapons or tactics that violate the neutral jurisdiction of non-participating countries

(4) Use asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices

(5) Use weapons or tactics that cause widespread, long-term and severe damage to the environment

(6) Effect reprisals that are disproportionate to their provocation.

9. Some of these rules, particularly 1, 2, and 6, are as old as warfare itself and have their origins in the moral and religious teachings of all the major cultures. Others, like 3, 4 and 5, are of more recent vintage. All, however, are now solidly anchored in international law and are binding on the United

States and its courts under the Supremacy Clause (Article VI, Section 2) of the Constitution, as customary as well as treaty law.

10. The relevant treaties include

The St. Petersburg Declaration of 1868

The Hague Conventions, Declarations and Regulations of 1907, 36 Stat. 2277, T.S. No. 539, which "largely remain as an operative codification of the law of war in most of its aspects", Parry and Grant, Encyclopaedic Dictionary of International Law, 1988, p.153

The Hague Draft Rules of Aerial Warfare of 1923

The Geneva Gas Protocol of 1925

The Geneva Conventions of 1949, 6 U.S.T. 3516

The 1977 Protocol I Additional to the Geneva Conventions of 1949.

11. Many of the laws of war found in international law, principally those relating to the prohibition of weapons and tactics exceeding the bounds of military necessity, are codified in the manuals of the armed services of the United States, e.g. Department of the Army, Field Manual FM 27-10: The Law of Land Warfare 18, 1976; Office of the Chief of Naval Operations, Department of the Navy Field Manual NWIP 10-2: The Law of Naval Warfare, 1955. The U.S. Air Force, as well, "views the Hague Conventions as a central component of the modern Law of Armed Conflict", Statement on the Illegality of Nuclear Warfare, op. cit., p. 9.

12. Spokespersons for the nuclear weapons states - including the United States and the Soviet Union - are sometimes heard to say that so long as there is no treaty specifically banning

nuclear weapons they are not illegal. This argument is disingenuous and indefensible. If .a weapon, by its very nature, is such that it cannot be employed without violating some or all of the above mentioned rules of warfare - as is obviously the case with all but perhaps the minutest nuclear weapons - it must perforce be illegal. Any treaty outlawing nuclear weapons, desirable though it may be, would be merely confirmatory of existing law.

13. The 1945 Charter of the International Military Tribunal at Nuremberg, 59 Stat. 1544, defines Crimes Against Humanity as, inter alia, "murder, extermination ... andother inhumane acts committed against any civilian population before or during a war" and holds individuals responsible for crimes under international law, whether or not such crimes are proscribed by domestic law and regardless whether the individual accused acted pursuant to orders of his government or of a superior. This principle, however, did not originate with the London Charter:

> The concept of offenses against the law of nations (delicti .juris gentium") was recognized by the classical text writers on international law and has been employed in national constitutions and statutes. It was regarded as sufficiently tangible in the eighteenth century so that United States Federal Courts sustained indictments charging acts as an offense against the law of nations, even if there were no statutes defining the offense. Early in the. nineteenth century it was held that the criminal jurisdiction of federal courts rested only on statutes though the definition of crimes denounced by statutes might be left largely to international law. Thus "piracy as defined by the law of nations" is an indictable offense in federal courts and all offenses against the law of nations are indictable at. nnnmon law in s t a t e courts. Mueller and Wise,

International Criminal Law, 1965, pp. 258-259 (emphasis supplied, citations omitted).

14. Article 38, paragraph 1(c) of the Statute of the International Court of Justice lists "the general principles of law recognized by civilized nations" as one of the sources of international law. One of these "general principles" is that the preparation to commit a crime, or a conspiracy to commit a crime, is itself a crime.

15. The Draft Code of Offences Against -he Peace and Security of Mankind, adopted by the International Law Commission of the United Nations, General Assembly Official Records, IX, Supp. 9 (A/2693) 11-12(1954), lists the following acts, inter alia, as offences against the peace and secuirty of mankind:

Article 2

(7) Acts by the authorities of a State in violation of its obligations under a treaty which is designed to ensure international peace and security by means of restrictions or limitations on armaments, or on military training, or on fortifications, or of other restrictions of the same character.

(12) Acts in violation of the laws or customs of war.

(13) Acts which constitute:

(i) Conspiracy to commit any of the offences defined in the preceding paragraphs of this article; or

(ii) Direct incitement to commit any of the offences defined in the preceding paragraphs of this article; or

(iii) Complicity in th commission of any of the offences defined in the preceding paragraphs of this article; or

(iv) Attempts to commit any of the offences defined in the preceding paragraphs of this article.

Article 3

The fact that a person acted as Head of State or as responsible government official does not relieve him of responsibility for committing any of the offences defined in this code.

Article 4

The fact that a person charged with an offence defined in this code acted pursuant to an order of his Government or of a superior does not relieve him of responsibility in international law if, in the circumstances of the time, it was possible for him not to comply with that order.

16. I am informed that there are currently deployed at Wurtsmith Air Force Base a large number of nuclear-armed air-launched cruise missiles, short range attack missiles and nuclear gravity bombs and that preparations for the use of these weapons are regularly carried out at the base under the direction of its commandant and other military personnel.

17. I am further informed that Williams International Inc. has designed, tested and produced cruise missile engines for the delivery of nuclear warheads and is currently designing, testing and producing additional such engines.

18. In view of these facts, and for all the foregoing reasons, I consider the Citizens' Request for Investigation and Prosecution of the Commanders of Wurtsmith Air Force Base and the Board of Directors of Williams International Inc. entirely justified under international law.

19. I declare under penalty of perjury that the foregoing is true to the best of my knowledge, information and belief. I am prepared to testify under oath and answer questions on these and related matters.

Done at New New York, New York, this 31st Day of July, 1991.

PETER WEISS

633 Third Avenue
New York, N.Y. 10017
212 953 9090

STATE OF MICHIGAN

IN THE DISTRICT COURT FOR THE COUNTY OF OAKLAND
52nd District 1st Division

PEOPLE OF THE STATE OF MICHIGAN,

-v- District Court No's:
88-003767 thru 88-003779

MICHELLE ANNE MARTIN, ET AL.P

DEFENDANTS.

/

TESTIMONY OF DR. ROBERT J. LIFTON, ONLY, AT TRIAL

BEFORE THE HONORABLE MICHAEL BATCH IK, DISTRICT JUDGE, P10534

WALLED LAKE, MICHIGAN

TUESDAY, March 14, 1989

APPEARANCES:

FOR THE PEOPLE: Mr. Larence Kozma, P27227
1200 N. Telegraph Road
Pontiac, Mi. 48053
(313) 858-0665

FOR THE DEFENDANTS: Mr. William H. Goodman, P14173
3000 Cadillac Tower
Detroit, Mi. 48226
(313) 965-0050

Ms. Deborah A. Choly, P34766
1816 One Kennedy Square
Detroit. Mi. 48226
(313) 962-1177

Mr. Kenneth M. Mogi II, P17865
One Kennedy Square, Suite 1930
Detroit, Mi. 48226
(313) 962-7210

Mr. Peter Dougherty
Appearing in pro per

knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qual ified as an expert would, by knowledge, skill, experience, training, or education may testify thereto In the form of opinion or otherwise...."

My position is, Your Honor, that the Defendants are individuals, and it is their testimony, and their position, and their reaction that is relevant and material, not a general psychological profile or reaction gleaned from interviews of thirty or three hundred people over thirty years or other people's articles in the field of psych iatry.

