MORE ABOUT MENTHOL: Regulating a Toxic Flavor
LEGAL TECHNICAL ASSISTANCE

- Legal Research
- Policy Development, Implementation, Defense
- Publications
- Trainings
- Direct Representation
- Lobby
Equality

Equity

PUBLIC HEALTH LAW CENTER
Tobacco Control Legal Consortium
MODERATOR / SPEAKER

Kerry Cork

Senior Staff Attorney
Public Health Law Center
FEATURED SPEAKER

Carol McGruder

Co-Chair & Founding Member
African American Tobacco Control
Leadership Council
FEATURED SPEAKER

Dr. Todd Combs
Assistant Director of Research
Center for Public Health Systems
Science
Washington University in St. Louis
AGENDA

• Overview of U.S. Landscape of Menthol Tobacco Regulation
• San Francisco’s Flavored Legislation
• Tobacco Town Minnesota & the Impact of Menthol Sales Restrictions
• Q & A
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FLAVORED TOBACCO PRODUCTS
2009 MENTHOL EXEMPTION

2009: Congress adopts Family Smoking Prevention and Tobacco Control Act, exempts menthol from flavor ban
MENTHOL TOBACCO’S HEALTH IMPACT

• Increases youth initiation
  – More than half of all teen smokers
• Increases addiction and reduces cessation
• Disproportionately impacts members of racial, ethnic, and LGBT communities
• Today, 7 out of 10 African American youth who smoke use menthol cigarettes

• Due to menthol cigarette use, by 2020 –
  – 84.6% African American smokers
  – 4,700 excess African American deaths
  – Over 460,000 African Americans will have started smoking
EXACERBATES HEALTH DISPARITIES

• 46.9% Hispanic or Latino smokers
• 38% Asian Americans
  Compared to...
• 29.9% White smokers

*****************************************************

• 71% of all young LGBT smokers
NATIONAL SOLUTIONS?
PROVINCES BANNING MENTHOL

• Nova Scotia (effective May 31, 2015)
• Alberta (effective Sept. 30, 2015)
• New Brunswick (effective Jan. 1, 2016)
• Quebec (effective Aug. 26, 2016)
• Ontario (effective Jan. 1, 2017)
• Prince Edward Island (effective May 1, 2017)
• Newfoundland & Labrador (effective July 1, 2017)
GLOBAL MENTHOL TOBACCO BANS

European Union (2020)

- Brazil
- Ethiopia
- Turkey
- Uganda
- Moldova
WHAT ABOUT THE USA?
STATE & LOCAL POLICY OPTIONS

- Restrict sale of flavored/menthol tobacco products
- Prohibit sale of flavored/menthol tobacco products
- Restrict retailer density
LOCAL LEADERS IN FLAVOR BANS

New York, New York
- No sale of flavored OTPs except in “tobacco bars”
- District Court & 2nd Circuit upheld
- Sales restriction, not product standard

Providence, Rhode Island
- No sale of flavored OTPs except in “smoking bars”
- District Court & 1st Circuit upheld
- Sales restriction, not product standard
SAN FRANCISCO STEPS UP

- Prohibits city establishments from selling or distributing any flavored tobacco product, **INCLUDING MENTHOL** (S.F. Cal. Health Code Sec. 19Q.2)

- “Tobacco product” includes but is not limited to electronic cigarettes, e-liquid, cigars, and pipes.
OTHER LOCAL MENTHOL RESTRICTIONS

California:

- Berkeley
- Contra Costa County
- Oakland
- Hayward
- Palo Alto
- Santa Clara County,
- Yolo County
OTHER LOCAL MENTHOL RESTRICTIONS

Minnesota

- Minneapolis
- St. Paul
- Duluth
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Formed in 2008. We educate the African American community about tobacco use and cessation, partner with community stakeholders and public health agencies to inform and affect the direction of tobacco control policy, practices, and priorities, as it affects the lives of Black American and African immigrant populations.
Contact Information

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Valerie Yerger, N.D.
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888.881.6619

www.savingblacklives.org
San Francisco “Citywide Ban” ordinance prohibiting the sale of Menthol and All-Flavored tobacco products in the city and county of San Francisco introduced by Supervisor Malia Cohen
April 18, 2017

Supervisors vote unanimously to approve ordinance

June 27, 2017
How Did We Get Here???

