



September 1, 2022

Re: Flavored Tobacco Products and OUR KIDS

Attn: Chula Vista City Council

Dear Mayor Salas and Council Members Padilla, Cardenas, McCann, & Galvez,

As two cofounders of Parents Against Vaping E-cigarettes (PAVE), a national organization founded in 2018 by three moms as a grassroots response to the youth vaping epidemic, we write today to express our strong support for **ending the sale of all flavored e-cigarettes and all other FLAVORED tobacco products in Chula Vista, with no exemptions.**

PAVE's passionate parent volunteers have been advocating across California for ending the sale of all flavored tobacco products, participating in successful legislative campaigns in **San Diego**, Sacramento, San Jose, Santa Ana, Los Angeles and many more California cities and counties. At the state level PAVE parents helped pass SB 793, which is now on hold due to Big Tobacco's referendum. We are grateful to serve as important partners for California's county, city, and state tobacco prevention coalitions.

According to the 2021 National Youth Tobacco Survey (NYTS), over 2 million young people are currently vaping, and the research has proven over and over that flavors are hooking our kids. The latest figures show that 8 out of 10 teens who vape use flavors. With 40% of high-school users using an e-cigarette on 20 or more days out of the month, **we must take action immediately to protect these teens from becoming an entire generation of nicotine addicts.**

A report published by Data Bridge Market Research published on January 13, 2022, stated, "Various flavor offerings with shisha tobacco and widespread adoption by the various themed restaurants as well as the **youth population has been directly impacting the growth of shisha tobacco market. Variety of flavor offerings in shisha tobacco is one of the major driving factors as a large portion of the youth are willing to take up flavored smoking.**"

For these reasons, we are proud to advocate for a strong tobacco retail license ordinance in Chula Vista that is **comprehensive and includes hookah, e-cigarettes, and ALL flavored tobacco products.** Please provide the kids of Chula Vista with the same protections enjoyed by the kids in many other surrounding municipalities and prioritize lives, health equity, and prevention during this public health emergency! Thank you for your leadership and bringing this very important issue forward.

Sincerely,

Dorian Fuhrman and Meredith Berkman

Co-Founders, PAVE [www.parentsagainstvaping.org](http://www.parentsagainstvaping.org)

Good afternoon Councilmember

Please accept this letter of support from Social Advocates for Youth (SAY) San Diego regarding amending Chula Vista's Tobacco Retail License program to prohibit the sale of flavored tobacco products. The data shows ordinances like this one reduce youth access to tobacco products, which reduces youth initiation and use.

We appreciate your leadership.

Warm regards,  
Cynthia



Cynthia (Cindy) Knapp, MPH | Program Manager

*she/her/hers*

**SAY San Diego**

Alcohol, Tobacco, and Other Drugs Prevention

4275 El Cajon Blvd., Ste. 101 | San Diego, CA 92105

Mobile: [REDACTED]

[www.saysandiego.org](http://www.saysandiego.org)

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## **SAY** San Diego

Social Advocates for Youth

*Strengthening the Whole Child, Whole Family, Whole Community Since 1971*

September 2, 2022

Councilmember

276 Fourth Avenue

Chula Vista, CA

Dear Councilmember

Ending the sale of flavored tobacco will protect Chula Vista's youth and communities. Across California, well over one-hundred cities and counties have taken similar action to protect our youth from the tobacco industry. Through the adoption of local ordinances that end the sale of flavored tobacco products, these communities have protected roughly a quarter of Californians.

Ending the sale of all flavored tobacco products is a critical step that will help protect children from Big Tobacco, which is working non-stop to hook them to a deadly new addiction.

Flavored tobacco products are designed to alter the taste of tobacco so that it is more appealing and easier for beginners, who are almost always kids. These products are marketed and sold in a variety of kid-friendly flavors with colorful packaging and sweet, fruity, and minty tasting flavors.

Flavored tobacco products are often hard to distinguish from the candy displays near which they are strategically placed in retail outlets. Locally, 42% of San Diego high school students have used flavored tobacco products (YRBS, 2021). E-cigarettes are the most used product by youth, followed by menthol cigarettes and flavored little cigars (cigarillos).

