



The Center on  
Conscience & War

# The Reporter for Conscience' Sake

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## CCW Persists in Uncertain But Hopeful Times!



(GBCS Photo by Michelle Brooks)

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J. E. McNeil and the Center staff, along with other Washington faith leaders and staff, meet with Joshua DuBois and Mara Vanderslice from the White House Office for Faith-Based and Neighborhood Partnerships at the United Methodist Building on April 17. McNeil had a chance to confirm that President Obama is committed to voluntary service in his pitch for National Service.

The White House staff have shown a real commitment to listening to the faith community. They take our message to the President and look for a clear direction. In this picture you see Joshua Dubois discussing the problems of mandatory service with J. E. McNeil with Rachelle Lyndaker Schlabach, the Director of the Washington Office of the Mennonite Central Committee.



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*Founded in 1940, the Center on Conscience & War works to extend and defend the rights of conscientious objectors to war. In pursuit of this calling, the Center provides these services free of charge:*

- Counsel military conscientious objectors.
- Provide legal support for military personnel.
- Lobby Congress to extend and defend the rights of conscientious objectors.
- Provide accurate information to the public on Selective Service registration.
- Provide support to COs who refuse to register for the draft through F.E.A.T student loans.
- Counsel soldiers on the GI Rights Hotline with accuracy and honesty.
- Military counter-recruitment information
- Provide workshops, training, and speakers on any of the above topics.

## News Briefs

### Reports Of Sex Assaults Rose in 2008 in the Military

More people came forward to report sexual assaults in the military last year, but a significant percentage would not give crucial details needed for an investigation, the Pentagon said on March 17.

The Pentagon said it received 2,923 reports of sexual assault across the military in the 12 months that ended Sept. 30. That is about a 9 percent increase over the totals reported the year before but only a small fraction of the crimes presumably being committed. Only a small number of the cases went to military courts, officials said.

The Pentagon office that collects the data estimates that 10 percent to 20 percent of sexual assaults among members of the active duty military are reported, a figure similar to estimates of reported cases among civilians.

The military statistics, required by Congress, cover rape and other assaults across the approximately 1.4 million people in uniform.  
*(Associated Press, 18 March 2009)*

### Cyprus Battles over Reduction of Conscription Term

Nobody is stopping the government from reforming the National Guard and reducing military service, DISY deputy Socrates Hasikos said on March 12. Hasikos was responding to recent statements by Defence Minister Costas Papacostas, who said parliament's rejection of his proposal on how to go about reform and service reduction would prevent these changes from ever happening. "The parties couldn't and can't prevent the government from realising its promise to reduce military service," said Hasikos. "On the contrary, all parties agree the army should be reformed and military service reduced." He wondered why the government had decided to postpone its decision to do it. "We won't accept that just because the parties expressed certain disagreements or concerns, that the promise of it being made a reality just stops." Hasikos also wondered why in other burning matters, such as Cyprus joining the Partnership for Peace, the views of the

vast majority of the public hadn't been taken into consideration. "I am saying this in order to clarify without a shadow of a doubt that nobody is opposed to a reduction of military service," he said. "If the government believes in its pre-election promises, it can realise them at any given moment." In response, AKEL deputy Aristos Aristotelous said DISY played a primary role in stalling plans for the reform. He added that the government had secured the advice of experts on whether the reduction was feasible, but as the majority of the House Defence Committee had rejected its proposals, plans had to be stalled. "The opposition has young conscripts to answer to; on one hand, DISY is telling the government not to go ahead with reforming the National Guard and reducing military service and on the other, it keeps promoting and supporting a reduction of military service to 14 months," said Aristotelous. "While [DISY presidential candidate] Ioannis Kasoulides' promised to reduce army service prior to the elections, the party is now finding excuses. They need to be honest and not say one thing and act otherwise."

*(The Cyprus Mail, 13 March 2009)*

### Taiwan Announces End to Military Conscription

On March 9 Minister of National Defense, Chen Chao-ming, announced that Taiwan's military will become an all-volunteer force within five years. Speaking to a military committee under the Legislative Yuan, Minister Chen explained that the process would commence on 2011 and by 2014 all divisions of the R.O.C. Armed Forces will be filled with career soldiers instead of conscripts. In the future, local men will only be required to serve four months of basic military training. A decade or two ago many men could look forward to a military term of at least two years. The inductees were first separated into "A" and "B" groups depending on physical strength and other factors. Then lots were drawn to determine the length and location of military service. Some unlucky conscripts drew terms as long as three years in places such as the front-line island of Matsu. Over the years the length of conscription has been reduced to where today, a young man will generally only have to serve a one-year term.