THE COURT: I would overrule the objection. I have no problem accepting this witness as an e xpert In the. psych o IoflicaI effects of nuclear weapons. The jurors will consider — Mr. Llfton, is that correct, —

THE WITNESS: Li fton.

THE COURT: — as an expert in this area.

DIRECT EXAMINATION CONTINUED

BY MR. GOODMAN:

Q Now, getting back to the question that I was asking about shortly before Mr. Kozma started to ask you. i asked you about the concept of psychic numbing. What was it — And I think I asked you If you were familiar with

that. Can you answer that?

A Yes, I said I introduced the concept of psychic numbing into the field of psychiatry, and the way that this happened was that, when I was interviewing Hiroshima survivors, they described very repeatedly a feeling of their minds simply turning off. They said things Iike, "We could see what was happening. People were dying, but i suddenly ceased to feel." I called that psychic numb ing, by wh i ch I meant, an inability or disinclination to feel under certain conditions. i then began to raise questions about the applicability, the applying that concept of a psychic numbing to others, not just Hiroshima survivors, but to those involved with nuclear weapons and in traumatic experiences of different kinds, and I've since then talked to, interviewed a number of American nuclear strategists, and physicists, and ordinary American people about their feelings, and what they feel and don't feel, and have broadened the concept of psychic numbing to suggest the inability or disincf (nation to fee) as it may affect any of us. It isn't just a group of survivors, and now the term is an active one that is used in the diagnostic and statistical manual of the Amer i c a n P s y chiatric Asso c i at I on in regard to traumatic reactions.

Q The diagnostic, that's the DSM, what is called

A DSM3 or DSM3R, which simply means It's the third edition of the diagnostic and statistical manual, and the R stands for revised.

Q And that is the authoritative -- the authoritative book on psychiatric diagnosis. Am I correct about that?

A That's the diagnostic bible of the American Psychiatric Assoc iat ion.

Q And your concept of psychic numbing has been incorporated i nto that book?

A Yes, it has.

Q All right. Now, with regard to -- I think you Indicated that you have, In addition to having Interviewed a number of people yourself over the years about the effects of nuclear weapons, studied the work of others as we I I; is that r ight?

A Yes.

Q What is the most current work that has stud ied the . attitudes, and the emotions, and feelings of Americans with regard to the presence of nuclear weapons?

A There's a series of studies with children, and one of them headed by a man named Ooctoro in Ca I ifornia, and a series of studies of adults, I think the most current and influential, has been attitude studies by a man named Daniel Yankelovich, which Is the leading student of attitudes in this culture. Those are perhaps the two

that are most prominent. There are many others, as well.

Q Can you characterize or tell us whether or not the studies by Dr. Doctoro and Dr. Yankelovich are thorough and exhaustive studies of opinions and attitudes?

A They're recognized as thorough, exhaustive, and well done In terms of method. They're accepted by everyone as far as I know.

Q And you, yourself, have published, I think you've indicated, this book, 'Indefensible Weapons' on this question; Is that right?

A Yes. I've publ ished on the concept of fear.and what Li means in terms of the absence of a future on. *iDubts abqut a future, especially in children, but also in adults. Can you please telI us what, In your opinion, are the present psychological consequence — consequences amongst American people, both adults and children, of the presence of nuclear weapons in our society and the presence of the nuclear arms race in the planet?

MR. KOZMA: Objection to children. Objection in general to the whole question.

THE COURT: Overruled. We'll take his opinion.

MR. GOODMAN: — Doctor?

MR. KOZMA: As to the children aspect too, Your Honor ?

THE COURT: Sure.

BY THE WITNESS:

A A Starting with children, I would say that the study showed something consistently; that fear of something like nucI ear d e a t h, or nuclear holocaust, or nuclear war, however the children put it, is a prominent fear in children. It's not the only fear that children have. It becomes intermixed with other fear, such as the fear of a parent dying, or fear of failing at school, but it's a prominent fear among others. And the evidence of these studies with children also shows that many of the chiIdren have doubts about whether they*1i ever be abIe to have an adult f ife. They do everything to prepare for an adult I ife, and they go to school, but they have some doubt in their minds about whether they'll ever live a full I Ife as adults. That's what I mean by the fear of future Iessness. If one then looks at the a d u l l studies, they're rather para\IeI, but aduIts are a little different, and what the Yankelovich studies concentrated on were such things as the expectation on the part of more than about half, sometimes more than half of American adults, that there will be a nuclear war. The fear of that happening, including fear of people around one dying, as well as~~, oneself, and~~ the fear or almost certainty, as they seem to show in the Yankelovich findings, of not being able to survive a nuclear war,

whatever the civil defense arrangements that might be made.

Q Now, how

THE COURT: Excuse me. How do you spell Vankelovich?

THE WITNESS: Y-a-n-k-e-l-o-v- I-c-h.

THE COURT: Thank you.

MR. GOODMAN: — How in your opinion, given these findings, what are the consequences in terms of people's, I don't know what you want to call it, psychiatric health or psychic well being?

BY THE WITNESS:

A What the — What the findings show is that people feel helpless to start with. They feel this is a larger force; that it's very hard for them to influence. And one very frequent direction or response to that is a general attitude of resignation. It can be viewed as a form of numbing, but it's a special category in which people feel something like, if it happens, it happens, and it probably will happen, but what can I do? I'm helpless about doing anything concerning preventing it, so I'll Just go about my life. Sometimes people are more troubled than that, and they feel anxiety and despair and have anxious dreams about nuclear war, nuclear threat. Other times, people in perceiving the absence of a future

or the possible absence of a future, want to seek Immediate satisfactions, ifmediate pleasure, or may not be too clear about their moral positions in what they do in terms of the resignation to the probabie occurrence of nuclear weapons or nuclear holocaust, so what difference does it make; that kind of inability to make long range plans. Those are some of the areas of impact on the cuIture.

You talked about this special form of psychic numbing, or numbing, I think you called it. In your opinion with regard to the presence of nuclear weapons, does everybody, or almost everybody in the society suffer to some degree or another from this psychic numbing?

Psychic numbing is something that's universal. I don't think any of us is free of it, and I think that's true for at least two reasons. Nuclear weapons are an overwhelming threat. They're sometimes perceived as very distant, but, nonetheless, when someone thinks about what they really do, the experience can be overwhelming, and we tend psychologically to avoid extremely painful images or threats, par t icuIarIy when we have doubts about being able to do anything about them. And the secogd and related reason for psychic numbing, and we all do it at one time or another, has to do with the idea that nuclear weapons threaten something that none of this has any

experience with. We've never had an experience that remotely resembles what we try to imagine in relation to nuclear holocaust. So it's hard to apply one's imagination to that experience or to feel what it would be like, since we have no clear experience that resembles it. So for those two reasons, just about everybody has to engage in psychic numbing.

Q Have you found through your studies and your research that in some cases some people in the society are able, or capable, or at least go through the process of. starting to break away or out of this psychic numbing?

A Yes, I think that a number of people recognize this kind of process. They may call it psychic numbing, or they may call it something else. People Just not feel at all. Whatever they want to call It, but they sense that it's harmful, and they try to break out of it. Some people write about the general subject. Other people may want to protest, but they try to break out of that numbing.

Q And what — When you say some people might try to protest, can you characterize why protest Is a consequence of breaking out of psychic numbing?

A Well, psychic numbing is a kind of closure of feelings about a threat. If one considers the threat to be very much present and all the more dangerous If one doesn't open oneself to studying It or confronting it, then one

may be troubled about the psychic numbing and feel one has to do something to break out of it, and people do different things. They do all the political things that one can do in the United States, whether it's writing to one's congressman, or one's leaders, or taking a stand publicly, or speaking out, or protesting, and the various forms of protest that we know about.

