



March 19, 2021

RE: Harmful, Hurtful, Racist Blog Post

Dear Professor Thomas Smith:

We are writing to you in response to your recent blog post titled “Wuhan Lab Theory a Dark Cloud on China - WSJ.” In this blog post, you commented on the unconfirmed origins of COVID-19 by stating the following:

*“If you believe that the coronavirus did not escape from the lab in Wuhan, you have to at least consider that you are an idiot who is swallowing [a] whole [sic] lot of Chinese cock swaddle.”<sup>1</sup>*

You are now likely aware of the tremendous amount of reaction and response that this post has generated from the student body, our school’s various organizations, our school’s alumni, and the larger community of San Diego. We are extremely hurt by your words. We want this letter to educate you on how your words have a greater, adverse impact on your own students at USD and the community at large. Specifically, we are writing to express the depth of hurt and disappointment you caused to the Asian Pacific Islander (API) community.

**I. The Time and Place of Your Blog Post is Perpetuating a Harmful Narrative that Negatively Impacts the Asian Pacific Islander Community.**

Your blog post promoting a conspiracy theory that COVID-19 originated in a lab from Wuhan, China, has detrimental consequences for students you teach and beyond. Based on your update to the blog post<sup>2</sup>, you still have not grasped the severity of the issue or its wider implications for the community that you inhabit. At this point, the origins of COVID-19 are still largely speculative. We are not here to say that any conclusion about the origins of COVID-19 is right or wrong. That deflects from the point. The point is that your speculation of COVID-19 originating from a lab in China only perpetuates an “us versus them” mentality that negatively impacts the API community. Your claim that anyone who believes otherwise is “an idiot who is swallowing [a] whole lot of Chinese cock swaddle” is not a conclusion following any meaningful analysis. It is a stance you choose to stand by despite the rise in anti-Asian sentiment and violence amidst our nation. Additionally, it is done in a derogatory, demeaning manner.

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<sup>1</sup> Tom Smith, *Wuhan Lab Theory A Dark Cloud on China - WSJ*, THE RIGHT COAST (Mar. 10, 2021), <https://rightcoast.typepad.com/rightcoast/2021/03/wuhan-lab-theory-a-dark-cloud-on-china-wsj.html>.

<sup>2</sup> *Id.* (On March 17, 2020, you added the following text to the blog: “UPDATE: It appears that some people are interpreting my reference to ‘Chinese cock swaddle,’ as a reference to an ethnic group. That is a misinterpretation. To be clear, I was referring to the Chinese government.”)

Recent anti-Asian hate crimes and sentiments can be traced back to rhetoric and conspiracy theories blaming China for the COVID-19. As you know, Donald Trump and his administration frequently used terms like “Kung Flu” and “Chinese Virus.”<sup>3</sup> While these terms do not, on their face, call for violence or extreme hatred, that has certainly been their impact. Normalizing such rhetoric has a direct link to the rise in racism against *all* Asian Americans based on the false perception that a racial group could be responsible for the pandemic. These violent crimes are a result of simple words.

According to the “Stop AAPI Hate” Report, there have been over 3,795 incidents reported over the last year.<sup>4</sup> This report only covers incidents from March 19, 2020, to February 28, 2021. According to Dr. Russell Jung, a Professor of Asian American Studies at San Francisco State University, these numbers likely do not accurately indicate the true magnitude of incidents which are more likely than not severely underreported. “Surveys show that almost three out of five Asian Americans faced direct racism last year,” Dr. Jeung said. “The most concerted number is that seven percent of California experienced racism. That’s almost 400,000 people—a 1,000 cases a day—so it’s a pervasive issue.” The following list describes attacks on Asian Americans only in the year 2021.

- January 28, 2021: 84-year-old Thai man was violently pushed to the ground, resulting in his death.<sup>5</sup>
- January 31, 2021: 91-year-old Asian man was shoved to the ground by an attacker who also shoved two other Asian Americans in Oakland, California.<sup>6</sup>
- February 3, 2021: 61-year-old Filipino man was slashed across the face in New York, requiring almost 100 stitches.<sup>7</sup>
- February 6, 2021: Chinese man had his car stolen while he was delivering food; his one and four year old children were in the car.<sup>8</sup>
- February 8, 2021: San Jose’s Japantown monument was vandalized.<sup>9</sup>

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<sup>3</sup> *President Trump Calls Coronavirus ‘Kung Flu’*, BBC NEWS (June 24, 2020), <https://www.bbc.com/news/av/world-us-canada-53173436>.