Trickle Down Public Health Policy
African Americans - Menthol

Perniciously targeted by all major tobacco companies

“Urban” programs included
- Co-optation of Black leadership, heavy media campaigns, free giveaways to children, van programs, retailers programs, event sponsorship

Over 80% of African Americans smoke mentholated cigarettes

Over 90% of Black youth initiate with menthol cigarettes

Addiction is about science and opportunity

Menthol is a Human Rights and Social Justice Issue
The “Inner City” Youth
Marie Evans

- Grew up in Boston public housing
- Given free Newports at the age of nine
- Addicted to cigarettes at age 13
- Dead at 54
- Family awarded $152 million judgment
- Settled last year for $79 million
Chemistry + Access = ADDICTION
Menthol Use Among African American Adult Smokers

NOT PROTECTED!!
Inner City Store- Oakland, CA
The Citizens’ Commission To Protect The Truth

HON. JOSEPH A. CALIFANO, JR.

Former U.S. Secretaries of Health, Surgeons General, Directors of Centers for Disease Control and Prevention Urge Lorillard, R.J. Reynolds and Philip Morris to Stop Marketing and Selling Menthol Cigarettes
Nicotine Addiction Is an Issue of Social Injustice

• Sanctions are not designed to stop the number one preventable cause of death, this would be political suicide
• Tobacco industry should be framed as a “pro-crack or pro-meth” force in our community
• African Americans and other marginalized communities are often the “bargaining chip” in policy negotiations
• Smoking/tobacco is a problem of political will
National Movement To Ban Menthol

Save Lives: Ban Menthol
Delta Sigma Theta Sorority, Inc.
Chicago-
Prohibited Sales around schools
Brazil banned it
European Union banned it
Citizens Commission to Protect the Truth
Ethiopia banned it!
CANADA!!!!
Chicago Led The Way!
We Were Tired!
Chicago’s “Buffer Zone”

Created a Buffer Zone around schools
Prohibiting the sales of ALL flavored tobacco products
  First to include **MENTHOL**
Included Black & Milds, Swisher Sweets,
Included Blunt wrappers
Included flavored E-Cigarette juice
The “Buffer Zone”

De-normalized the inundation of deadly tobacco products

Told “our” children they are worth fighting for public policy that protects them! - Chicago litigated successfully

Is RELEVANT to inner city African American, Asian, and Latino communities

Elevated the issue of tobacco control puts Tobacco Industry on notice
CITY COUNCIL

Darryl Moore
Councilmember District 2

CONSENT CALENDAR
February 25, 2014

To: Honorable Mayor and Members of the City Council
From: Councilmember Darryl Moore, District 2
       Councilmember Max Anderson, District 3
Subject: Strengthen Youth Tobacco Prevention

RECOMMENDATION
Direct the City Manager to increase the minimum distance where all flavored tobacco (including menthol) products are banned from sale within a 500 ft radius from any school and direct the City Manager to provide changes to Berkeley’s current tobacco regulations that might decrease youth tobacco use and uptake, including additional regulation around flavored (including menthol) tobacco products.
Berkeley Makes History

http://www.savingblacklives.org/the-buffer-zone/
Berkeley Bans Sale of E-Cigarettes and Flavored Tobacco Near Parks, Schools
http://www.savingblacklives.org/the-buffer-zone/
AATCLC News Release

AATCLC Stands with
San Francisco Supervisor Malia Cohen
as She Introduces Bold City-Wide Ordinance to
Restrict the Sale of Menthol & Flavored Tobacco Products