Q If the degree of psychic numbing or the breaking away from the osvchic numb ing_i_s^su f f i c ient I y Intense, what kinds of behavior is it_reasonabIe to expect within this profile as you've set it out here?

A Wei I, the more intense one's feel ing Is or the more one bre a k s out of the p s v c h i c numbing and takes in w h a t m i g h t be a reas o n a b l e image or e s t i m a t e of what these weapons wo u I d do, the s t r o n g e r one feels impelled to m a k e one's action, and then p e o p l e m a y get involved Jn Intense forms of po I i t i caI p r o t e s t, or civil disobedience, or may even devote the i r I ives to in some way encountering nuclear threat.

Q What do you mean by civil disobedience, Dr. Lifton?

A Well, as I understand civil disobedience, it's breaking a law that one considers in someway misguided or unjust, or else taking an action knowing that it breaks a law, because one feels that that is the lesser evil, because there is some kind of evil that on= feels one has to

UNITED
NATIONS

General Assembly

Distr.
GENERAL

A/45/373
18 September 1990

ORIGINAL: ENGLISH

Forty-fifth session
Item 58 (b) of the provisional
agenda*

GENERAL AND COMPLETE DISARMAMENT

Comprehensive study on nuclear weapons

Report of the Secretary-General

1. By its resolution 43/75 N of 7 December 1988, the General Assembly requested the Secretary-General to carry out, with the assistance of qualified governmental experts and talcing into account recent relevant studies, a comprehensive update of the Comprehensive Study on Nuclear Weapons 1/ that vould provide factual and up-to-date information on and would pay regard to the political, legal and security aspects of: (a) nuclear arsenals and pertinent technological developments; (b) doctrines concerning nuclear weapons; (c) efforts to reduce nuclear weapons; (d) physical, environmental, medical and other effects of use of nuclear weapons and of nuclear testing; (e) efforts to achieve a comprehensive nuclear-test ban; (f) efforts to prevent the use of nuclear weapons and their horizontal and vertical proliferation; (g) the question of verification of compliance with nuclear-arms limitation agreements; and recommended that the study, while aiming at being as comprehensive as possible, should be based on open material and such further information as Member States might wish to make available for the purpose of the study. The Assembly further requested the Secretary-General to submit the final report to it well in advance of its forty-fifth session.

2. Pursuant to that resolution, the Secretary-General has the honour to transmit to the General Assembly the comprehensive study on nuclear weapons.

• A/45/150 and Corr.l.

1/ United Nations publication. Sales No. E.81.1.11.

CHAPTER VI

EFFECTS OF USE OF NUCLEAR WEAPONS AND CONSEQUENCES OF NUCLEAR WAR

A. General

288. The existing knowledge of the effects of the use of nuclear weapons is far from complete. In only two instances were nuclear weapons used in actual war conditions, against the Japanese cities of Hiroshima and Nagasaki in 1945. The outcome of these explosions has been painstakingly investigated, yet considerably different data are given by different sources/ in particular with regard to the number of casualties. Even in recent years, new findings have been brought to light about the detailed effects of the bombings of Japan.

289. The studies on the effects of a nuclear war are generally based on data from Hiroshima and Nagasaki, nuclear-weapon testing and extrapolations or scientific hypotheses that by definition cannot be verified. Irrespective of the sophistication of the various models applied in the different studies, it should be borne in mind that no desk calculations could give a true picture of the consequences of nuclear warfare. The accounts given below should therefore be considered only as indications of the magnitude of the effects of nuclear war as described in these studies.

290. Studies carried out to determine the effects of the use of nuclear weapons have all used different war scenarios and applied various other assumptions. The scenarios ranged from the explosion of one nuclear weapon to an all-out nuclear exchange. Apart from the number of weapons used, other scenario parameters are, for instance, the explosive yield and height of burst of the individual weapons, the character of their targets, especially the population density in the target area, and climate and weather conditions. The results have usually been presented as estimates of the number of people killed and injured, as well as of material damage to built-up areas, loss of industrial capacity, and so forth.

291. Should large numbers of nuclear weapons ever be used, the total effect would be much larger and more complex than the sum of individual cases. Immediate damage may be enhanced by interactions of a direct and physical nature. Important additional uncertainties pertain to the overall social, economic and political aftermath of the sudden and widespread devastation that a nuclear war would entail. There are also long-term, large-scale physical consequences, including climatic effects, of a war involving many nuclear explosions. All of these large-scale consequences will affect non-combatant nations, partially on a global scale, for a long time after the war.

B. Effects of one nuclear explosion

292. The explosion of a nuclear weapon causes damage in several ways: intense thermal radiation, a powerful blast wave and nuclear radiation from the fireball and from radioactive fall-out. There is also a pulse of electromagnetic radiation

harmful to electrical systems. Of these, the fall-out has a delayed effect, while all the others are immediate. 1/

293. When a nuclear weapon is exploded above ground, the first noticeable effect is a blinding flash of intense white light. The light is emitted from the surface of the "fireball", a roughly spherical mass of very hot air (the temperature is of the order of 10 million°C) and weapon residues, which develops quickly around the exploding weapon and continues to grow until it reaches a maximum radius, which depends on the yield. %/ During this time, and for some time after, the fireball emits thermal radiation both as light and - mainly - heat. When the fireball rises, it cools off and is gradually transformed into a huge mushroom-shaped cloud. A column of dust and smoke sucked up from the ground forms the stem of the mushroom. After some 10 minutes, when the cloud is fully developed, it will have a height and a diameter of several kilometres, dependent on the yield. By then, about one third of the explosive energy has been released as heat. £/

Thermal radiation

294. The effects of thermal radiation would be manifold. Within and close to the fireball, everything would be vaporized or melt. The thermal radiation could be expected to kill or severely injure people directly exposed to it at relatively large distances. Materials that are easily ignited, such as thin fabrics, paper or dry leaves, may catch fire at even longer distances. This may cause numerous additional fires, which under some conditions may form a huge fire storm enveloping much of the target area and adding numerous further casualties. That was the case in Hiroshima, although it is considered less likely in modern cities. &./

295. The blast wave carries about half the explosive energy and travels much slower than the various forms of radiation, but always at supersonic speed. The arrival of the blast wave is experienced as a sudden and shattering blow, immediately followed by a hurricane-force wind directed outwards from the explosion. Near the explosion, virtually all buildings would be utterly demolished and people inside them killed. At somewhat larger distances, ordinary buildings would be crushed or heavily damaged by the compressional load as they would be engulfed by the blast overpressure and the wind drag. People inside could be crushed under the weight of the falling buildings, hurt by the flying debris of broken windows, furniture, etc., or even suffocated by the dense dust of crushed brick and mortar. All the primary blast destruction would take place during a few seconds. £/

296. Some of the energy in the blast is transferred to the ground, creating a shock wave in the underlying soil or rock strong enough to damage even fortified underground structures. The transfer of energy would become more efficient the closer to ground level the explosion occurs.