*(The China Post, 13 March 2009)*

## Patrick Spahn Joins CCW

Hello, my name is Patrick Spahn and I will be volunteering at CCW until January 2010. I am from the north of Germany and got the opportunity to volunteer in this project through the German organization EIRENE and their partner Brethren Volunteer Service in the United States. When I go back to Germany, I will start to study social work.

I am very thankful and glad that I am here at the Center on Conscience & War in Washington, DC, to be a part of this office to help people to follow their conscience. I am a German CO and completed my Civilian Public Service before I came to DC.

There are so many differences when you compare the German Bundeswehr (military) with the U.S. military. In Germany, the young do not have so much pressure to join the army, the recruiters are not that aggressive, and very few people join the armed forces out of social or economic desperation. And as far as I see, the main difference is the glorification of service members who are defending the country.

Since two world wars started from German soil, we are very skeptical every time the German troops go into a war like Afghanistan and skeptical about every new tank the Bundeswehr buys.

I am a CO and I never really questioned that. I was raised to believe that it is always possible to find nonviolent solutions for conflicts, in minor things like having an argument with my bigger sister or even in politics.

In Germany, the consequences of World War II are seen everywhere. Entire cities have been destroyed and some buildings are still not totally rebuilt as a memorial against the war, which you can see in nearly every large town. A former small concentration camp, now a memorial, is just 15 miles away from my hometown. Seven thousand former concentration camp occupants died a few miles away from my hometown, which directly borders the Baltic Sea, while they tried to flee out of Germany. I grew up with that cemetery in my hometown. We invited former occupants of Auschwitz to our school to tell us their story.

All of this has made me believe that there shall never be such a

war, or any war, or genocide again, not from German soil, not from any soil.

I also grew up close to the (East) German–(West) German border. I was only five years old during 1989-90, and can't really remember the things happened. But I know that the geographical border of the "Cold War" was only 25 miles away, and that the intra-German conflict was solved because of good diplomacy for three decades and a sizeable peaceful movement in the former Communist part of Germany. The pressure to the government became too big, and the separation ended.

This is an example of how a peaceful solution is possible.



Patrick Spahn

## Jason Allen Interns at CCW

My name Jason Allen, and I will be interning for the Center on Conscience & War as part of my Fellowship requirement attending Cesar Chavez School for Public Policy. In school I take the class U.S. Constitution and Civil Rights, which is taught by the principal of our school. We do mock trials and study the limitations of citizens' rights, executive privilege, and other subjects involving things like *habeas corpus*. Through Fellowship (mandatory project for juniors where we get to experience working for an organization as an intern), I wanted to extend my interests in public policy by picking an organization that I felt would help improve my leadership skills and expand my knowledge on certain public policies I knew little or nothing about. The organization that fit this

category was the Center on Conscience & War. So in just my first day of interning, the whole aspect of war—the violence, the death, and the glory—have all been made conspicuous to me. In my past, I have sparingly thought of how war affects me and previously I did not care much because I did not believe in the war in Iraq. And just like others, I did not want to be aware of the hardships of war. My interning at the Center on Conscience & War is making me conscientious about war and the presence of conscientious objectors. I think the experience of being an intern will definitely help in the future. Graduating high school will be the easy part, but in the future my aspiration and efforts allow me to envision myself going to a college/university such as Williams College. The thought is the catalyst to the action, and that is what I will start with. This leads me to my next thought: This is a great opportunity and I welcome all the experiences that come with it. This internship will prepare me for the moment I step on the welcome mat of the real world.

Thank you J. E. McNeil and the rest of the staff of the Center on Conscience & War.

# “Spreading the word...”

## Hope for Non-registrants on the Horizon: Court Strikes Down Discriminatory Law in *Elgin v. U.S.*

In January, Douglas P. Woodlock, U.S. District Judge in Massachusetts in *Elgin v. U.S., No. 1:07-cv-12391 (D. Mass.)*, ruled that the law that denies employment to non-registrants over the age of 26 is unconstitutional. The case was brought on behalf of 4 plaintiffs who had been fired from federal jobs, or denied employment, because they hadn't registered with Selective Service, and all similarly situated people in the US. The four named plaintiffs are over 26 years of age and therefore are not allowed to register. That makes the law an unconstitutional Bill of Attainder, Woodlock found.

