



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

21 November 2016

Dear Sheriff Kyle Kirchmeier:

Amnesty International is writing to convey its concern regarding the use of force by Morton County Sheriff's Department (MCSD) against "water protectors" who are protesting against the construction of the Dakota Access Pipeline near the Standing Rock Sioux reservation in North Dakota. Videos uploaded to social media from 20 November show officers using tear gas and water cannons against protesters. Reports indicate that rubber bullets were also used to disperse the crowds from a protest site on a bridge on Highway 1806.

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 20 November, protests of the Dakota Access Pipeline construction took place at a barricaded bridge on Highway 1806. According to images captured of the protest and the law enforcement action against protesters, officers used a water cannon to extinguish small fires that were set near the protest site and proceeded to direct the water cannon directly at protesters in the area. The weather in the area was documented as being below freezing, with wind chills making the weather feel at least ten degrees colder. This action by law enforcement comes just two days after MCSD issued a press release instructing protesters camped out in the multiple protest camps to refrain from building permanent structures on Army Corps of

Engineers' land and to seek shelter from the upcoming harsh winter weather. While the use of the water cannon may have been necessary to extinguish any fires set to the grasses alongside the bridge, the use of those water cannons against the protesters themselves risks potential injury and hypothermia for the protesters who were sprayed with water in below freezing temperatures. Also alarming are videos of the use of tear gas, and reports of rubber bullets used to disperse the crowd of protesters. Any use of force – such as the water cannons, tear gas and rubber bullets – by law enforcement officers must be necessary and proportionate to the threat posed.

The decision to disperse an assembly should be taken in line with the principles of necessity and proportionality, and only when there are no other means available to protect public order from an imminent risk of violence. Where a small minority tries to turn a peaceful assembly into a violent one, law enforcement officials should protect the peaceful protesters and not use the violent acts of a few as a pretext to restrict or impede the exercise of the rights of a majority.

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. Force should not be used to punish demonstrators for the (presumed or alleged) non-compliance with an order, nor simply for the participation in an assembly. The type of equipment used to disperse an assembly must be carefully considered and used only when necessary, proportional and lawful. Policing and security equipment – such as rubber bullets, tear gas and stun grenades, often described as “less-lethal” weapons – can result in serious injury and even death.

The continued use of heavy-duty riot gear and military-grade weapons and equipment by MCSD and other agencies 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 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 have attached to this letter a copy of our Good Practices for the Policing of Protests document. We also urge you to review lengthier materials online at: https://www.amnesty.nl/sites/default/files/ainl_phrp_short_paper_policing_assemblies.pdf

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

Yours Sincerely,

A handwritten signature in black ink that reads "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