Nuclear radiation

297. Before any visible phenomena occur, the exploding device starts to emit an intense burst of neutrons and gamma rays. Virtually all of this radiation is

released during the first one or two seconds. It is rapidly attenuated with distance as it travels through the air. For an explosion similar to those over Hiroshima or Nagasaki, this radiation is strong enough to render human beings in the open unconscious within minutes at distances up to 700 or 800 m from ground-zero. £/ The exposed persons, if they survive the blast and heat, would die in less than one or two days from the radiation injury. The radiation received at a distance of 1,300-1/400 m from such an explosion would also be fatal but death may be delayed up to about a month. At 1,800 m or more from ground-zero few if any acute radiation injuries would be expected to occur. However, late radiation injuries may be induced by lower radiation levels. In addition, acute radiation sickness caused by non-lethal doses could trail off with a state of general weakness protracted over months and years. 7/

Electromagnetic pulse

298. Simultaneously, a small part of the gamma ray energy is converted to electromagnetic energy through interaction with the surrounding air and develops a strong electromagnetic field, which is also propagated outwards (see figure 1). This phenomenon, known as electromagnetic pulse (EMP), takes the form of a very short burst of electromagnetic waves in the radio frequency spectrum, up to at least 1 MHz, which trails off within about one thousandth of a second. Electronic equipment might suffer EMP damage even if it were not connected to any antennae. £/

Nuclear fall-out

299. The fireball, and later the cloud, contains most of the radioactive atoms, mostly fission products, that were formed in the explosion. While the total weight of these fragments is small, about 1 kg, their combined activity one hour after the explosion equals that of several thousand tons of radium (although the emitted radiation is somewhat different). This activity decays rapidly, however; during the first two weeks it decreases to one thousandth of what it was one hour after the explosion. As the cloud develops, the radioactive atoms are incorporated in larger particles formed by condensing vapours and mixed-in dust and dirt. The range of the radiation is relatively short compared to either the height of the cloud base or the size of the devastated area. For this reason, the radioactive particles in the cloud do not constitute a health hazard until they are deposited on the ground as radioactive fall-out. £/

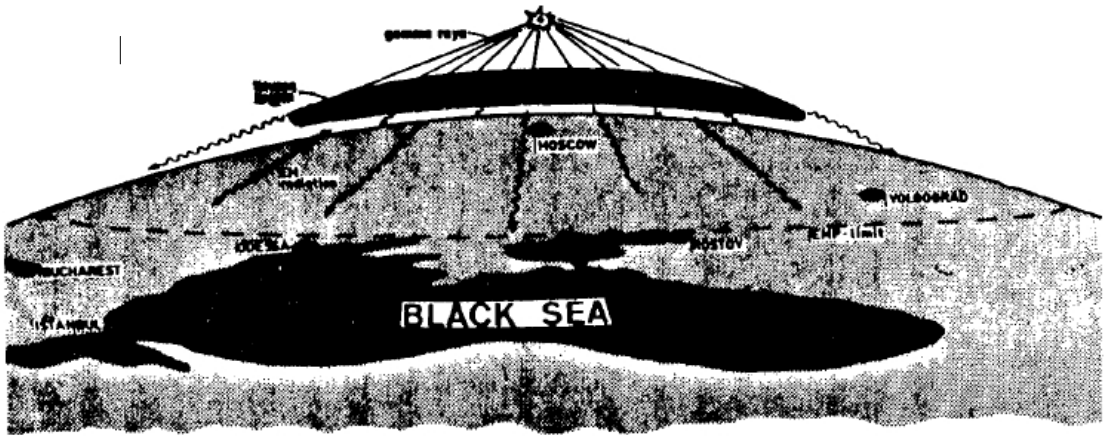


Figure 1. High-altitude el

300. The radioactive cloud drifts, changes shape and eventually disintegrates under the action of the winds at those altitudes where it is stabilized. At the same time, the particles carrying the activity subside with speeds that depend strongly on their size. In the case of an air burst, most particles will be very small and it may take from days to years for them to reach the ground. By that time they have lost most of their activity and have been scattered over a wide area. Fall-out over intermediate times may be denoted tropospheric, while the very slow deposition of particles injected into the stratosphere is usually referred to as global fall-out. This fall-out radiation does not cause any acute ill effects, but over the decades to follow it will contribute to the occurrence of "late effects" (additional cancers and genetic injuries). 10/

301. When the nuclear weapon explodes at or close to the ground, with the fireball in direct contact with the surface, thousands of tons of soil are injected into the hot vapours. Large (diameters up to one millimetre or more) particles then carry a significant part of the residual activity. These particles come down to earth in a matter of hours or even minutes and create an intensely radioactive contamination field in the downwind vicinity of ground-zero. This so-called immediate fall-out gives rise to acutely lethal radiation doses for unprotected people over large areas. The possibility of late radiation injuries in this area is also much larger than in the case of an air burst. 11/

302. The size of the areas affected by the various effects described above will depend primarily on the explosive yield and the height above the ground of the explosion. It is also influenced by other factors specific to each situation such as weather conditions. Some of these factors are not yet fully understood. 12/ Kind velocity is particularly important for fall-out.

303. It is generally considered that the area on the ground affected immediately would be circular. Its size increases with increasing yield but in less than direct proportion to it. Roughly, ten-fold or hundred-fold increases in the yield produce five-fold and twenty-fold increases respectively in the area devastated by air blast. 13/ The area exposed to a certain level of thermal radiation increases more rapidly with yield than does that affected by air blast. This implies that thermal effects - fires and burns - will become progressively more dominant with increasing weapon yields. Conversely, the initial nuclear radiation loses most of its importance when the yield increases.

304. Areas of damage caused by different effects will vary with the height of burst, generally decreasing somewhat with decreasing height. These variations are relatively unimportant in comparison to the most dramatic additional effect of explosions close to the ground surface, i.e. the generation of local radioactive fall-out, as described above. In a matter of hours, the fall-out will contaminate an area downwind of the explosion that is very large compared to that affected by blast and heat. The size of the contaminated area is expected to be roughly proportional to the fraction of the explosive yield due to fission, although the actual distribution of fall-out is determined by winds and precipitation. 14/

305. Another influence of variations in the height of burst relates to EMP. Surface or low air bursts will generate EMP that may have harmful effects on electrical and electronic equipment out to a distance of about 3-10 km from ground-zero, depending on the explosion yield and the equipment sensitivity. The strength of the EMP at the ground will then decrease with increasing height of burst up to an altitude of 10 to 15 km. When bursts occur at still higher altitudes, a strong EMP will again be experienced on the ground. This is due to the combined effects of atmospheric density variation in the altitude and the geomagnetic field. This EMP covers a wide area, since it extends outwards in all directions as far as the line of sight from the burst point. A nuclear explosion at an altitude of 80 km would affect a circular area with a radius of about 1,000 km. Thus a high altitude burst might cause EMP damage over entire countries while all other effects (except possibly flash blindness at night) would be negligible. 15/

C. Levels of immediate destruction in various scenarios

1. Effects of a nuclear explosion over cities

306. Many of the studies referred to above have described the immediate consequences of nuclear air bursts - often with high explosive yields - over large cities. The number of fatalities and level of destruction in such a scenario depend on many factors, including the size of the city and the distribution of its population in relation to weapon yield, the height of burst and ground-zero location.

307. That one nuclear weapon of relatively low yield can destroy a city of intermediate size and kill a large portion of its population was convincingly demonstrated in August 1945. The actual numbers of people killed or injured in Hiroshima and Nagasaki are still under debate. In the case of Hiroshima, between 310,000 and 320,000 people were exposed to the various effects of the atomic explosion. Of these, between 130,000 and 150,000 had died by December 1945 and an estimated 200,000 by 1950, if latent effects are included. In Nagasaki, the corresponding numbers are 270,000-280,000, 60,000-80,000 and 100,000. 16/

308. The 1980 United Nations study reported the consequences of a 100 kt low airburst over the centre of a European city with 0.5-1 million inhabitants. Scientists had estimated that such an explosion could kill up to half the population, that at least half of all buildings within a radius of 5-6 km would be destroyed by blast, and that roughly that same area might be ablaze with fires within an hour after the explosion.