A Bill of Attainder is a law that punishes a person prior to due process of law. These laws violate a basic principle that we were all taught in grade school that under U.S. law, someone is presumed innocent, and therefore shouldn't be punished, unless proven guilty in a court of law.

In the mid-1980's, Congress passed several pieces of legislation that deny federal benefits to anyone who is required to register with Selective Service and fails to do so. These laws turned the principle of presumed on its head, and punished anyone who couldn't verify that they had complied with the law. One of these laws denies to non-registrants employment in a federal “Executive Agency,” where most federal jobs are.

The Center has consistently held that these laws were unfair to conscientious objectors and unconstitutional. Previous efforts to overturn them, *Rostker v. Goldberg*, 453 U.S. 57 (1981) and *Selective Service System v. Minnesota Public Interest Group (“MPIRG”)*, 486 U. S. 841(1984) were unsuccessful. In *Rostker* the Supreme Court held that since the Constitution gives Congress the authority to raise and maintain an Army, and women were not allowed in combat, there was no equal protection claim. In *MPIRG*, the Supreme Court held that the issue of a Bill of Attainder was not ripe. As the Court in *MPIRG* said, the nonregistrants “held the key to the jail house door” since they were under 26 and could resolve this issue merely by registering with Selective Service.

*MPIRG*, however, left open the question of whether the law was a Bill of Attainder for a person over the age of 26 who failed to register and was denied benefits under one of the laws.

In order to find a law to be a Bill of Attainder, it must have several distinct characteristics. It must be punitive. It must be for a past action that cannot now be remedied. And the punishment must be enforced without the benefit of a judicial hearing. Among the evidence considered by the judge was a proposed

change to the law (which did not pass) which would have ended the punishment at the age of 31, when the statute of limitations would run out for prosecuting a non-registrant. The judge cited testimony by Selective Service to Congress in favor of the change.

“It is the position of the Selective Service System that the existing lifelong ban on federal employment for individuals who failed to register...serves no useful registration purpose or any public policy benefit.’ In short, the agency charged with administering the draft has apparently concluded that the measure serves no nonpunitive remedial purpose in encouraging compliance with the registration process. I share the view that the plain purpose of the statute is not remedial but punitive.”

The judge went on to quote from the Congressional Record account of the debate on the bill when originally proposed to show that the intent of the law was, in fact, punitive.

The court also pointed out that “individuals affected by [this law] receive no meaningful judicial evaluation before being terminated or deemed ineligible for federal agency employment. Indeed, no judicial oversight at all is available.”

He went on to observe that the decision-making procedure regarding Selective Service registration is particularly rigid. He gave examples of bad decisions concerning this, such as someone who was out of the country from the age of 4 till he was 26 and therefore was denied employment because he hadn't registered—and someone who joined the military at the age of 17 and stayed in until he was over 26 and who was denied a government job because he hadn't registered.

“The statute's punishment is imposed after a ‘trial’ by legislation...without any judicial role...I conclude that no circumstances exist that would permit Congress, in contravention of the Constitution's Bill of Attainder Clause, to prohibit nonregistered males age twenty-six and older from federal agency employment for their lifetimes without judicial decisionmaking.”

This is a very strong statement by a federal judge declaring this law to be an unconstitutional Bill of Attainder. But it's only a district court decision, and the case is not over yet. The plaintiffs have filed motions for a preliminary injunction so they can get the jobs that they've been denied. Their lawyer has also filed to have the case certified as a class action, which would give it a much larger impact. The government is expected to file a motion to reconsider. A hearing is scheduled in May to consider all of these motions.

The plaintiffs also claimed that the male-only registration was a violation of equal protection, but the judge dismissed that claim, affirming *Rostker*.

# “Supporting our community...”

## Selective Service Changes Unfair Procedures at Center’s Behest

In early February, the Center received a call from Selective Service informing us that they had decided to make a change to their procedures—a change the Center has been urging for quite some time.

