



March 22, 2017

Allen Koppy
Morton County State's Attorney General
210 2nd Ave NW
Mandan ND 58554

Richard J. Riha
Burleigh County State's Attorney General
514 East Thayer Avenue
Bismarck, ND 58501

Re: Drop Misdemeanor Charges Against Water Protectors and Open Investigations into Allegations of Excessive Force by Law Enforcement

Dear Attorney General Koppy and Attorney General Riha,

Amnesty International urges you to take immediate steps to prevent human rights violations against Indigenous Peoples and their allies opposed to the Dakota Access Pipeline, and to ensure accountability for any past human rights violations. The organization remains deeply concerned about the treatment of Indigenous Peoples and their allies by authorities, most recently in relation to the clearing of camps and the eviction of people near the pipeline construction site.

Amnesty International has documented a number of instances where the force used by law enforcement officers appears to have been excessive; repeated instances of law enforcement outfitted with military equipment, in riot gear, and the display of weapons that appear intended to intimidate peaceful protesters; and a pattern of cases where people appear to have been excessively charged as punishment for or deterrence from taking part in future demonstrations against the pipeline. Together with the passage of several bills in the North Dakota legislature recently (HB 1293, 1304 and 1426), the organization is gravely concerned about a serious erosion of the right to peaceful protest, and violations of freedom of assembly and expression in the state of North Dakota.

We urge you to take the following actions without delay to prevent such human rights violations from happening in the future, ensure accountability for human rights violations that may have occurred, and uphold the rights to freedom of expression and peaceful assembly guaranteed under the U.S. Constitution and international human rights law:

1) Drop all misdemeanor charges against all people related to the demonstrations against the Dakota Access Pipeline. This should include dropping charges against Jenni Monet, an independent journalist. Given the large number of cases where charges have been subsequently dropped or dismissed, there are serious concerns about the use of arrests and charges to intimidate and harass activists and those documenting the protests as media;

2) Review all felony charges against all people related to the demonstrations against the Dakota Access Pipeline to ensure that no person is wrongfully charged with a felony related to their engagement in peaceful protest against the pipeline;

3) Drop the felony charges for reckless endangerment against Israel Hernandez and Mike Fasig, who reportedly prevented an armed person from entering the camps in his vehicle and helped disarm him before turning him over to law enforcement;

4) Open independent investigations immediately into the following cases of excessive or unnecessary force as well as any other cases that may involve human rights abuses and make the results public:

- February 22, 2017: Video of the violent arrest of Eric Poemz on Highway 1806 outside of the Oceti Sakowin camp raises concern about excessive force by Fargo Police Department officers. Video that Eric Poemz took prior to and during the arrest show he was engaged in peaceful protest while videotaping the event in front of a police line. When officers moved to arrest the group for reasons not captured in the video, the camera is jostled as Poemz is taken down to the pavement and immediately complains about pain in one of his hips;
- February 22, 2017: Video of the use of a taser on Madrigal-Alcaraz Enrique Kurthland inside Prairie Knights Casino raises concern about excessive force and also about the use of

tasers. Mr. Kurthland was standing near his brother who was speaking with a number of law enforcement officers from an undetermined agency when he was asked to step aside. Refusing to do so, Mr. Kurthland was tasered after demonstrating a mild amount of resistance. The amount of force used in this instance appears to be excessive considering the threat posed by Mr. Kurthland;

- November 25, 2016: Amnesty International observers witnessed violent arrests at Kirkwood Mall in Bismarck that raise concerns about excessive force by Bismarck Police Department officers. Video by Amnesty International's observers shows no evidence that any of the activists did anything to warrant the use of force in making an arrest in this instance. Amnesty International wrote to Bismarck Police Chief, Dan Donlin relaying our concerns about the forced in this incident and called on U.S. Attorney General Loretta Lynch to open an investigation into the force used in this instance by Bismarck Police Department officers;
- November 20, 2016: According to videos, photos and testimony, officers used hoses to spray water at people opposed to the pipeline on Highway 1806. The weather in the area was documented as being below freezing, with wind chills making the weather feel at least ten degrees colder. While Morton County Sheriff's Department stated that the water was used to extinguish small brush fires set near the protest site, video demonstrates officers clearly spraying the protesters long after any fires were extinguished. The use of water risked potential injury and hypothermia in below freezing temperatures. Also alarming are videos of the use of tear gas, and reports of rubber bullets and concussion grenades used to disperse the crowd of protesters;
- November 2, 2016: Video footage showed law enforcement officers using chemical irritants against people in the water of the Missouri River without provocation. The use of chemical irritants, such as pepper spray, against people in water may increase the likelihood of drowning, given that their breathing and eyesight may be impaired, and this instance raises concern about excessive force where protesters presented little to no threat to the officers on higher ground;

- October 22, 2016: Video footage of a situation between demonstrators and law enforcement shows officers using what is believed to be Oleoresin Capsicum spray indiscriminately against people without provocation, which raises safety concerns as well as concerns about excessive force;
- September 3, 2017: video shows members of a private security firm use dogs and what appears to be Oleoresin Capsicum spray against several of the protesters before the security team leaves the premises. While the Morton County Sheriff's investigation found that the dog handlers were not properly licensed to do security in the State of North Dakota and referred their investigation to both the Morton County States Attorney's Office and the North Dakota Private Investigators and Security Board for possible charges on 26 October 2016, it is unclear whether either agency has completed its investigation into the incident.

The U.S. government is obligated under international law to respect, protect, and fulfill the human rights of all people, including Indigenous people and the rights to peaceful protest, and freedom of assembly and expression. It is the legitimate right of people to peacefully express their opinion. Public assemblies should not be considered as the "enemy."

As a global human rights organization, Amnesty International works to protect fundamental freedoms worldwide, including the rights to freedom of expression and peaceful assembly. From Iran to North Korea, we document cases of violations and call for systemic reforms. We are deeply concerned about the direction in which North Dakota has headed. We urge you to take the urgent steps outlined in this letter in order to bring North Dakota's approach to peaceful protest in line with the U.S. Constitution and international human rights law.

Sincerely,

Zeke Johnson
Managing Director, Individuals at Risk Program
Amnesty International USA