309. Possible consequences of megaton explosions over large cities were summarized in the United Nations study in 1980 (see figures 2 and 3). The United States Congress Office of Technology Assessment (OTA) in 1979 and the World Health Organization in 1984, as well as several independent organizations, have also dealt with the subject. Assuming only airbursts, which means disregarding the possibility of local fall-out with its associated additional casualties, the following table summarizes the results:

Figure 2. A Hiroshima bomb burst over New York

Figure 3. 15 Mt air burst over New Y o r k

About 15 Mt air burst with tha same G2 as in the praeious illustration. Circles A and B, respecti vely, are the approximate limits for severe and modarate dammage to buildings. The thermal burn limit is off the map. Tha rectangle is the area depicted in the pravious illustration.

Source

City	Weapon yield (Megatons)	Casualties (Millions)		Source
		Killed	Total	
Detroit	1	0.5	1.1	OTA 1979 17/
Leningrad	1	1,0	2.0	OTA 1979 18/
New York	15		5.10	United Nations 1980 19/
London	1	1.5	3.4	WHO 1987 20/

310. As another example/ an independent study group at Princeton 21/ estimated the casualties that would result if the 100 most populated regions in the United States and the Soviet Union were exposed to one 1 Mt airburst each. This was estimated to cause up to more than 70 million casualties, of which about 90 per cent would be killed outright/ in the United States and even larger numbers in the Soviet Union. The resulting numbers may vary by a factor of up to 2, depending on what type of model is being used.

2. Consequences of a nuclear exchange

311. Most studies of the possible consequences of a nuclear exchange assume that a multitude of nuclear weapons are employed. These studies have some general points in common: (a) in any densely populated area, the ratio of civilians to military among those killed and injured would be very high; and (b) if ground bursts occurred, the number of casualties would rise significantly, owing to radiation injuries, since adequate shelters would not be available. The higher the yields of the explosions at ground surface the more important fall-out becomes. The number of civilians killed or injured by fall-out could far outnumber those affected by blast and heat.

312. Several studies have considered the consequences of a nuclear war in which all the weapons used are "tactical"/ having yields from 1 kt to some 100 kt, and are aimed at military targets. Xn some European scenarios/ the number of explosions has been taken to be more than one thousand, with a combined yield in the range of 20-100 Mt/ and the number of early deaths among civilians has been estimated to be between 10 and 20 million. 22/

313. Many studies of a major nuclear exchange, involving large numbers of strategic warheads, have been carried out, particularly in the United States. In these studies various scenarios have been described, generally categorized as either counter-force or counter-value strikes. 21/

314. In a counter-force strike, surface bursts would probably be used in large numbers, as they maximise the probability of destroying hard military targets, e.g. ICBM silos. The major cause of civilian casualties would then be early fall-out. Attacks against strategic bomber bases and strategic submarine bases might use air bursts and/ to the extent that these facilities were located close to population centres, blast and thermal effects would cause considerable damage in such areas.

315. The United States Congressional Office of Technology Assessment (OTA) study published in 1979 quotes United States government studies indicating that between 2 and 20 million Americans would be killed within 30 days after a counter-silo attack on the United States ICBM sites. 24/ The same study concludes that a comprehensive counter-force attack on the United States would produce about 14 million dead even if the present fall-out shelter capability were utilized. A United States counter-force strike against the Soviet Union would result in somewhat similar numbers of casualties, according to OTA. The majority of fatalities within 30 days of a counter-force attack would be caused by radiation due to early fall-out from surface bursts* 25/ Other studies are in approximate agreement with these results.

316. In the studies referred to above, extensive sheltering of the civilian population is assumed. An uninterrupted stay in shelter during several weeks would be required to avoid still larger casualties* This would cause serious problems of sanitation, food and water supply, air filtration, health, communication to the outer world, psychological tensions, and so on.

317. After a counter-force strike, economic activities, especially in contaminated areas, would be disrupted for months and perhaps years. Furthermore, radioactive fall-out would cause serious problems to agriculture. Livestock would have little protection against fall-out. A severe decline in the supply of meat and dairy products would therefore result after a certain period of time and many years would be required to build up new livestock. Radiation effects on crops would depend on the season, an attack in spring causing more damage than one in the summer or early autumn. Radioactive elements filtering down into the ground water would be taken up by plants and, through grazing, by cattle and other animals. Quantities of radioactive substances could then enter the human system through consumption of foodstuffs from contaminated areas and contribute to the total number of late radiation injuries (see sect. D below).

318. The national capacity for food production, processing and distribution would probably be even more severely affected by an extensive counter-value attack than by a counter-force strike. Destruction of storage facilities, processing plants and transport facilities would result in a general food shortage within a short period of time. The destruction of virtually all petroleum refinery capacity, pipeline systems, and so on would have immediate consequences for transportation, heating and electrical power production. A counter-value attack could well entail the successive decay, if not the complete collapse, of social and political institutions.

319. The task of the survivors after a large nuclear war would be beyond our comprehension and they could face the complete breakdown of international order. In these circumstances reconstruction might be all but impossible*

3. Consequences of damaging nuclear installations

320. The possibility must be taken into account that nuclear power industry installations, such as nuclear reactors, reprocessing plants or storage for spent nuclear fuel and radioactive waste, might be hit by nuclear explosions. Should this happen, most or all of their radioactive content might be surged into the explosion and add to the fall-out from the explosion itself. If one or a few such installations were destroyed, the additional amount of radioactive substances released would be limited. If, however, such installations were systematically targeted, the additional amount of radioactive substances released would be very substantial. 26/

321. The production rate of radioactive substances in a 1,000 MW nuclear electrical generating station is equal to that of one 60 kt atomic bomb every day, but after some time of reactor operation most of the short-life radiation would be limited to their saturation levels and the long-life radiation would dominate. In reprocessing plants and waste storages, only long-life radioactivity would remain. 27/ Because of this equilibrium, the activity released from a reactor would become gradually more important in comparison to that contained in the explosion debris as time goes by.

322. Systematic destruction of nuclear facilities would thus add marginally to the short-term radiation after the attacks, but after a week or so, the contribution from destroyed facilities to the radiation effects would dominate. In areas with many nuclear installations, like Europe, North America and Japan, destruction of these facilities would make large areas uninhabitable for a century or more. £&/ Comparison could be made with the Chernobyl accident, where part of the radioactive content of one reactor was released without the driving force of a nuclear explosion. 29/

D. Meflical effects

323. During the 1960s, considerable attention was given to the study and description of the medical aspects of nuclear war. Generally speaking, injuries related to nuclear explosions fall into three groups - mechanical, thermal and radiation-induced - although all kinds of combinations are likely. 30/ Psychological effects would be likely to add to social disruption in a nuclear exchange. Mechanical injuries (fractures, soft tissue wounds, crush injuries) as well as thermal injuries (burns), are well known to medical science in general. In a nuclear context, though, problems would arise from the huge numbers of casualties and lack of resources. Acute radiation injuries, on the other hand, are uncommon in peacetime. The symptoms are often unspecific, at least initially, rendering the diagnosis uncertain. No specific*remedies exist. In addition, delayed effects of radiation are quite different from acute radiation illness. 21/

1. Mechanical and thermal injuries

324. An explosion may cause mechanical injury by overpressure acting directly on the human body or by causing the person to be swept away or dragged by the blast wind and thrown against a hard surface. The number of casualties is likely to be much higher after a nuclear explosion over a built-up area as a result of heavier material destruction, such as collapsing building structures/ flying debris, and so forth.