By ending the sale of flavored tobacco products, Chula Vista would join the County of San Diego, as well as Imperial Beach, San Diego, Encinitas, Solana Beach, and over one-hundred more jurisdictions who have chosen to protect their youth and communities from the harm that comes with tobacco product use.

Amending Chula Vista's Tobacco Retail License to prohibit the sale of flavored tobacco products will go far in protecting our youth.

Thank you for your leadership,



Kevin O'Neill, Vice President, Community Engagement  
Social Advocates for Youth (SAY) San Diego

**From:** Cynthia Knapp <[Cynthia.Knapp@saysandiego.org](mailto:Cynthia.Knapp@saysandiego.org)>  
**Sent:** Tuesday, September 6, 2022 2:15 PM  
**To:** Mary Salas <[MSalas@chulavistaca.gov](mailto:MSalas@chulavistaca.gov)>  
**Cc:** CityClerk <[CityClerk@chulavistaca.gov](mailto:CityClerk@chulavistaca.gov)>; Hartman, Lester <[Lester.Hartman@childrens.harvard.edu](mailto:Lester.Hartman@childrens.harvard.edu)>; JohnDale Noriega <[JohnDale.Noriega@saysandiego.org](mailto:JohnDale.Noriega@saysandiego.org)>  
**Subject:** Dr. Hartman: LOS for Tobacco Product Regulation

**Warning:  
External  
Email**

Hello Mayor Salas,

Dr. Lester Hartman, pediatrician and tobacco researcher out of Harvard University, has close ties to the City of Chula Vista. He wrote the attached letter for your consideration in the upcoming flavored tobacco decision. Dr. Hartman cannot join us in-person for the City Council meeting, but is copied on this message. Please reach out with any questions you have regarding his points.

Thank you,  
Cynthia



Cynthia (Cindy) Knapp, MPH | Program Manager  
*she/her/hers*  
**SAY San Diego**  
Alcohol, Tobacco, and Other Drug Prevention  
4275 El Cajon Blvd., Ste. 101 | San Diego, CA 92105  
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[www.saysandiego.org](http://www.saysandiego.org)

**From:** [Cynthia Knapp](#)  
**Sent:** Friday, September 2, 2022 2:33 PM  
**To:** [msalas@chulavistaca.gov](mailto:msalas@chulavistaca.gov)  
**Cc:** [CityClerk](#)  
**Subject:** SAY San Diego: LOS for Tobacco Product Regulation

Good afternoon Mayor Salas,

Please accept this letter of support from Social Advocates for Youth (SAY) San Diego regarding amending Chula Vista's Tobacco Retail License program to prohibit the sale of flavored tobacco products. The data shows ordinances like this one reduce youth access to tobacco products, which reduces youth initiation and use.

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Warm regards,  
Cynthia



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September 6, 2022

Mayor Salas and Chula Vista Councilmembers,

I am a retired Massachusetts-based pediatrician integrally involved in Massachusetts passing Tobacco21 and the tobacco flavor ban, including menthol. Here are some points about vaping you may not know:

- 1.) 95% of lifetime tobacco users start before the age of 21.
- 2.) There is a strong association between vape and thyroid cancer, cervical cancer, and leukemia. In my own practice, I saw a 19 year-old who vaped THC and nicotine develop nasopharyngeal cancer which, on average, strikes adult adults age 40 or older.
- 3.) In Massachusetts, after Tobacco21 age restriction and flavor ban were enacted, the convenience store industry continue to grow at a 3-5% increase. These regulations don't put businesses out of business.
- 4.) E-cigarettes are adolescent nicotine addiction devices, not adult smoking cessation devices. Several months ago, in a vape shop in Chula Vista, I bought the e-cigarette product called INFINITE 8000. Yes, it has 8,000 puffs of "Blu razz" vape. The device fits into the palm of your hand and is equivalent to 30-40 packs of cigarettes.
- 5.) When Massachusetts initially exempted menthol, Massachusetts kids defaulted to using menthol products. In Vancouver, when menthol was banned, there was a 30-50% increase in adult quit attempts.
- 6.) Dr. Hajek's recent study says nicotine-based e-cigarettes are 2 times more likely to gets you off cigarettes than gum and patches. But what he did not say is gum and patches are 2.5 times more likely to get you off ALL nicotine containing products.
- 7.) The goal of Big Vape and Big Tobacco is to delay, delay, delay while they continue to make millions and even billions of dollars. Send a message to Big Tobacco and voters in other towns that you are not waiting for the vote on Proposition 31, you want to stop this youth epidemic NOW!!
- 8.) Dr. Friedman's paper on claiming when flavors were banned kids started using combustible tobacco. Her data was flawed, and she used data before the legislation went from passed to enacted, which is often a 6-month gap. She failed account for this.