The Registrant Integrated Processing Manual (RIPS), Selective Service’s procedures manual, provides that when a draft is reinstated and someone is selected by the lottery, they will be sent an order to report to a Military Entrance Processing Station for a physical examination. If they pass the physical, they will be given 10 days to file all claims (hardship, conscientious objection, etc.). And if they don’t file any claims for exemption from military service, they will likely be sent an order to report for induction shortly after that 10-day period.

Recognizing that some conscientious objectors may object to reporting and subjecting themselves to military control for the physical, the procedures correctly allow for these COs to waive the physical. However, RIPS states that a conscientious objector who waives the physical ALSO waives his right to file for ANY other classification. For example, should a hardship to his dependants develop he would not be allowed to apply for a hardship deferment. However, had his conscience allowed him to subject himself to military control for the physical exam, he could file a hardship claim.

Since this Manual was first proposed, CCW has maintained that this restriction was neither fair nor legal and has urged that these COs be treated the same as other potential draftees and allowed to file for any classification for which they might qualify.

A representative of Selective Service informed the Center in early February that, “Upon reviewing the procedures it did appear to be punitive and there was no reason for that.” Therefore, conscientious objectors who waive the physical will now be allowed to file claims just like everyone else.

“I am glad that our perseverance on this and other issues has paid off to protect the rights of any future draftees,” announced J. E. McNeil, Executive Director of the Center. “Even though we see no signs of a draft in the immediate future, it is our job to make sure that any regulations be fair and in line with the law. We are always glad when Selective Service sees things our way.”

In the fall, Selective Service had approached the Center and several other groups to say that they were reviewing their policies and procedures and were planning to make some revisions. They told us that if we had suggestions for what they should change, they were open to considering them. In response, the

Center once again pointed out this injustice, and Selective Service made the change.

The Center made a number of other suggestions to Selective Service to ensure that a draft be as fair as possible and not impinge on the rights of COs.

Many of the changes we suggested pertain explicitly to conscientious objectors. For example, COs are required to appear at in person, and if they don’t their CO claim will be considered “abandoned.” Selective Service does not provide travel reimbursement for those attending hearings. This could present a hardship for those who must travel a distance to the hearings. We proposed either travel assistance or the ability to waive the mandatory personal appearance.

We also pointed out that when a hardship to someone’s dependants develops for those in the military that is expected to last more than a year, they are discharged with no further military obligation. However, if a CO performing alternative service is in the same situation, they can get a “suspension” of their service for up to a year, and have to reapply for this suspension each year until they turn 26. We suggested that Selective Service treat COs the same as those who are in the military.

We once again urged that people be allowed to register as conscientious objectors. And we advocated for other improvements in the procedures that would help everyone facing the draft, not just COs. For example, currently making a recording or transcript of the personal appearance is prohibited. We argued that an accurate record of the proceedings will improve fairness.

Selective Service is expected to announce other changes this spring. Hopefully we will see additional impact from our advocacy.

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# “Shining light into darkness...”

## Recruiter Misconduct Increases as Pressure from the Top Grows

As part of the GI Rights Network Hotline, the Center receives calls every day, not just from conscientious objectors but from men and women who joined the military based on lies and kept from walking away based on threats.

Recently, we received a call from a young man who joined the Army reserves over a year ago. This last year had been one of change for him, however. He had fallen in love and proposed to a woman with a toddler. He began the proceedings to adopt the child as his own. Then his brother was killed in an accident. His mother was still reeling from grief when he received orders to report for training. He asked for a delay in training and it was refused. Finally, as part of the process of the adoption, it was determined that the child was Autistic and needed intensive care. This was when he called the GI Rights Hotline. We told him that as he had yet to go to training, he therefore was still in the position of being eligible to be, for all intents and purposes, voluntarily discharged by refusing to train.

When he failed to report for training, his recruiter called and threatened him. Then the recruiter, knowing the regulations posed not threat to the recruit in his circumstance, called his mother and said, “Lady, you just put one son in the ground and now you are trying to put another behind bars.”

Since the recruiting “drawdown” a few years ago when the Army suspended recruiting for a day so all Army recruiters could attend seminars on ethics, military recruiting abuses haven’t been in the headlines as much. The “drawdown” was in response to a highly publicized case in which some intellectually disabled people, who clearly didn’t meet the Army’s enlistment standards, were recruited into the Army. Interestingly, during the drawdown, the Center received reports from across the country that when the recruiters went out for their lunch break, they would—in violation of the order to suspend recruiting—try to recruit in the fast food places where they went to eat.