325. Thermal injuries are mainly skin burns caused by the heat radiation (flash burns) or by fires ignited by this radiation (flame burns). In addition, the flash of heat and light might cause injuries to the eyes. Internal burns from inhalation of hot air or gases may occur in areas on fire, as well as toxic effects or asphyxiation from smoke and fumes. Flash burns, which are typical of nuclear explosions, are generated within a fraction of a second, whereas flame burns develop more slowly. The damage to tissue is not quite the same, as internal organs are more affected by the slower heating in flame burns. 32/

326. Moderate burns over 20 per cent of the body, or severe burns over 10 per cent, are considered to be grave even under circumstances favourable to treatment and healing. If no treatment at all is available, mortality from burn injuries will be very high. For instance, a 40 per cent burn might be fatal in one case out of five if medical treatment is optimal, but fatal in all cases if treatment is delayed for 24 hours. 33/

2. Radiation in-iuries

327. The most specific medical effects related to a nuclear explosion are the radiation injuries. 34/ Ionizing radiation from such explosions would always inflict some damage to biological tissue. Therefore, humans, animals and plants would be affected. Generally speaking, the larger the radiation dose, the more severe the resulting radiation injury to the organism. The injury to the individual caused by any given dose, would vary, however, depending on the species, age and general condition of the irradiated individual, the composition of the dose and the rate of irradiation.

328. Human radiation injuries can be of different types: acute radiation sickness, long-term effects that comprise an increased probability of late cancer and genetic effects, and short-term effects such as injuries in the prenatal stage and decreased immunological resistance.

329. A nuclear explosion would cause radiation injuries in several ways. Almost all of the initial radiation dose would be received from high-intensity radiation released within seconds in the immediate vicinity of the burst. This would be followed by the radiation from fall-out. The fall-out radiation emanates from particles outside the body, emitting harmful beta and gamma rays (external radiation). Large doses associated with early fall-out will be followed by lower intensity radiation received over a long period of time - from hours up to days, if it is possible to leave the area, otherwise much longer. There is some difference

in biological response, however: a slowly accumulated dose is generally considered less harmful than an equally large instantaneous dose, owing to recovery mechanisms. On the other hand, recovery mechanisms are overwhelmed in many cases of repeated exposure.

330. In addition to the external radiation, living tissue may be injured by radiation from radioactive substances in the fall-out that have entered the organism by breathing, eating and drinking. The radiation doses received from such internal sources are likely to be much smaller than early external doses from fall-out. On the other hand, internal doses might accumulate for long times in specific organs and may thus contribute significantly to late radiation injuries, in particular, cancers.

331. Some types of cells are more radio-sensitive than others, and consequently certain organs or functions are disturbed at lower dose levels than others. The stem cells in the bone marrow, which produce various types of blood cells, are highly radio-sensitive. Hence, the so-called bone-marrow syndrome, characterized by low levels of certain blood cells, including lymphocytes, dominates the radiation response of the human body at moderate dose levels. Before this syndrome appears, however, there are other, unspecific symptoms called "prodromal". The term "acute radiation sickness" covers the prodromal stage, the bone-marrow syndrome and the gastro-intestinal and neurovascular syndromes appearing at higher doses. 35/

332. For the reasons described above, an important form of treatment of radiation injuries would be to prevent or reverse infections by providing the patients with the cleanest possible environment, preferably in isolated wards, and by using antibiotics, antimycotics and blood transfusions. Resources of these kinds will most likely be scarce or unavailable in the aftermath of a nuclear war.

333. Those who survive an acute radiation injury stand a larger risk than others of contracting certain diseases, in particular various forms of cancer. These afflictions are called late radiation injuries, as they may remain latent for years or decades before manifesting themselves. Even if the radiation exposure was not large enough to cause a state of acute sickness, it would produce an increased risk of late cancer. Radiologists now estimate the cancer risk per unit dose to be about five times higher than previously thought. This means that 5 to 10 cases per man-gray 36/ are expected instead of 1 to 2 cases.

334. When the exposure is an essentially uniform, whole-body irradiation from an external source, the total risk mentioned above is the sum of specific risks for different types of cancer, among which leukaemia, lung cancer and possibly stomach cancer are the most common. Exposure to radiation from internal sources will add to the overall dose received by a particular organ. Certain radio-nuclides accumulate in some organs. £7/

335. Radiation at much lower dose levels seems to be harmful to the human foetus, especially during the first four months or so of gestation. An exposure in utero can give rise to malformations, mental retardation and increased susceptibility to serious diseases, including childhood cancers, in addition to an increased risk of pre-natal or neo-natal death.

336. Furthermore/ it is Jcnown that radiation affects the gonads (ovaries and testicles) and that radiation-induced mutations may then appear in the reproductive cells. It has been suggested that the changes may be transmitted to live offspring, thereby constituting a genetic damage that could become manifest in that or future generations. However, it is very difficult to assess the precise relationships between radiation doses and genetic damage in humans. The data available is insufficient to demonstrate genetic damage among the offspring of Hiroshima and Nagasaki survivors, for instance.

337. The 1980 United Nations study assumed in a "worst case scenario" that the source of radiation would be global fall-out from 10,000 Mt total explosive yield. It quotes one consequence of this to be between 5 and 10 million excess fatalities from cancer over a period of about 40 years. The recent scientific findings, as adopted by UHSCEAB, 38/ would indicate corresponding numbers of 25-50 million, with an additional number of non-lethal tumours (including thyroid cancer) totalling perhaps 10 million. The cases of hereditary ill health caused by radiation may number a million or so in the first two generations and several million over the indefinite future.

3. Other health effects

338. There are other long-term factors that must be taken into account. The need for medical care would obviously be most acute during the first hours or days following a nuclear exchange. For instance, one nuclear explosion could produce tens of thousands of burn victims. In view of the fact that the United States has facilities to treat about 2,000 serious cases of burns and Western Europe about 1,500, it is clear that even peacetime resources would be quite inadequate to manage the casualties. 39/ Moreover, peacetime resources will not be available, as the qualified medical services either would be destroyed by the nuclear explosions or, if they are intact, may be too remote from the scene to be efficiently used. 40/

339. Furthermore, it is likely that production of medical supplies would be severely disturbed if major cities were attacked. Shortages of antibiotics or vaccines, for instance, would affect the whole world. The same would most likely hold true for other products, such as pesticides and detergents, which are needed to maintain hygienic standards and to fight different vectors of epidemic diseases. The severe food shortages and starvation that would be likely to occur in the aftermath of a major nuclear war would add considerably to the detrimental effects on global health. 41/

E. Environmental and other global effects

340. It has long been recognized in principle that certain consequences of a major nuclear exchange would not be possible to limit to the territories of nuclear-weapon States, or the territories of other nations being included in the nuclear exchange. This fact has become more widely accepted during the last few years, concomitant with new findings that add further dimensions to the projections of the global aftermath of such an exchange.

348. In the first place, all countries in the world, combatants as well as non-combatants, would suffer a drastic reduction of foreign trade. This would be due to factors such as a decrease in production volume both of essential commodities and raw materials, disruption of services and breakdown of the organization of world commerce and communications. The world food supply and production would also be imperilled by trade disruptions. It is also expected that climatic perturbations would have some impact on agriculture in any major war scenario.