<sup>4</sup> Russell Jeung, Aggie Yellow Horse, Tara Popovic & Richard Lim, *Stop AAPI Hate National Report*, STOP AAPI HATE (Mar. 12, 2021), <https://secureservercdn.net/104.238.69.231/a1w.90d.myftpupload.com/wp-content/uploads/2021/03/210312-Stop-AAPI-Hate-National-Report-.pdf>.

<sup>5</sup> *Covid-19 Related Attacks Against Asian Americans Surging*, CNN (Feb. 16, 2021), <https://www.cnn.com/videos/us/2021/02/16/coronavirus-related-attacks-asian-americans-lah-dnt-lead-vpx.cnn/video/playlists/coronavirus/>.

<sup>6</sup> Dion Lim, *Shocking Video Shows 91-Year-Old Man Senselessly Pushed to Ground in Oakland’s Chinatown*, ABC NEWS (Feb. 4, 2021), <https://abc7news.com/man-pushed-to-ground-in-oakland-violence-chinatown-robberies/10311111/>.

<sup>7</sup> Don Tagala, *Elderly Pinoy Attacked in New York Subway, Got No Help From Co-Passengers*, (Feb. 9, 2021, 11:56 AM), <https://news.abs-cbn.com/news/02/09/21/elderly-pinoy-attacked-on-new-york-subway-got-no-help-from-co-passengers>.

<sup>8</sup> Bryan Ke, *DoorDash Driver’s Van Stolen With His 2 Kids Inside Found After Amber Alert*, YAHOO NEWS, (Feb. 8, 2021), [https://news.yahoo.com/door-dash-drivers-van-stolen-2-162606432.html?guccounter=1&guce\\_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce\\_referrer\\_sig=AQAAAHJuJmWADbUY2f\\_Nz3-u0l7wr2LwyAplE36cnI0ocxZ5T7unXPnkGBgj0YEugQUFYTGkb6ciAYfM9Qcqi-1E51uDtJW8l92veqO8UcRhI4fy9dh7ZgBmYQFATcT73OI3sQV4TgpVbGmQRsDJIROpNJ99NRVjoQ0BMPro021YlgqQ](https://news.yahoo.com/door-dash-drivers-van-stolen-2-162606432.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAHJuJmWADbUY2f_Nz3-u0l7wr2LwyAplE36cnI0ocxZ5T7unXPnkGBgj0YEugQUFYTGkb6ciAYfM9Qcqi-1E51uDtJW8l92veqO8UcRhI4fy9dh7ZgBmYQFATcT73OI3sQV4TgpVbGmQRsDJIROpNJ99NRVjoQ0BMPro021YlgqQ).

<sup>9</sup> Azenith Smith, *Historic San Jose Japantown Vandalized*, KTVU (Feb. 8, 2021), <https://www.ktvu.com/news/historic-san-jose-japantown-monument-vandalized>.

- February, 10, 2021: Nine Asian-owned businesses had their windows smashed in Oregon within two weeks.<sup>10</sup>
- February 16, 2021: 74-year-old Asian grandfather was murdered in Phoenix, Arizona. On the same day, two elderly Asian women were assaulted during separate attacks in New York.<sup>11</sup>
- February 18, 2021: Asian store owner was shot four times.<sup>12</sup>
- February 19, 2021: 56-year-old, Asian pizzeria owner was assaulted by four men in masks.<sup>13</sup>
- February 23, 2021: 67-year-old, Asian man was attacked and robbed by three men in San Francisco.<sup>14</sup>
- February 24, 2021: 27-year-old Korean Air Force veteran was assaulted while the assailants yelled racial slurs “chink,” “gook,” “ching chong,” “Chinese virus.”<sup>15</sup>
- February 25, 2021: 36-year-old Asian American man was stabbed in the back by an eight inch knife; the attacker turned himself in and claimed he did it because he didn’t appreciate the way the victim looked.<sup>16</sup>
- February 27, 2021: An explosive device was planted outside of the Nebraska Chinese Association.<sup>17</sup>
- March 7, 2021: Three women entered the car of an Asian Uber Driver, shouted racial slurs, coughed on him, refused to wear masks, stole his phone, and pepper-sprayed him when asked to wear a mask.<sup>18</sup>
- March 9, 2021: 75-year-old Asian American was assaulted and left brain dead in Oakland, California.<sup>19</sup>

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<sup>10</sup> Khanh Tran, *9 Asian-Owned Businesses Have Their Windows Smashed in the Last 2 Weeks in Oregon*, YAHOO NEWS (Feb. 19, 2021), <https://www.yahoo.com/lifestyle/9-asian-owned-businesses-windows-211216274.html>.