In recent years, the Military has increased the number of “moral” waivers for new recruits--it also now accepts a higher number of folks without high school diplomas. In Nov. 2007, The Boston Globe reported, “But Pentagon statistics show the army met [its] goal by accepting a higher percentage of enlistees with criminal records, drug or alcohol problems, or health conditions that would have ordinarily disqualified them from service.” That same month the Associated Press reported, “The military has punished nine Marine Corps recruiters who arranged for stand-ins to take Armed Services entrance exams for new enlistees.”

In November 2006, WABC in New York sent ‘undercover’ students to recruiting offices with cameras. Over half of the recruiters lied to these potential recruits, with many of them stating either that the war is over and we’re not sending troops over there any more or that if you choose a certain job placement you won’t go to war.

These are stories that we have been hearing since 2001. But the recruiters are now going to new lengths.

In an interview in Harpers Magazine (July 27, 2006) Eli Flyer, retired Pentagon senior military analyst and consultant to U.S. armed forces on personnel issues said:

*It is widely known that some recruiters will go to extraordinary lengths to help qualify applicants for military service. Providing a fraudulent high school diploma, ignoring an arrest record or a history of mental disorder, coaching for an aptitude test or medical exam—all these unacceptable recruiting practices, and many more, will be used by some recruiters to meet their quotas. A shortage of applicants leads to an increased pressure on recruiters to disregard regulations and use unacceptable methods to meet their quotas.*

(Flyer has spent the last fifty years analyzing the relationship between military recruiting and military misconduct; of note is his 2003 report to the Pentagon, “Reducing the Threat of Destructive Behavior by Military Personnel”)

### ***Why would a recruiter go to these extremes?***

On April 2, 2009, Time.com posted an article about why Army recruiters are literally killing themselves. Suicide rates among recruiters are at a new high.

*Lawrence Kagawa retired last July after more than 20 years in uniform; he spent the latter half as a highly decorated recruiter, and his tenure included a stint in the Houston battalion from 2002 to 2005. “There’s one set of values for the Army, and when you go to Recruiting Command, you’re basically forced to do things outside of what would normally be considered to be moral or ethical,” he says.*

*Because station commanders and their bosses are rated on how well their subordinates recruit, there is a strong incentive to cut corners to bring in enlistees. If recruiters can’t make mission legitimately, their superiors will tell them to push the envelope. “You’ll be told to call Johnny or Susan and tell them to lie and say they’ve never had asthma like they told you, that they don’t have a juvenile criminal history,” Kagawa says. “That recruiter is going to bend the rules and get the lies told and process the fraudulent paperwork.” And if the recruiter refuses? The commander, says Kagawa, is “going to tell you point-blank that ‘we have a loyalty issue here, and if I give you a “no” for loyalty on*

# “Extending the rights of conscience...”

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*your annual report, your career is over.’*

*“It’s not surprising, then, that some recruiters ignore red flags to enlist marginal candidates. “I’ve seen [recruiters] make kids drink gallons of water trying to flush marijuana out of their system before they take their physicals,” one Houston recruiter says privately. “I’ve seen them forge signatures.” Sign up a pair of enlistees in a month and a recruiter is hailed; sign up none and he can be ordered to monthly Saturday sessions, where he is verbally pounded for his failure.”*

Not all recruiter misconduct is so sinister, however. Recruiters are not supposed to give recruits gifts other than tokens provided by the command or allow the recruits to use weapons. But recruits are routinely allowed to drive government Humvees, do weapons “training,” and are taken on lavish outings such as a recent occasion in Washington DC when recruits were taken to the \$300-a-seat section of the Nationals baseball park where there was free food and drinks.

Even though all the regulations in all of the branches forbid all of the conduct outlined above, this kind of misconduct will not go away until the day that the military is truly all voluntary and recruits can walk away when they realize they have been conned.

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## Tell Israel to Honor the Rights of Conscience

On April 26—just days before Israel’s independence celebration and Arab lamentation of the Palestinian exodus—seven Israelis were arrested for questioning under suspicion of violating Israeli law by inciting evasion of conscription into the Israel Defense Forces (IDF). The police suspect them of operating two websites, New Profile and Target 21, to which people have posted articles encouraging refusal of conscription into the IDF.