349. The 1980 United Nations study on nuclear weapons gave an indication of the possible global food situation after a nuclear exchange, without considering additional climatic problems. The 1985 study by the Scientific Committee on Problems of the Environment, !£/ however, provided more analysis of the vulnerability to losses of agricultural productivity and the potential for recovery of food production as well as various assumptions regarding the climatic disturbances. A simplified assessment was made for some 120 other countries. The results were, in brief, that very few countries had a capability to support their populations either in the short term, by using stored food, or in the longer term, by resuming or maintaining agriculture at the levels permitted by drastically reduced trade and by an altered climate. Between several hundred and about two thousand million people globally would be at risk of serious food shortages following a large nuclear exchange. The actual numbers of starving people, as well as the duration of the famines, depend on scenario assumptions. It is important to note, however, that famines, with possible mass death due to starvation, are likely to occur in non-combatant countries as well as in combatant ones, and even in countries remote from the theatres of war. The most vulnerable countries are developing nations in Africa, Asia and South America.

350. These conclusions of the SCOPE study are in general agreement with the findings of other independent studies, as well as with those of the 1980 United Nations study. They all note that eventually the victims of the indirect, large-scale and long-term effects of a major nuclear war would far outnumber the victims of the immedia.te effects of the nuclear explosions.

F. Possible protective measures

351. A number of nations, especially in Europe, have organized a civil defence to meet the demands of a conventional war, with or without additional features specifically designed for nuclear war situations. Basically, all measures aim at short-term needs.

352. Some of these measures could help to limit the number of immediate fatalities caused by a nuclear attack. In view of the large devastation that would be caused, however, especially if nuclear weapons were used directly against the population, available resources for post-attack relief could prove totally inadequate. The value of protective measures in the case of a major nuclear exchange is a matter of dispute. There are those, however, who contend that a war might turn out to be limited in some sense and that it would be reasonable to undertake such protective measures as are technically and economically feasible.

353. Civil defence could/ for instance, be very effective in saving lives that would otherwise be lost to fall-out in a limited attack against hard targets. On the other hand/ it would be far less effective in a war involving strikes against industry in cities/ or against the civilian population as such. This holds true for non-nuclear-weapon States as well as nuclear-weapon States in a nuclear war. Even in countries that do not themselves come under a nuclear attack/ civil defence would be needed to deal with fall-out from large numbers of nuclear explosions in neighbouring countries.

354. After a nuclear attack (and to some extent after fall-out contamination originating from an attack elsewhere) there would be a need for food/ energy, medical supplies, clothing and provisional housing. Crisis stockpiling of basic supplies would be an important precaution for dealing with these difficulties during the first days or weeks. However, allocation and distribution of emergency supplies would have to be carefully planned.

355. In discussing the question of civil defence, some analysts have endeavoured to compare the Chernobyl nuclear reactor accident of 1986 with the possible aftermath of a nuclear war. Although the circumstances would be different because Chernobyl involved only a release of radiation, with no associated blast damage, they believe this experience points to the kind of difficulties that would ensue after a nuclear exchange. For example, at Chernobyl the civil defence efforts were inadequate to deal with the situation. In a nuclear war, the magnitude of the problems related to civil defence would be greatly increased.

Notes

1/ For more detailed descriptions of a nuclear explosion of the type that was exploded in Hiroshima and Nagasaki, see the Committee for the Compilation of Materials on Damage Caused by the Atomic Bombs in Hiroshima and Nagasaki, The Impact of the A-Bomb. Tokyo, Iwanamu Shoten Publishers, 1985, pp. 59-84. For a theoretical scenario involving modern nuclear weapons, see Office of Technology Assessment, The Effects of Nuclear War. Washington, D.C., US Government Printing Office, 1979, pp. 13-48. For a technical discussion, see L. W. McNaught, Nuclear Weapons and Their Effects, London, Brasseys, 1984, chap. 3? as well as Samuel Glasstone and Philip J. Dolan, eds.. The Effects of Nuclear Weapons, Washington, D.C., US Government Printing Office, 1977, chaps. I-IV.

2/ For a weapon with a yield of 10 to 20 kt, i.e. that of the Hiroshima and Nagasaki bombs, the maximum radius is approximately 200 m and its development takes about one second.

3./ See McNaught, op. cit., pp. 26 and 27.

4/ Ibid.. pp. 37-46. See also Glasstone and Dolan, op. cit.. pp. 282-296 and chap. VII in general.

5/ See McNaught, **OP**. cit.. pp. 79 and 80. See also Glasstone and Dolan/ **OP**. cit.. pp. 45-48, and chaps. III-V for extensive discussions of air blasts and their effects.

Notes (continued)

6/ Ground-zero is the point on the Earth's surface where a nuclear weapon is detonated; for an airburst it is the point on the Earth's surface directly below the point of detonation.

7/ See McNaught^ **OP.** cit., pp. 49-58. See also Glasstone and Dolan, **OP.** cit.. chaps. VIII and IX.

£/ See McNaught/ op. cit., pp. 95-106. See also Glasstone and Dolan, op. cit., chap. XI.

%/ See Glasstone and Dolan, op. cit.. pp. 594-608.

lfl/ Ibid., pp. 36-38.

11/ Ibid., pp. 33-38.

12/ The uncertainties are illustrated by the bombings of Japan. The Hiroshima bomb, estimated to be 13 kt, killed and injured about twice as many people as a larger bomb, 22 kt, used in Nagasaki. The discrepancy between the two outcomes has been attributed to the different topography of the two cities.

13/ See Glasstone and Dolan, op. cit.. pp. 96-105.

14/ Ibid.. pp. 604-613.

15/ See ibid.. chap. XI, for an in-depth discussion of the electromagnetic pulse and its effects. See also McNaught, op. cit.. pp. 95-106, for a short technical discussion.

1£/ See The Impact of the A-Bomb. op. cit., pp. 22 and 25, for Hiroshima and pp. 47 and 48 for Nagasaki casualty figures.

17/ The Effects of Nuclear War, op. cit., p. 37.

13./ Ibid.

19/ Numerical estimates were made for the United Nations Study Group at the Swedish National Defense Research Institute.

20/ World Health Organization, Effects of Nuclear War on Health and Health Services, 2nd edition, Geneva, WHO, 1987, p. 22.

21/ W. H. Daugherty, B. G. Levi and F. N. von Hippel, Casualties Due to the Blast, Heat and Radioactive Fallout from Various Hypothetical Attacks on the US, Princeton University, Center for Energy and Environmental Studies Report No. 198, 1986.

Notes (continued)

22./ See Comprehensive Study on Nuclear Weapons, **OP**. cit;-. paras. 198-212. See also C. F. von Weizsacker, ed., Krieqsfolaen und Krieosverhutuno. Munich 1971; Ambio (Journal of the Swedish Royal Academy of Sciences)/ Vol. XI, 2-3 (Special Issue) 1982, pp. 163-173; WHO, Effects of Nuclear War on Health and Health Services, **OP**. cit.

__ 23/ See Charles-Philippe David, Debating Counterforce, Boulder, Westview Press, 1987, especially pp. 165-214.

__ 24/ The Effects of Nuclear War, **OP**. cit. This study does not specify the numbers, yields and heights of burst of the nuclear weapons employed. Sather it is assumed that the attacks are sufficient to destroy all or a certain part of the other side's nuclear weapons installations.

____

25/ Ibid.. pp. 31 and 32.

