



Hon. Loretta Lynch
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

28 October 2016

Honorable Loretta Lynch,

Amnesty International USA is writing to you in support of the recent request (attached) by David Archambault, II, Chairman of the Standing Rock Sioux Tribal Council, that your department investigate the actions of the Morton County Sheriff's Department ("MCSD") and other law enforcement agencies in North Dakota regarding the policing of protests against the Dakota Access Pipeline, and, should violations be found, file charges against those responsible.

While the protests against the Pipeline have been largely peaceful, in the past month, law enforcement officers – and specifically MCSD deputies – have repeatedly arrived at protests sites dressed in riot gear and armed with assault rifles. Videos of these interactions have captured officers pointing their weapons at protesters even though there was no imminent threat of death or serious injury to the officer or others, as required for the use of lethal force under international law, and likely in violation of department policy. Officers have arrested members of the media and legal observers. The MCSD has erected roadblocks on roads leading to and from where the protest camps have been erected and protest sites in the area. More recently, law enforcement arrested at least 140 individuals on 22 October and charged them with such offenses as trespassing, reckless endangerment, engaging in a riot, and assault on a peace officer. Reports from legal aid support based at the protest camp are that all individuals arrested were required to pay bail, even for minor offenses such as trespassing, and were all strip searched upon processing. Video footage of the 22 October confrontation showed officers using what is believed to be Oleoresin Capsicum spray indiscriminately against protesters without provocation.

While we have no way to corroborate whether charges as mentioned above are appropriate in every instance, 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.

Amnesty International USA has previously sent observers to Cannon Ball, ND to monitor the police response to protests, and has taken the opportunity to share our concerns with the Morton County Sheriff specifically. As of the writing of this letter, Amnesty International USA has not received a response from MCSD or any other state or county officials that we reached out to regarding our concerns.

The U.S. government is obligated under international law to respect, protect, and fulfill the human rights of Indigenous people, including their 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. However, actions taken by the Morton County Sheriff’s Department against protesters as well as posts on the department’s own official Facebook page bring into question whether the MCSD is capable of protecting the rights of protesters to engage in peaceful protest:

<https://www.facebook.com/MortonCountySD/?ref=settings>

We would like to specifically direct your attention to the posts from 26 October at 9:10 am; 23 October at 7:28 pm; 18 October at 11:52 pm; 12 October at 2:26 pm; 12 October at 12:56 pm; 7 October at 1:54pm; 4 October at 3:12 pm.

We believe that an investigation by your office of the policing of the Dakota Access Pipeline protests in North Dakota is warranted, and that the Civil Rights Division should deploy observers to the area to ensure that the rights of protesters are respected and protected. Should your investigators uncover any civil rights violations by law enforcement, individual officers should be charged and prosecuted as warranted.

We thank you for your time and assistance in this matter and welcome any response you might have to this request.

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