The associates were also involved in counseling conscientious objectors on information about Israeli law and guidance on how to assert their convictions.

The superintendent of the Yarkon District Police arrested the people says it was a result of an investigation into the operators of the two websites.

They were released on bail April 26 after agreeing not to have contact with one another for at least 30 days as well as having their computers confiscated. They have not been charged with any violation of Israeli law.

Article 18 of the International Covenant on Civil and Political Rights obliges all nation-states to recognize the right to con-

scientious objection. The only provisions in Israeli law that address this international standard are Articles 39 and 40 of the Defence Service Law. Article 39 stipulates: “A female person of military age who has proved, in such manner and to such authority as shall be prescribed by regulations, that reasons of conscience or reasons connected with her family’s religious way of life prevent her from serving in defence service, shall be exempt from the duty of that service.” Article 40 further requires applicants to be committed to a traditional religious life, which includes observing Shabbat and the Kosher dietary restrictions at all times.

No language in Israeli law provides for the exemption of men from service in the IDF for reasons of conscience. It does provide for exemption for being unsuitable for military service, however. In 1995, the IDF established a “Conscience Committee” to review claims of conscientious objection based upon this provision. The number of applicants has not been large and, according to an Israeli civil rights group, did not exceed a couple dozen a year from 1998 to 2000. (Statistics for other years are unavailable.) Many times, Israeli citizens are unaware of this committee and, even though required by regulations, members of the IDF do not refer conscientious objectors to this committee.

War Resisters International, the international umbrella organization of which New Profile is an affiliate, urges people to contact the Attorney General of Israel and urge that office to work to end the restriction of contacts for the suspects and not to prosecute them for providing counsel to those attempting to exercise their consciences in accordance with international human rights law.

The Center on Conscience & War also urges its supporters to contact the Israeli Embassy in Washington, DC, and demand that the State of Israel recognize the rights of conscience of its own citizens and not to persecute those who offer information and guidance in asserting their true convictions.

It would be a crucial setback for the rights of conscience if these Israelis were persecuted for their convictions. Contact the Israeli Attorney General and the Israeli Embassy to make sure these most crucial of rights move forward, not backward. Demand Israel recognize the full right of conscientious objection.

**To voice your opinion to the Attorney General:**  
[http://wri-irg.org/email/7449/field\\_codb\\_rcpt\\_for\\_sup\\_email](http://wri-irg.org/email/7449/field_codb_rcpt_for_sup_email)

**Send e-mails to the Washington Embassy at:**  
[info@washington.mfa.gov.il](mailto:info@washington.mfa.gov.il)  
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## *From the Desk of the Executive Director*

I don't know whether to be prouder of the Center or its supporters.

I am proud of the Center for being fiscally responsible in anticipation of a tough financial year in 2008 rather than in response. I am also proud of the Center for attracting the quality of support it does.

I am proud of our supporters for understanding that they share in the work at the Center through their contributions. And the supporters of the Center have risen to the task of supporting this work during terrible financial times.

Many charitable organizations are in financial trouble right now. The Center is not in trouble, I am happy to report. Last year our contributions only dropped by 5%. Considering other organizations I work with had drops of 40% or more, I am feeling pretty good about that.

Looking more closely at the organizations that are in the worst financial shape, I see one thing that stands out: most of them were dependent on foundation grants. The Center has never been dependent on foundation grants. We get the vast majority of our support through the long, slow process of small checks. These checks come primarily from individuals. We also get contributions from local faith communities—sometimes with a congregation of a few dozen members; sometimes with a congregation of fewer than ten members. Some of these contributions of \$10 and \$25 and \$50 have been being made, literally, for decades. Some of these contributions are from new

supporters who only recently have seen war for what it is and our work as part of opposing it.

But all of the contributions come from people who have seen what we do and want to be part of it.

This year may be a rough financial ride no matter what we do. Some of our long time contributors have sent us half or less of the amount that they have been sending for decades. But we continue to seek likeminded (and likehearted) people. And we continue to receive the small checks, the support from individuals and faith communities who want to be part of stopping war—one soldier at a time.

And we thank you.

Yours for Peace and Justice,

J. E. McNeil