26/ See Bennett Ramberg, Nuclear Power Plants as Weapons for the Enemy, Los Angeles, University of California Press, 1980. See also WHO, Effects of Nuclear War on Health and Health Services, op. cit., pp. 50 and 51.

27/ S. A. Fetter and K. Tsipis, Scientific American, 244, 33 (1981); J. Peterson, The Aftermath, Pantheon, New York, 1983; J. Rotblat, Nuclear Radiation in Warfare. SIPRI, Taylor and Francis, London, 1981.

28/ See Ramberg, op. cit., pp. 71-109.

29/ See David R. Marples, Chernobyl and Nuclear Power in the USSR, New York, St. Martin's Press, 1986, pp. 115-152, for a discussion of the accident at Chernobyl.

__ 30/ Effects of Nuclear War on Health and Health Services, op. cit.

31/ For a discussion of the medical effects of nuclear war, see the WHO study, op. cit.; the National Academy of Sciences and Institute of Medicine, Frederic Solomon and Robert Q. Marston, eds.. The Medical Implications of Nuclear War. Washington, D.C., National Academy of Sciences Press, 1985; Ruth Adams and Susan Cullen, eds.. The Final Epidemic. Physicians and Scientists on Nuclear War, Chicago, Educational Foundation for Nuclear Science, Inc., 1981; also Saul Aronov, Frank R. Erwin and Victor W. Sidel, eds.. The Fallen Sky - Medical Consequences of Thermonuclear War. New York, Hill and Wang, 1963; Glasstone and Dolan, op. cit., for biological effects of nuclear weapons, chap. XII.

32/ See Glasstone and Dolan, op. cit.. pp. 560-574. See also Jennifer Leaning, "Burn and Blast Casualties: Triage in a Nuclear War", in Solomon ____ and Marston, eds.. The Medical Implications of Nuclear War, ppt cit»> PP* 251-283.

33/ Ibid.

Notes (continued)

34/ For a discussion on radiation, see Effects of Nuclear War on Health and Health Servings, op. cit.. pp. 18-20; Glasstone and Dolan* op. cit.. pp. 541-618; The Impact of the A-Bomb. **OP**. cit., chaps. 5, 6, and 8; Patricia Lindop and Joseph Rotblat, "Consequences of Radioactive Fallout" in Adams and Cullen, op. cit.. pp. 117-150; Joseph Rotblat, "Acute Radiation Mortality in a Nuclear War", and David Greer and Lawrence Rifkin, "The Immunological Impact of Nuclear Warfare", both in Solomon and Marston, op. cit., pp. 233-250 and pp. 317-328.

35/ The LD 50/60, i.e. the dose that causes 50 per cent fatalities within 60 days, has been repeatedly revised downwards. In a situation where medical treatment is not available, it is now thought by radiologists to be about 2.3 Gy to the bone marrow. Under similar conditions, doses above 4.5 Gy should be considered lethal, with death generally occurring within a few weeks. Gy stands for gray, which is the internationally accepted unit for radiation dose. With regard to radiation from a nuclear explosion or from early fall-out, gray is approximately equivalent to sievert.

36/ Man-sievert is a common unit for "collective equivalent dose", i.e. the average equivalent dose to a group of people, multiplied by the number of people in the group.

37/ In this regard, it is of particular importance, especially for children, to prevent radioactive iodine-131 from entering the body within the first weeks or so, since it concentrates in the thyroid glands, with subsequent high risks of contracting thyroid cancer. If strontium-90 and caesium-137 are in ingested food, strontium will be deposited in the bone, causing possible bone cancer, leukaemia, etc., and caesium will be distributed roughly evenly throughout the body. See Glasstone and Dolan, **OP**. cit.. pp. 583-587.

38/ Sources. Effects and Risks of Ionizing Radiation, United Nations Scientific Committee on the Effects of Atomic Radiation 1988 report (United Nations publication. Sales No. E.88.IX.7).

39/ See Leaning, op. cit.. and John Constable, "Burn Casualties", in Adams and Cullen, op. cit.. pp. 182-191.

40/ For example, in Hiroshima, more than 90 per cent of physicians and nurses in the city were killed by the explosion.

41/ See Alexander Leaf, "Food and Nutrition in the Aftermath of Nuclear War", in Solomon and Marston, op. cit.. pp. 284-289.

42/ See Paul R. Ehrlich, Carl Sagan, et al., eds., The Cold and the Dark - The World After Nuclear War. New York, Norton, 1984, in particular Carl Sagan's chapter on "The Atmospheric and Climatic Consequences of Nuclear War", pp. 1-40. See also the National Research Council, The Effects on the Atmosphere o* a Maior Nuclear Exchange. Washington, D.C., National Academy Press, 1985.

Notes (continued)

41/ Study on the Climatic and Other Global Effects of Nuclear War (United Nations publication, Sales No. E.89.IX.1), paras. 22-24.

44/ Then Director of the United States Arms Control and Disarmament Agency* Fred Ikle, is quoted in the Bulletin of Atomic Scientists. May 1975, p. 32, as saying:

"We do know that nuclear explosions in the Earth's atmosphere would generate vast quantities of nitrogen oxides that surround the Earth. But we do not know how much ozone depletion would occur from a large number of nuclear explosions - it might be imperceptible, but it might be almost total. We do not know how long such depletion would last - less than one year, or over ten years. And above all, we do not know what this depletion would do to plants, animals and people. Perhaps it would merely increase the hazard of sunburn. Or perhaps it would destroy critical links of the intricate food chain of plants and animals, and thus the ecological structure that permits man to remain alive on this planet. All we know is that we do not know."

45/ Mark A. Harwell and Thomas C. Hutchinson, SCOPE 28t Environmental Consequences of Nuclear War, Vol. II. Ecological and Agricultural Effects. Chichester, John Wiley, 1985.

Michigan Faith and Resistance
gratefully acknowledges the contributions and assistance
of the following groups and individuals:

Basilian Fathers, Human Development, Canada
Foundation 'Ban the Cruise Missiles', The Netherlands
Lansing Area Constitutional Liberties Fund
Covenant for Peace, Lansing
Williams International Peacemakers Defense Fund
Home for Peace and Justice, Saginaw
The Lawyers' Committee on Nuclear Policy
The Buck Dinner Committee
Cine City Pictures, California
Office of Peace and Justice, Diocese of Lansing
People for Peace in the Middle East, Lansing
National Lawyers Guild, Lansing Chapter
Peace Study/Action Committee, First Methodist Church, Ann Arbor
St. Mary's Church, Adrian
American Civil Liberties Union, Lansing Chapter*
Social Concerns Committee,
Unitarian/Universalist Church, Clark Lake
Central United Methodist Church, Detroit
Ingham County Women's International League for Peace and Freedom
Women's Action for Nuclear Disarmament, Lansing
Cranbrook Peace Foundation

Michigan Faith and Resistance Regional Contacts
Attorneys Jeffrey Ellison, Zolton Ferency,
Peter Ingelse and Kary Love

Declarants: Daniel Axelrod, Francis A. Boyle, C. Peter Dougherty, Carol Gilbert, Ann Fagan Ginger, Ardeth Platte, Paul Francis Walker and Peter Weiss

Staff Attorneys: Deborah Choly and Anabel Dwyer

Elizabeth Walters, I.H.M., David Dwyer, John Zettner
Religious Congregations of Sisters State-Wide

Georgeen d'Haillecourt, banners and logo
Amy Best, support staff
Neahtawanta Inn, Traverse City, Bob Russell, graphics

The many hundreds of petitioners and financial contributors.

* For civil liberties issues