

**AMNESTY
INTERNATIONAL**



Dan Donlin
Chief of Police
City of Bismarck Police Department
700 S. 9th Street
Bismarck, ND 58504

28 November 2016

Dear Chief Donlin:

On 25 November 2016, Amnesty International observers were present at a protest against the Dakota Access Pipeline within the Kirkwood Mall in Bismarck, North Dakota. After witnessing several arrests at that site, we are writing to you in regards to the use of force by law enforcement officers in carrying out arrests of peaceful protesters, and are urging your office to investigate the actions of law enforcement in making those arrests.

Shortly after 12:30 pm on 25 November 2016, several dozen people took part in a protest near the entrance of the Target Department store inside the Kirkwood Mall in Bismarck. After mall security and police requested that protesters leave the facility, several arrests were initially made near the storefront. Officers provided an order to disperse to the protesters and a group of about a dozen protesters made their way to an exit of the mall, some locking arms and walking backwards towards the exit, followed closely by several law enforcement officers, as video of the incident shows. At one point, just as the protesters were nearing the entrance of the mall, one officer jumps into the middle of the group to either force them through the entranceway or detain and arrest one of the protesters. Several officers can then be seen tackling and forcing protesters to the ground in order to place them under arrest. While there may have been a verbal interaction between several protesters and the officers herding them towards the exits, which can be seen in the video, there is no evidence contained within the video that any of the protesters did anything to warrant the use of force in making an arrest in this instance.

Amnesty International observers documented this scene through video:

<https://twitter.com/amnesty/status/802254728390447104>

While the protesters were seen to be slowly complying with orders to leave the premises, Amnesty International is concerned that the force used by officers seems neither necessary nor proportionate to making arrests for the act of trespassing on private property, and is calling on your office to investigate the use of force by officers in this instance.

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. 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. When a lawful decision has been taken to disperse an assembly, the order to disperse must be clearly communicated and explained, to obtain, as far as possible, the understanding and compliance of the demonstrators. Sufficient time must be given to disperse. International law enforcement standards require that force of any kind may be used only when there are no other means available that are likely to achieve the legitimate objective. If the force is unavoidable it must be no more than is necessary and proportionate to achieve the objective, and law enforcement must use it in a manner designed to minimize damage or injury, must respect and preserve human life, and ensure medical aid is provided as soon as possible to those injured or affected. 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.

Furthermore, we are concerned that our independent human rights observers were ordered to leave the mall by law enforcement during the course of the arrests of

these protesters. Our observers have been in North Dakota covering the protests taking place against the Dakota Access Pipeline. While our previous correspondence has been strictly with the Morton County Sheriff's Department and the Governor, our observers play a necessary role to ensure that the right to peaceful protest is respected and facilitated by law enforcement officers. The observers are clearly identifiable by wearing brightly colored yellow shirts and attire that clearly identifies them as human rights observers, and they carry with them authorization letters from Amnesty International USA explaining their role in the observation of protests taking place in North Dakota. We urge you to ensure that your officers involved in the policing of any protests in and around Bismarck allow access to sites where protests are taking place for all legal and human rights observers and journalists so that they may carry out their roles and responsibilities.

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