Thank you,  
Lester J. Hartman, MD MPH FAAP  
Westwood-Mansfield Pediatric Associates

  
Lester.hartman@childrens.harvard.edu | [www.wmpeds.com](http://www.wmpeds.com)

"Proactive in your child's care. Empowering families for over 60 years."

@DrHartmanWMPEDS | #Tobacco21 | #DontBeAJuulFuul | #FlavorsHookKids

Dear Councilmembers,

My previously sent email contained an error, please accept my sincerest apologies and see the corrected message below:

Attached is a letter from the African American Tobacco Control Leadership Council strongly encouraging the Chula Vista City Council to end the sale of menthol cigarettes and all flavored tobacco products in the City.

This is no minor matter; lives are at stake.

New research shows that between 1980-2018 menthol cigarettes were responsible for:

1. 1.5 million new African American smokers;
2. 157,000 smoking-related premature deaths among African Americans; and
3. 1.5 million life-years lost among African Americans (Mendez & Le, 2021) (the full article and an accompanying editorial are also attached.)

Time is of the essence. We can't wait on the State or the FDA. Chula Vista must act now!

Thank you for your leadership.

With gratitude,  
Camille Cummings

On Wed, Sep 7, 2022 at 9:36 AM Camille Cummings <[ccummings@amplify.love](mailto:ccummings@amplify.love)> wrote:  
Dear Councilmembers,

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Thank you for your leadership.

With gratitude,

Camille Cummings

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**Camille Cummings, Project Coordinator**

African American Tobacco Control Leadership Council

Phone: 888.881.6619 ext. 109

<https://www.savingblacklives.org/>



**FINISHING THE FIGHT**  
Knocking Out Commercial Tobacco • AATCLC

**From:** Camille Cummings <[REDACTED]>  
**Sent:** Wednesday, September 7, 2022 9:36 AM  
**To:** Mary Salas <[MSalas@chulavistaca.gov](mailto:MSalas@chulavistaca.gov)>; Steve C. Padilla <[spadilla@chulavistaca.gov](mailto:spadilla@chulavistaca.gov)>; Andrea Cardenas <[acardenas@chulavistaca.gov](mailto:acardenas@chulavistaca.gov)>; John McCann <[jmccann@chulavistaca.gov](mailto:jmccann@chulavistaca.gov)>; Jill Galvez <[jmgalvez@chulavistaca.gov](mailto:jmgalvez@chulavistaca.gov)>  
**Cc:** CityClerk <[CityClerk@chulavistaca.gov](mailto:CityClerk@chulavistaca.gov)>; Adrian Kwiatkowski <[REDACTED]>  
Aida C. Castaneda <[REDACTED]>; Valerie Yerger <[REDACTED]>; Carol McGruder <[REDACTED]>; Phillip Gardiner <[REDACTED]>; Camille Cummings <[REDACTED]>  
**Subject:** End the Sale of Menthol Cigarettes and all Flavored Tobacco Products in Chula Vista

**Warning:  
External  
Email**

Dear Councilmembers,

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With gratitude,  
Camille Cummings

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**Camille Cummings, Project Coordinator**  
African American Tobacco Control Leadership Council  
Phone: 888.881.6619 ext. 109  
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# Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980–2018

David Mendez, Thuy T T Le 

► Additional supplemental material is published online only. To view, please visit the journal online (<http://dx.doi.org/10.1136/tobaccocontrol-2021-056748>).