<sup>11</sup> *Phoenix PD: 74-Year-Old Man Killed for no Apparent Reason, Suspect Arrested*, ABC (Mar. 4, 2021), <https://www.abc15.com/news/crime/phoenix-pd-arrest-man-accused-of-killing-74-year-old-with-no-motive>.

<sup>12</sup> Ryan General, *Store Owner Shot 4 Times, May Never Walk Again After Violent Robbery in Vallejo*, YAHOO NEWS (Feb. 18, 2021), <https://news.yahoo.com/store-owner-shot-4-times-155813132.html>.

<sup>13</sup> Carl Samson, *Suspects Who Beat Asian Pizzeria Owner Unconscious in Pennsylvania Identified*, YAHOO NEWS (Mar. 13, 2021), <https://news.yahoo.com/suspects-beat-asian-pizzeria-owner-172911672.html>.

<sup>14</sup> Ryan General, *Teen Charged With First-Degree Murder in Shooting of Elderly Vietnamese Man in Toronto*, YAHOO NEWS (Feb. 23, 2021), <https://ph.news.yahoo.com/teen-charged-first-degree-murder-165818547.html>.

<sup>15</sup> Kimberly Cheng & Sareen Habeshian, *Koreatown Attack Against 27-Year-Old Asian American Air Force Veteran Being Investigated as Hate Crime*, KTLA (Feb. 25, 2021, 10:14 PM), <https://ktla.com/news/local-news/koreatown-attack-against-27-year-old-asian-american-air-force-veteran-being-investigated-as-hate-crime/>.

<sup>16</sup> Aaron Katersky, Emily Shapiro & Meredith Deliso, *Asian Man Stabbed in Back in Chinatown, Suspect Charged with Attempted Murder*, ABC (Feb. 27, 2021, 12:25 AM), <https://abcnews.go.com/US/asian-man-stabbed-back-york-citys-chinatown-suspect/story?id=76133248>.

<sup>17</sup> *Authorities Investigate After Explosive Device Reported at Nebraska Chinese Association*, NEWS CHANNEL NEBRASKA CENTRAL (Feb. 27, 2021, 5:38 PM), [https://www.newschannelnebraska.com/story/43420257/authorities-investigate-after-explosive-device-reported-at-nebraska-chinese-association?fbclid=IwAR1t18UQjkc51RVCSF-0ECO0wUAlwYn4i\\_Q0AZldNHq\\_mG9WYRzHIU19208](https://www.newschannelnebraska.com/story/43420257/authorities-investigate-after-explosive-device-reported-at-nebraska-chinese-association?fbclid=IwAR1t18UQjkc51RVCSF-0ECO0wUAlwYn4i_Q0AZldNHq_mG9WYRzHIU19208).

<sup>18</sup> Timothy Bella & Jaelyn Peiser, *Uber Passengers Coughed on a Driver and Ripped Off his Mask. One Suspect has Been Arrested*, WASHINGTON POST (Mar. 12, 2021, 5:04 PM), <https://www.washingtonpost.com/nation/2021/03/12/uber-driver-arrest-assault-mask/>.

<sup>19</sup> Katie Nielsen, *UPDATE: Suspect Arrested In Oakland Robbery, Assault That Left 75-Year-Old Asian Man Brain Dead*, KPIX (Mar. 9, 2021, 11:35 PM), <https://sanfrancisco.cbslocal.com/2021/03/09/75-year-old-asian-man-left-brain-dead-from-injuries-in-latest-oakland-assault/>.

