

**Congress of the United States**  
**Washington, DC 20515**

December 2, 2016

Honorable Ashton B. Carter  
Secretary, U.S. Department of Defense  
Office of the Secretary, U.S. Department of Defense  
1000 Defense Pentagon, Room 3E880  
Washington, D.C. 20301

Dear Secretary Carter,

We are requesting that the Department of Defense (DOD) immediately request the return of military equipment obtained by local and state law enforcement agencies in North Dakota through the DOD's Excess Personal Property Program, also known as the 1033 Program. Such military equipment is potentially being used by law enforcement in North Dakota in their response against those individuals demonstrating against the Dakota Access Pipeline (DAPL).

DAPL, which was approved last year, may destroy ancestral burial grounds of indigenous Americans and contaminate the Standing Rock Sioux Tribe's water supply. Thousands of Americans have joined the Standing Rock Sioux Tribe to exercise their constitutional right to peacefully assemble and demonstrate against the construction of DAPL through tribal lands. We are profoundly disturbed by the excessive and disproportionate use of force by law enforcement against the Water Protectors. Recent reports, headlines, and video indicate a highly militarized response by law enforcement to indigenous groups and others demonstrating against the pipeline. Police officers have used armored vehicles, sound cannons, concussion grenades, and other military-grade equipment against the Water Protectors.<sup>1</sup> Organizers have been arrested, hooded, tagged with numbers on their arms, strip searched, and detained in dog kennels by law enforcement.<sup>2</sup> In light of the two most recent announcements related to the site – the November 25th, U.S. Army Corps of Engineers announcing the land where the water protectors are located would be closed by December 5th and the November 28<sup>th</sup> evacuation order by the Governor of North Dakota – we are concerned that any perceived militarization by law enforcement will escalate tensions and put water protectors & law enforcement in danger.

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<sup>1</sup> Dreyfuss, Emily. "As Standing Rock Protestors Face Down Armored Trucks, the World Watches on Facebook." *Wired*, 27 Oct. 2016, <https://www.wired.com/2016/10/standing-rock-protesters-face-police-world-watches-facebook/>. Accessed 1 Dec. 2016.

<sup>2</sup> Norton, Ben. "Dakota pipeline protesters say they were detained in dog kennels; 268 arrested in week of police crackdown." *Salon*, 31 Oct. 2016, <http://www.salon.com/2016/10/31/dakota-pipeline-protesters-say-they-were-detained-in-dog-kennels-268-arrests-in-week-of-police-crackdown/>. Accessed 1 Dec. 2016.

North Dakota law enforcement has received over three million dollars in military weapons and equipment through the Department of Defense's 1033 program,<sup>3</sup> which permits the Secretary of Defense to transfer excess DOD personal property, including military supplies and equipment, to state and local law enforcement agencies. Many local departments, including the North Dakota Morton County Sheriff's Office, have received equipment through the program. The North Dakota Attorney General Bureau of Criminal Investigations received military aircraft and a small arms weapon suppressors or silencers. The Richland County and Stutsman County Sheriffs' Offices also acquired Mine Resistant Ambush Protected vehicles (MRAPs) through 1033.<sup>4</sup>

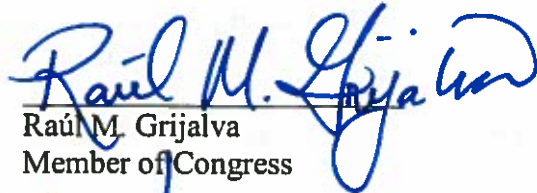
Given North Dakota's statewide response to the Standing Rock demonstrations, its enlistment of more than half a dozen of state law enforcement entities, and the recent issue of police militarization across the country, we are very concerned that federally resourced military weapons and equipment are being used at the DAPL site. Because military equipment acquired through the 1033 program is on loan and the DOD maintains title over the property, the Department has the authority to immediately request the return of the surplus military equipment.

President Obama recently recognized the importance of protecting Standing Rock Sioux Tribe's sacred lands and their right to have peaceful demonstrations. We were encouraged by his recent comments regarding the Dakota Access Pipeline, including his decision to temporarily cease construction of the pipeline on land bordering or under Lake Oahe. The Department of Defense should act in a similar spirit and protect Americans' constitutional right to peacefully assemble. By removing military equipment from local and state enforcement responding to the DAPL demonstrations, the DOD would reaffirm our government's commitment to these founding ideals and help de-escalate an increasingly volatile situation, enabling safety and security of both protectors and law enforcement at the site.

Sincerely,



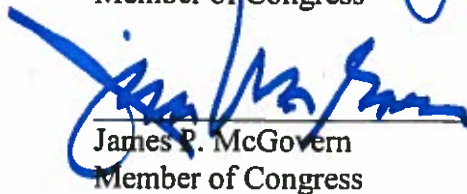
Henry C. "Hank" Johnson, Jr.  
Member of Congress



Raúl M. Grijalva  
Member of Congress



Al Green  
Member of Congress



James P. McGovern  
Member of Congress

<sup>3</sup> Karis, Johanson, Wade Henderson, and Nancy Zirkin, "ACLU Letter to DOJ Regarding Standing Rock," *ACLU*, 4 Nov. 2016, [https://www.aclu.org/sites/default/files/field\\_document/doj\\_letter\\_standing\\_rock\\_final\\_1.pdf](https://www.aclu.org/sites/default/files/field_document/doj_letter_standing_rock_final_1.pdf), accessed 4 Nov. 2016. See also Andrew Sheeler, "1033 program offers police tactical gear," *Bismarck Tribune*, 24 Aug. 2016, [http://bismarcktribune.com/news/local/crime-and-courts/program-offers-police-tactical-gear/article\\_533926e2-2b4a-11e4-adf6-001a4bcf887a.html](http://bismarcktribune.com/news/local/crime-and-courts/program-offers-police-tactical-gear/article_533926e2-2b4a-11e4-adf6-001a4bcf887a.html). Accessed 1 Dec. 2016

<sup>4</sup> Bonham, Kevin. "Former military equipment sees new use in police force." *Grand Forks Herald*, 22 Jul 2014, <http://www.grandforksherald.com/content/former-military-equipment-sees-new-use-police-force>. Accessed 1 Dec. 2016.

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Judy Chu

Judy Chu  
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Jerrold Nadler

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cc: Karol Mason, Assistant Attorney General, Office of Justice Programs, Department of Justice  
Vanita Gupta, Principal Deputy Assistant Attorney General, Civil Rights Division, Department  
of Justice