CLICK IMAGE For Full News Conference Courtesy of SFGOVTV.ORG.
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2009</td>
<td>President Obama signs Family Smoking Prevention and Tobacco Control Act</td>
</tr>
<tr>
<td>Dec 2011</td>
<td>SF Board of Supervisors resolution on FDA and menthol</td>
</tr>
<tr>
<td>2017-2018</td>
<td>SF DPH funds 4 community based orgs using the Community Action Model to investigate flavors in their community</td>
</tr>
<tr>
<td>July-Aug</td>
<td>RJ Reynolds Tobacco Company launches a whirlwind referendum signature campaign, paying people to gather over 30,000</td>
</tr>
<tr>
<td>June 5 2018</td>
<td>With 62% voting in support, the ordinance is upheld!</td>
</tr>
<tr>
<td>Nov 2011</td>
<td>UCSF Cancer Initiative launches while SF Tobacco Free Coalition prioritizes tackling flavors</td>
</tr>
<tr>
<td>2016</td>
<td>SF Health Commission resolution on FDA and menthol</td>
</tr>
<tr>
<td>Feb 2017</td>
<td>Led by African American Tobacco Control Leadership Council and SF Tobacco Free Coalition, issue proceeds to local leaders</td>
</tr>
<tr>
<td>June-July</td>
<td>Local ordinance adopted by the Board and signed by Mayor Lee- set to be effective April 2, 2018</td>
</tr>
<tr>
<td>Sept 2017</td>
<td>Ordinance is suspended until June 5 2018 voter referendum- RJ Reynolds floods local media with over $13m spent, about $220 per vote received</td>
</tr>
<tr>
<td>Feb 2017</td>
<td>SF Tobacco Free Coalition, issue proceeds to local leaders</td>
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Industry Push Back
Join us for a Panel Examining the Criminal Justice System on Decriminalizing the Black Community
Special Community Town Hall Meeting with Rev. Al Sharpton

Tuesday October 11 2016
Community Town Hall Meeting 6:30pm
Location: Beebe Memorial Cathedral 3900 Telegraph Oakland CA 94609

Sponsored by National Action Network & RAI

Community Leaders can RSVP: info@nanoakland.org or call (510) 629.4363
Legitimate Concerns of the African American Community

Racism
Police Brutality
Officer Involved Killings
Eric Garner - “I Can’t Breathe”

BLACK LIVES MATTER

July 17, 2014, choked and left to die in handcuffs for allegedly selling “loose” single cigarettes in Staten Island, New York City.
Oakland Vice Mayor Annie Campbell Washington, San Francisco Chief of Police William "Bill" Scott and Supervisor Malia Cohen
All Hands on Deck
All Hands Were On Deck

Michael Bloomberg
Tobacco Free Kids
American Heart Association
American Lung Association
American Cancer Society
BREATHE California
Truth Initiative
Larry Tramutola
FLAVORED TOBACCO PRODUCTS BAN
SAN FRANCISCO PROPOSITION E

YES  68%
100,380

NO  32%
46,389

NAPA MEASURE C - VINEYARD EXPANSION

SEN. DIANNE FEINSTEIN ADVANCES TO THE NOVEMBER ELECTION;
Contact Information

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TOBACCO TOWN MINNESOTA

• Build a computational model to:
  – Act as a policy laboratory & simulate policy implementation
  – Complement existing efforts in MN to change tobacco retailer landscape

• Measure potential changes in:
  – Retailer density
  – Use of menthol (& regular) cigarettes
    • When restricting menthol sales
    • When retailer density is reduced
    • In priority populations & different MN communities

• Disseminate results to Minnesota and national stakeholders
TOBACCO TOWN MINNESOTA

• Restrictions on the sale of menthol cigarettes

• Limiting the types of stores in which menthol or all tobacco products can be sold

• Limiting how close retailers can be to one another
  – Proximity buffers

• Limiting how close retailers can be to other landmarks, like schools
  – Geographic buffers
MENTHOL RETAIL POLICY RESEARCH

Agent-based modeling

- Powerful computation approach
  - Relatively new to public health and tobacco control
- Build *artificial* society of individuals ("agents")
- Place agents in spatial/social environment
- Create rules for agent decision-making
- Inform all aspects from empirical data and evidence
MINNESOTA PLACES

Representative site selection

– MHHI
– Population Density
– Proportion African American
– Retailer Type Density & Prices
### MINNESOTA PLACES

#### Tobacco retailers per square mile

<table>
<thead>
<tr>
<th>Community Type</th>
<th>Urban low-income communities</th>
<th>Urban high-income communities</th>
<th>Suburban low-income communities</th>
<th>Suburban high-income communities</th>
<th>Rural low-income communities</th>
<th>Rural high-income communities</th>
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<tbody>
<tr>
<td>Regular</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Menthol</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pack prices ($)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

#### Pack prices ($)

- Regular
- Menthol

---

10/31/2018 75
AGENT ATTRIBUTES

• Affect agent behaviors
• Used to disaggregate outcomes
• Tobacco Town Minnesota
  • Up to eight different agent ‘types’