- March 16, 2021: Robert Aaron Long targeted three Asian-owned massage parlors and shot and killed six Asian American women and two others.<sup>20</sup>

This non-exhaustive list does not even include attacks in 2020 (some which have been among the most egregious<sup>21</sup>) but we think it should be more than enough to demonstrate that Asian Americans are living through an immensely terrifying time. We fear for our friends, our parents, our grandparents, and ourselves. We, your students, have also faced discrimination and racially-motivated harassment in our lifetimes. We have endured comments mocking our parents' accents, minimizing our histories, and now blaming us for a pandemic that still has no clear origin. We came to law school hoping we could arm ourselves against such indignities, and yet we are asked to endure them from our own professors under the guise of academic and scholarly debate.

## **II. The Intent Behind Your Blog Posts Extend Beyond Personal Opinions; it Taints the Reputation of our School, Enrollment in Your Classes, and Discourages Diversity and Inclusion.**

Around this time last year, you were approached by members of USD Pride Law regarding your equally harmful posts and commentary targeting the trans population. A February 2020 article reposted on this blog equates teenage transitions to “state-sponsored child abuse.” Another article characterizes dating transgender people as “deny[ing] biological reality and normaliz[ing] abnormal behaviors.”<sup>22</sup> Yet another post condemns efforts to include transgender individuals in religious life.

Members of Pride Law have made efforts to engage with you regarding your anti-trans rhetoric and reason with you as to why your blog posts were harmful and hurtful. This put you on notice that students were reading your blogs. After members of Pride Law spoke with you, it was apparent that you were unremorseful even after students went out of their way to explain to you the detrimental impact of your words. You continued to post blogs that offend not only the LGBTQ+ community, but also women, the Black community, and now the API community.

In a solidarity letter that you and other professors signed off on addressing former-Dean Ferrulo's condemnation of a controversial op-ed piece written by your colleague, Professor Alexander, you admitted that “a member of the university who is shown to promote racist or bigoted views or practices may deserve public censure.”<sup>23</sup> Commenting on the solidarity letter, you stated, “I must say, I feel just a teensy bit neglected myself here. Have I not said things at least as politically incorrect as Larry?”<sup>24</sup> You blatantly admit that your content is politically incorrect, and that you are as politically incorrect as your colleague, Professor Lawrence Alexander. We agree with you, and we further believe that your recent blog post perpetuates just the type of views that deserve public censure.

You as a professor stand integral to our education in law school. There is an undeniable power dynamic at play between you and us as your students. You have control over our grades. You have

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<sup>20</sup> Jason Hanna, Amanda Watts & Madeline Holcombe, *Suspect in Atlanta-area Spa Shootings Might Have Intended More Shootings in Florida, Mayor says*, CNN (Mar. 18, 2021, 9:59 AM), <https://www.cnn.com/2021/03/17/us/metro-atlanta-shootings-wednesday/index.html>.

<sup>21</sup> *Knife attack on father and sons labeled a hate crime*, ASAMNEWS (Mar. 31, 2020), <https://asamnews.com/2020/03/31/fbi-asian-american-family-of-three-knifed-in-coronavirus-hate-crime/>

<sup>22</sup> Letter by Pride Law, Mar. 2020. USD APALSA was one of the co-signors of this letter.

<sup>23</sup> Tom Smith, *Trouble in Paradise*, THE RIGHT COAST (Sept. 14, 2017), <https://rightcoast.typepad.com/rightcoast/2017/09/trouble-in-paradise.html>.

<sup>24</sup> *Id.*

control over the discussions in class. You determine, in no negligible part, the opportunities available to us post-graduation. In that right, your words and actions inside and outside of the classroom have direct consequences on our experiences within this institution.

**III. We Request an Apology on Behalf of All the Affinity Groups You Have Harmed.**

Please consider your position as a community leader who represents the law school. Please consider the diverse students at USD Law and how unsafe they may feel learning from you. Please recognize the difference between intent versus impact. We recognize it may not have been your intent to cause harm, but you did. Take ownership, listen, learn, and do better. All law students are required to take an oath of professionalism prior to law school and our professors must be held to the same standard.

We wish that all we had to do was be law students. We hope you recognize the emotional and physical labor APALSA has endured, and still is enduring, in order to create a productive learning environment for API students at USD. We spent time away from our studies to draft this letter, speak to and comfort our API classmates, work with various representatives from the school, and collaborate with several concerned bar organizations in the San Diego community. These are days, hours, and minutes we sacrificed to be advocates while others get to be just law students. We invite you to contact us at [usdapalsa@gmail.com](mailto:usdapalsa@gmail.com) for further dialogue about the contents of this letter.

Signed,

APALSA Executive Board Members