Health Management and Policy, University of Michigan, Ann Arbor, Michigan, USA

## Correspondence to

Dr Thuy T T Le, Department of Health Management and Policy, University of Michigan School of Public Health, Ann Arbor 48109, MI, USA; [thuuttle@umich.edu](mailto:thuuttle@umich.edu)

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Accepted 16 August 2021

## ABSTRACT

**Background** For many years, national surveys have shown a consistently disproportionately high prevalence of menthol smokers among African Americans compared with the general population. However, to our knowledge, no prior study has quantified the harm that menthol smoking has caused on that population. In this work, we estimate the public health harm that menthol cigarettes have caused to the African American community over the last four decades.

**Methods** Using National Health Interview Survey data, we employed a well-established simulation model to reproduce the observed smoking trajectory over 1980–2018 in the African American population. Then, we repeat the experiment, removing the effects of menthol on the smoking initiation and cessation rates over that period, obtaining a new hypothetical smoking trajectory. Finally, we compared both scenarios to calculate the public health harm attributable to menthol cigarettes over 1980–2018.

**Results** Our results show that menthol cigarettes were responsible for 1.5 million new smokers, 157 000 smoking-related premature deaths and 1.5 million life-years lost among African Americans over 1980–2018. While African Americans constitute 12% of the total US population, these figures represent, respectively, a staggering 15%, 41% and 50% of the total menthol-related harm.

**Discussion** Our results show that menthol cigarettes disproportionately harmed African Americans significantly over the last 38 years and are responsible for exacerbating health disparities among that population. Removing menthol cigarettes from the market would benefit the overall US population but, particularly, the African American community.

avoided if menthol cigarettes were banned from the market; and while other studies<sup>3 5–9</sup> have addressed the historical causes that have made menthol the preferred choice of cigarette products among African Americans, to our knowledge, no prior study has quantified the health harm that menthol smoking has already inflicted on that population.

Following a recent study<sup>10</sup> that calculated the health damage caused by menthol smoking on the entire US population over 1980–2018, the current work estimates the share of such harm borne by the African American community, and its disproportion compared with the total menthol toll in the USA. Our results may be helpful to the Food and Drug Administration as they continue evaluating the benefit of a menthol ban.

## METHODS

We used the same simulation model and calibration process as in the Le-Mendez article<sup>10</sup> with parameters specific to the African American population. The model formulation, definition of model parameters and how some parameters were calculated were thoroughly described in Le-Mendez's work.<sup>10</sup> The African American-specific parameters were taken from several data sources described below and summarised in online supplemental table A1.

For our initial year (1980), we obtained the African American population by single year of age from the Centers for Disease Control and Prevention.<sup>11</sup> For subsequent years, we got the African American birth cohorts from 1981 through 2018 from the National Vital Statistics Reports.<sup>12 13</sup> The overall age-specific death rates for the African American population, updated every 5 years, were extracted from the 1980–2018 US Life Tables.<sup>14</sup> We used relative risks of mortality specific to the African American population, derived from Cancer Prevention Study II (CPS-II data; Relative risks for African American current and former smokers were derived from CPS-II data and provided by Dr Michael Thun from the American Cancer Society for the 2011 Tobacco Products Scientific Advisory Committee (TPSAC) Menthol Report. Available in online supplemental table A5) to calculate the death rates by age for never, current and former smokers following the same procedure described in Le-Mendez's article.<sup>10</sup> Smoking prevalence for current and former smokers and the proportion of menthol use among smokers in 1980 were estimated using NHIS data. We calculated the overall smoking cessation rates for African Americans by adjusting the general population's overall smoking cessation rates presented in Le-Mendez's work<sup>10</sup> with the ratio of cessation

## BACKGROUND

For over 60 years, tobacco companies have targeted menthol cigarettes to the African American community through aggressive marketing and promotion.<sup>1–3</sup> It is well known that a disproportionately high number of African Americans smoke menthol cigarettes. According to the 2018 National Survey on Drug Use and Health, 85% of African American smokers used menthol versus 39% of those in the general population. This is not a recent phenomenon. In 1980, for example, menthol prevalence among African American smokers was 66% vs 33% among the general population, according to the National Health Interview Survey (NHIS).

Several articles<sup>4</sup> have addressed the prospective harm to the black community that could be



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rates between the African American and general populations (0.66 reported in ref 15). Then, using the menthol cessation multiplier for African Americans estimated by Mills *et al*<sup>16</sup> (0.47, 95% CI 0.24 to 0.91) and the proportion of menthol smokers among current African American smokers, we applied the same process used in ref 10 to compute the cessation rates for African American non-menthol and menthol smokers. The specific formulation and cessation values for 1980 are shown in the Supplement to ref 10 and online supplemental tables A2 and A3.

