



Sheriff Kyle Kirchmeier  
Morton County Sheriff's Department  
205 1<sup>st</sup> Avenue NW  
Mandan, ND 58554

28 October 2016

Dear Sheriff Kyle Kirchmeier:

On 28 September, Amnesty International wrote you in response to several alarming reports regarding the protests taking place at a Dakota Access Pipeline construction site. We asked that you investigate the use of force by private contractors, that you instruct the removal of blockades, and that you discontinue the use of riot gear by Morton County Sheriff's deputies when policing protests. These requests were made to ensure the right to peaceful protests in accordance with international law and standards. We write you today not only to reiterate the concerns above, but to convey our alarm at reports from this past weekend of the arrest of dozens of protestors, the filing of criminal charges, and the treatment of those arrested.

The U.S. government is obligated under international law to respect, protect, and fulfill the human rights of Indigenous people, including the rights to freedom of expression and assembly. It is the legitimate right of people to peacefully express their opinion. Public assemblies should not be considered as the "enemy". The command hierarchy must convey a clear message to law enforcement officials that their task is to facilitate and not to restrict a peaceful public assembly.

On 22 October, protests of the Dakota Access Pipeline construction moved to property three miles west of State highway 1806. According to your office, protests against the construction of the pipeline took place on private property and that protesters were therefore trespassing upon. Video footage and protestor reports document a peaceful gathering on this land which was met by a militarized response by law enforcement, the indiscriminate use of Oleoresin Capsicum spray

and force against protesters, and the arrest of at least 140 individuals, including legal observers and members of the media.

Also alarming are reports of the treatment of those arrested. Several news outlets feature interviews where protestors report strip searches for misdemeanor arrests, transporting arrested protestors to different facilities without notice, and requiring the payment of bail for even minor offenses. Charges reported include trespassing, reckless endangerment, engaging in a riot, and assault on a peace officer. While we have no way of corroborating whether charges are appropriate in every instance, we would further remind you that during demonstrations, law enforcement officers should not selectively enforce public order and/or other laws against media correspondents, legal observers or known organizers of protests. Arrest and detention should be carried out only in accordance with procedures established by law, and should not be used as a means to prevent peaceful participation in a public assembly nor as a means of intimidation or punishment for participation. Once individuals are arrested, officers should not use restraints in an excessive manner or for prolonged periods of time during processing, and anyone arrested should be provided with food and water, access to restrooms, medical attention if needed, and prompt access to counsel. Intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary, and should be conducted in private by trained staff of the same sex as the prisoner. Strip searches and invasive body cavity searches carried out in a humiliating manner can constitute torture or other ill treatment; authorities are encouraged to develop and use appropriate alternatives to intrusive searches.

Lastly, we are reiterating our call on your office to refrain from outfitting officers in riot gear when policing the Dakota Access Pipeline protests unless strictly necessary. On 13 September 2016, images that were circulated from a site where nonviolent direct action protesters trespassed on private land showed Morton County Sheriff's officers outfitted in riot gear, despite the lack of violence by protesters. The use of heavy-duty riot gear and military-grade weapons and equipment to police largely peaceful demonstrations intimidates protesters who are practicing their right to peaceful assembly and can actually lead to an escalation

in violence. Equipping officers in a manner more appropriate for a battlefield may put them in the mindset that confrontation and conflict is inevitable rather than possible, escalating tensions between protesters and police. Any police presence at demonstrations needs to be proportionate to the situation. Police deployed in larger numbers than appear necessary, or deployed wearing protective clothing or riot gear can be confrontational and intimidating. As seen in many countries, inappropriate or excessive police interventions can actually lead to violence and disorder rather than reducing tensions.

We understand that the Chairman of the Standing Rock Tribe recently submitted a request to the Department of Justice to monitor and intervene in the actions of the police with respect to the protests. We support Chairman Dave Archambault II's call for federal involvement, including a federal investigation into the policing of protests and the camps by your office and other law enforcement agencies.

We look forward to your reply and would be happy to provide additional information as needed.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Margaret Huang". The signature is fluid and cursive, with the first name "Margaret" written in a larger, more prominent script than the last name "Huang".

Margaret Huang  
Executive Director  
Amnesty International USA