

April 28, 2020
The Honorable Mark R. Herring
Attorney General of Virginia
202 N. Ninth Street
Richmond, VA 23219

Dear General Herring:

We are writing on behalf of the American Civil Liberties Union, the American Civil Liberties Union of Virginia and NAKASEC Virginia to express our grave concern over the increasing incidents of hate, discrimination, and violence against Asian Americans—a community of all immigration statuses. We urge your office to send a public message that attacks against Asian American communities, and the scapegoating of Chinese American community members in particular, is unacceptable and that Asian Americans are an integral part of U.S. communities.

As the COVID-19 pandemic continues to take an increasing toll on our country, Asian Americans have experienced alarming levels of harassment as well as physical attacks. In the timespan of two weeks, Asian Americans reported experiencing over 1,100 racist acts.¹ Reports of physical violence against Asian Americans—and those perceived to be of Asian descent—in the United States have exponentially increased. In California, a sixteen-year-old student was hospitalized after being physically assaulted at school over inaccurate racial stereotypes related to the coronavirus.² In New York, a twenty-three-year-old woman was punched in the face by a man who yelled expletives at her connected to the coronavirus, and another man was verbally harassed and sprayed with what appeared to be air freshener by a fellow passenger on the New York City subway.³ In Texas, three family members, including two children, were stabbed at a Sam's Club by a man who inaccurately associated them with the virus based upon their race.⁴ These stories reflect an

1 Press Release, Asian Pacific Policy and Planning Council and Chinese for Affirmative Action, *STOP AAPI HATE Receives over 1,100 Incident Reports of Verbal Harassments, Shunning and Physical Assault in Two Weeks* (April 3, 2020), http://www.asianpacificpolicyandplanningcouncil.org/wp-content/uploads/Press_Release_4_3_20.pdf.

2 *Teen Student in LA Assaulted as Coronavirus Fears Stoke 'Racial Backlash'*, CBS Los Angeles (Feb. 13, 2020), <https://losangeles.cbslocal.com/2020/02/13/teen-student-in-la-assaulted-as-coronavirus-fears-stoke-racial-backlash/>.

3 Ewan Palmer, *New York Police Investigating Two Alleged Coronavirus-Inspired Hate Crimes Occurring on Same Day*, Newsweek (Mar. 13, 2020), <https://www.newsweek.com/coronavirus-new-york-asians-hate-crime-chinese-1492216>.

4 *FBI Calling Stabbing at Midland Sam's a Hate Crime*, CBS7 (March 30, 2020), <https://www.cbs7.com/content/news/FBI-calling-stabbing-at-Midland-Sams-a-hate-crime-569233691.html>.



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alarming trend that shows no signs of slowing.

This is not the first time that marginalized communities—including people of Asian descent—have faced increasing harassment and violence in the face of a national emergency. After a wave of immigration from China to California in the late 1800s, Asian Americans in the United States were targeted using racist stereotypes that developed into policies and laws, such as the 1882 Chinese Exclusion Act, which was not fully repealed until national quotas were eliminated in 1952.⁵ During World War II, the U.S. government actively fabricated smears against Japanese Americans in the United States, including in filings before the Supreme Court, resulting in the mass incarceration of people of Japanese descent, including U.S. citizens, in internment camps. Just days after September 11, Muslim, Arab, Iranian, Middle Eastern, Sikh, and South Asian American communities faced a spike of hate crimes, including some homicides;⁶ the numbers have never actually subsided and discriminatory policies followed. With the rise of COVID-19, fear is once again driving racism and creating an environment rampant with acts of hate and violence in which many Asian Americans are afraid to go out to seek basic necessities.

COVID-19 is devastating communities all over the United States. Fear and anxiety are a constant, which is why it is so important that people don't have to fear being targets of racist attacks on top of the pandemic. It is the duty of public officials to uphold the civil and constitutional rights of all individuals regardless of race, ethnicity, nationality, disability, income, or any other protected characteristic. As in past moments of national crisis, the leadership of our elected officials will shape not only the impact of the moment itself, but also the ongoing impacts of racism in our communities. The silence of our elected officials, or worse, their tacit support of those engaged in harassment and violence, contributes to this environment and emboldens these attacks. No one should be afraid to seek out their basic necessities, let alone be harassed or attacked.

We urge you, as Virginia's Attorney General who represents all Virginians, including Asian Americans, to issue statements declaring that hate, racism, harassment, and discrimination are unacceptable and send the message that you will not tolerate the singling out of anyone based on ethnicity and scapegoating. In these times, your leadership is crucial to the treatment of your community members and their safety and security. Those engaged in such racist, hateful behavior must know that their actions will not be tolerated, and those impacted must know that as individuals, families, and communities, they will be supported and protected.

5 Matthew Lee, *Coronavirus Fears Show How 'Model Minority' Asian Americans Become the 'Yellow Peril'*, NBC (Mar. 9, 2020), <https://www.nbcnews.com/think/opinion/coronavirus-fears-show-how-model-minority-asian-americans-become-yellow-ncna1151671>.

6 See e.g., Rana Sodhi & Harjit Sodhi, *Remembering Balbir Singh Sodhi, Sikh Man Killed in Post-9/11 Hate Crime*, Story Corps (Sept. 14, 2018), <https://storycorps.org/stories/remembering-balbir-singh-sodhi-sikh-man-killed-in-post-911-hate-crime/>.



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In order to prevent the mistakes of the past, we urge your office to use the tools at its disposal to denounce the spread of xenophobia and racism and the misinformation driving them. In particular, we urge you to use the new authority granted your office in SB868 enacted this year to initiate civil actions against those who discriminate against Asian Americans in violation of the amended Virginia Human Rights Act in employment, housing or public accommodations. We also ask you to go further and take action to ensure that Asian Americans can participate fully in the life of the Commonwealth by ensuring that people are not denied access to public programs or benefits because of limited English proficiency in violation of Title VI of the Civil Rights Act.

We must not allow the seeds of hate to take root in Virginia. We are looking to your office to exert strong leadership against discrimination and in favor of ensuring that all Virginians can participate fully in the life of our Commonwealth without fear and with full language access to all public programs and benefits.

We look forward to working with you in accomplishing these goals.

Very truly yours,

Claire Guthrie Gastañaga
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