The annual adult smoking initiation rates for African Americans were computed by taking the average NHIS smoking prevalence among 18–24 year-olds, consistent with ref 10. The switching rates between menthol and non-menthol smokers were calculated as in the 2011 menthol report<sup>17</sup> (2.29% switching to menthol and 1.08% to non-menthol cigarettes). An extensive sensitivity analysis (see online supplemental table A4) showed that these parameters exert little influence on the results. The ratio of yields from experimenter to smoker<sup>18 19</sup> and menthol mortality multiplier for the African American population remains as in the Le-Mendez work,<sup>10</sup> following their same arguments.

As in ref 10, we first used NHIS smoking prevalence data over 1980–2018 (when the NHIS survey was conducted) to calibrate the model. Then, we used the calibrated model to replicate African Americans' smoking prevalence trajectory during 1980–2018. Finally, to quantify the harmful effect of menthol use on the African American population, we repeated the previous step to generate an alternative smoking trajectory for African Americans during the same period, eliminating the effect of menthol since 1980. We achieved this by adjusting the smoking initiation and cessation rates to eliminate the effect of menthol on those parameters (see the Appendices to the 2011 TPSAC Menthol Report<sup>17</sup> and the Le-Mendez paper<sup>10</sup>). Finally, we compared our results from both scenarios (with and without menthol cigarettes) to calculate the impact of menthol on smoking prevalence, life-years lost and smoking-related premature deaths. Additionally, we compared our results with those for the general population reported in Le-Mendez's work<sup>10</sup> and calculated the disproportionate harm inflicted on the African American population due to menthol.

## RESULTS

The simulated smoking prevalence for African Americans closely captures the NHIS reported smoking prevalence over 1980–2018 with pseudo- $R^2=0.95$  (pseudo- $R^2=1-[\text{Errors Sum of Squares}]/[\text{Total Sum of Squares}]$ ) (see online supplemental figure A1 and A2). Table 1 shows the harm attributable to menthol cigarettes for the general population (from Le-Mendez's work<sup>10</sup>), the African American population and the hypothetical low-menthol African American population. A complete sensitivity analysis on the values in table 1 is presented in online supplemental table A4.

The values in the first three columns of the table are self-explanatory; the numbers within parentheses show the percentages that those values represent, relative to those for the general population. The last column shows the average proportion

(over 1980–2018) of the corresponding population referred to on each row, relative to the entire US population. For example, the table shows that, among African Americans, menthol was responsible for 1.5 million extra smokers, 157 000 smoking-related premature deaths and 1.5 million excess life-years lost during 1980–2018, representing 15%, 41% and 50% of the total menthol toll, respectively. However, during the same period, African Americans constituted only around 12% of the overall US population.

The last row of the table shows a hypothetical African American population that exhibits the same menthol smoking-related parameters as the general population. We simulated this scenario by setting the values of menthol-affected parameters for the African American population to those of the general population. In this hypothetical group, the estimated menthol smoking excess initiation, premature deaths and life-years lost would have represented 13%, 16% and 21% of the overall menthol harm, respectively; much more in agreement with the proportional (relative to the entire US) size of this population (12%). It is worth noting, though, that the menthol death toll in the low-menthol population is still above its proportional share. This is due to the mortality rates among African American smokers, which are higher than in the general population.

## DISCUSSION

Since the 1960s, the tobacco industry has targeted the African American community for the consumption of menthol cigarettes through aggressive marketing, including intense advertising and price discounts. Simultaneously, the industry supported numerous African American organisations to gain the trust of the African American community. Several publications<sup>3 9</sup> describe the marketing efforts by the tobacco industry to establish a special connection between menthol cigarettes and the African American community. In a fascinating article entitled 'The African Americanization of menthol cigarette use in the United States',<sup>3</sup> Gardiner recounts the long history of, and explains the facts behind, the relationship between African Americans and menthol cigarettes, and how those products became an integral part of the African American culture. In essence, the identification of African American smokers with menthol has been purposely orchestrated by the tobacco industry following their goal of maximising their profits.