<table>
<thead>
<tr>
<th></th>
<th>Non-LGBT</th>
<th>LGBT</th>
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<tbody>
<tr>
<td>African American</td>
<td>High-income</td>
<td>High-income</td>
</tr>
<tr>
<td></td>
<td>Low-income</td>
<td>Low-income</td>
</tr>
<tr>
<td>Non-African American</td>
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<td>High-income</td>
</tr>
<tr>
<td></td>
<td>Low-income</td>
<td>Low-income</td>
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• African Americans have higher rates of smoking than Caucasians.
  • Delva et al., 2005; Trinidad et al., 2009

• LGBT are more likely to smoke than heterosexual individuals
  • Conron, 2010; Greenwood et al., 2005; Ryan et al., 2001

• Lower-income households have higher smoking rates than higher earning households
  • Martier et al., 2010
MENTHOL RETAIL POLICY RESEARCH

• Travel
  – Agents travel between work and home along set routes through built environment

• Smoking
  – Agents in model are smokers with a constant daily smoking rate

• Tobacco purchase
  – Key element that drives model dynamics
TOBACCO PURCHASE

• Decision-making
  – Will an agent purchase either menthol or regular cigarettes?
  – If so, from which retailer and what quantity?

• Purchase decisions: buy regular, buy menthol, do not buy
  – Based on agents’
    • Product preference
    • Price sensitivity
    • Number of cigarettes in possession currently
    • Cigarettes per day
  – Agents minimize total purchase cost (price + time & distance) in choosing retailer and quantity
TOBACCO TOWN MINNESOTA

• The grid represents streets in the town.

• The dots moving on the streets represent agents.

• The squares represent tobacco retailers and the colors represent different types (e.g., convenience stores, pharmacies, tobacco specialty shops)

• Each time a retailer flashes yellow an agent has made a tobacco purchase.

By the numbers
  – 5,700 model runs (3 virtual months each)
  – This is the equivalent of simulating over 1,400 years
  – Over 80 GB of data to analyze
RESULTS: MENTHOL POLICIES (I)

Increases in total costs per pack for menthol (%)

MENTHOL Sales ONLY at tobacco shops + Retailer-to-retailer buffer: 2000ft
MENTHOL Sales ONLY at tobacco shops + Retailer-to-retailer buffer: 1000ft
MENTHOL Sales ONLY at tobacco shops
Geographic MENTHOL buffer: 1500ft

Percentage change in total costs (travel+price) for menthol after policies
RESULTS: MENTHOL POLICIES (II)

Distance to purchase menthol before & after policies (miles)
Vertical marks indicate average distance traveled at baseline

- **MENTHOL Sales ONLY at tobacco shops + Retailer-to-retailer buffer: 2000ft**
- **MENTHOL Sales ONLY at tobacco shops + Retailer-to-retailer buffer: 1000ft**
- **MENTHOL Sales ONLY at tobacco shops**
- **Geographic MENTHOL buffer: 1500ft**

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Average miles traveled off regular route to purchase menthol

81
RESULTS: MENTHOL POLICIES (III)
RESULTS: MENTHOL POLICIES (IV)
RESULTS: KEY TAKEAWAYS (I)

Context matters
- Low-income communities have higher retailer densities & priority populations than wealthier counterparts
- For menthol restrictions or density reductions, low-income areas see the greatest potential impacts community-wide and for priority populations

Low-income smokers
- Consistently see the smallest impacts
- Already traveling farther for lower prices, and travel (opportunity) costs are lower
RESULTS: KEY TAKEAWAYS (II)

Retailer-to-retailer buffer policies
   Most impact in densely populated areas (i.e., urban communities)

Strongest single policy
   Restricting sales (menthol tobacco products or all) to tobacco shops

Strongest combination of policies
   Restricting sales to tobacco shops + retailer-to-retailer 2000 ft. buffer
      -- Potential impact slightly stronger on all counts than just one or the other

Stronger policies have more impact than weaker ones
RESULTS: KEY TAKEAWAYS (III)

Need for more detailed surveillance data for menthol

When you smoke, how often do you smoke menthol?

- Overall
- African American
- LGBTQ
- Low-income

Percentage of smokers

Source: pooled data from NATS 2012 & 2014
CONTACT US

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QUESTIONS?