Unfortunately, this marketing strategy turned out to be a huge success for the tobacco industry, but deadly for the black community. Besides creating a brand with which African Americans could identify and call their own, the industry exposed this population to a substance that amplifies the damaging effects of cigarette smoking. Menthol intensifies this harm by increasing the chances that individuals transition from experimentation to regular smoking,<sup>18 19</sup> and by increasing dependency, which leads to delayed cessation.<sup>16</sup> These effects increase the number of smokers and the amount of time they remain smoking.

**Table 1** Excess smoking initiation, smoking-related deaths and life-years lost due to menthol cigarettes over 1980–2018 for the adult general, African American and hypothetical low-menthol African American population

	Cumulative excess smoking initiators (%)	Cumulative excess deaths (%)	Cumulative excess life-years lost (%)	Average percentage of population (%)
General population	10 137 808 (100)	377 528 (100)	2 951 533 (100)	100
African American population	1 508 913 (15)	156 471 (41)	1 476 198 (50)	12
Hypothetical low-menthol African American population	1 286 848 (13)	61 132 (16)	606 840 (21)	12

The negative impact of menthol cigarettes on the public's health is significant, as Le and Mendez described in ref 10. For African American smokers, though, the harm wrought by menthol smoking is much higher than that for the rest of the population. Despite having a similar overall smoking prevalence as the general population,<sup>20</sup> it is well known that African Americans suffer, proportionally or disproportionately, more serious smoking-attributable health consequences.<sup>21</sup> Main probable causes for this phenomenon are the high overall mortality rates due to economic and social conditions and the high prevalence of menthol among African American smokers, which causes them to be more addicted and quit less. In fact, our results show that menthol was responsible for 157 000 smoking-related deaths among African Americans during 1980–2018, over two and a half times their proportional share of menthol deaths compared with the general population. And, what is even more depressing, 50% of all the life-years lost to menthol smoking during 1980–2018 occurred among African Americans. Additionally, our results (shown in online supplemental figure A1) also indicate that, without menthol, smoking prevalence among African Americans in 2018 would have been 8.3%, instead of the NHIS reported 14.9% (a 44% reduction). We note that our results may be considered conservative, since we do not take into account the future harm that menthol smoking over 1980–2018 will cause to the African American population.

Considering that cigarette smoking is the number one cause of preventable deaths in the USA, menthol in cigarettes is an important factor in creating and exacerbating health disparities in this country. Removing menthol cigarettes from the market will save thousands of African American lives per year and help reduce health disparities at a time when inequalities among minority and socioeconomically disadvantaged groups are increasingly salient.

#### What this paper adds

- ▶ Menthol cigarettes have been disproportionately used among African Americans.
- ▶ Menthol cigarettes exacerbate health inequalities for the African American community.
- ▶ Removing menthol can have the double effects of saving lives and reducing inequalities.

**Acknowledgements** The authors would like to thank the University of Michigan Data Analysis and Dissemination Core led by Dr. Jihyoun Jeon for providing us some data for this work.

**Contributors** DM and TTTL conceptualised the project. TTTL calibrated the model and conducted all the analysis. DM supervised the work. Both authors contributed to the writing of the manuscript.

**Funding** The research reported in this publication was supported by the National Cancer Institute of the National Institutes of Health and Food and Drug Administration Centre for Tobacco Products (award number U54CA229974).

**Competing interests** None declared.

**Patient consent for publication** Not required.

**Provenance and peer review** Not commissioned; externally peer reviewed.

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# What more evidence is needed? Remove menthol cigarettes from the marketplace—now

Valerie Yerger <sup>1,2</sup>

Tobacco remains the leading cause of preventable death and disease in the USA and many other countries. However, among all racial and ethnic groups in the USA, African Americans bear the greatest burden from tobacco-related morbidity and mortality.<sup>1</sup> Every year, 45 000 African Americans prematurely and unnecessarily die from tobacco-caused diseases. An estimated 85% of them smoked menthol cigarettes.<sup>2</sup>

Menthol's sensory properties reinforce smoking, increase uptake of nicotine and toxic smoke components, and discourage cessation. Menthol's cooling, anaesthetic and analgesic effects ease initiation among new smokers by masking the harshness and irritation of tobacco smoke, reducing pain sensations in the mouth and throat, and enabling deeper inhalation that facilitates greater exposure to nicotine.<sup>3</sup>

On 3 March 2009, Representative Henry Waxman and 124 congressional cosponsors introduced H.R. 1256—the 'Family Smoking Prevention and Tobacco Control Act.'<sup>4</sup> Representative Waxman's Committee Report expressed concerns about the disproportionate use of menthol cigarettes among African Americans, the targeted marketing of menthol cigarettes in black communities, and the higher rates of lung cancer among African American smokers compared with non-African American smokers, urging the Secretary of Health and Human Services to move quickly to address the unique public health issues posed by menthol cigarettes. Yet, although most other characterising flavours in cigarettes were prohibited in 2009 under the final version of the Family Smoking Prevention and Tobacco Control Act, menthol was inexplicably excluded.<sup>5</sup> It has been estimated that hundreds of thousands of African Americans and other menthol smokers are destined to die

prematurely if the exemption of menthol is allowed to continue.<sup>6</sup>

The disproportionate toll of menthol cigarettes among African Americans compared with the general population is a social injustice. The black community has long been subjected to the predatory marketing of mentholated tobacco products, particularly in lower income areas, where there are not only more advertisements, but more promotions and cheaper prices for menthol cigarettes when compared with more affluent neighbourhoods.<sup>7</sup> Tobacco companies also heavily rely on their cooptation of community leaders to defuse tobacco control efforts.<sup>8</sup> Black-led organisations with financial ties to the tobacco industry have played a critical role in disseminating misinformation throughout the black community. Such misinformation, for example, includes the idea that local policies prohibiting the sale of mentholated tobacco products are racist and will increase the criminalisation of individuals who possess or smoke them, exploiting legitimate concerns about racist policing to defend the tobacco industry's targeted predation on the black community.<sup>9,10</sup>

Authors Mendez and Le, in their article 'Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980–2018,'<sup>11</sup> show why none of us can remain silent and complicit. This paper should serve as a kick upside the head for those who are in a position to remove these deadly products from the marketplace. Until this paper, no prior study has fully quantified the health harm inflicted on African Americans by menthol cigarettes. Yet, for at least three decades, African American tobacco control activists have been out there resisting the pervasive presence of the tobacco industry and their deadly products in black communities,<sup>12–15</sup> including filing a lawsuit to get the Center for Tobacco Products of the US Food and Drug Administration (FDA) to act on menthol.<sup>16</sup> Now the evidence is irrefutable: menthol cigarettes are killing our people at a rate unmatched by any other assaults on our community.

Though constituting only 12% of the total US population, African Americans bear an alarming amount of the

total menthol-related harm: 41% of the smoking-related premature deaths and 50% of the life-years lost. This analysis demonstrates the contribution of menthol cigarettes toward the annihilation of a people already under siege by a racist society and its myriad of inequities, governmental policies and political domination.<sup>17,18</sup> Institutionalised racism, its long historical impact, and the associated, yet unresolved, intergenerational trauma experienced by black people in America have made them vulnerable to the clever marketing and predatory dumping of mentholated tobacco products in their communities.

For decades, the tobacco industry has exploited social and economic inequities to foster the uptake and use of menthol cigarettes, and create brand loyalty among African Americans. Tobacco companies strategically targeted menthol cigarettes to low-income African Americans, blanketing inner city communities with marketing, free samples, and music promotions,<sup>19</sup> and thereby contributing to the tobacco-related health disparities observed today, as Mendez and Le have now confirmed. We can no longer ignore the intersecting, overlapping and distinctive systems of oppression that shape 'being black in America' and how menthol cigarettes contribute to sustained and widening health disparities.<sup>20</sup>

This paper is compelling on its own merit; however, read in tandem with the authors' previous paper,<sup>21</sup> one can fully appreciate the significant role menthol cigarettes have played in addicting millions of young people to nicotine and in the deaths of thousands due to tobacco. As the authors emphasise, mentholated cigarettes have a 'significant detrimental impact on the public's health and could continue to pose a substantial health risk.'

More than a decade after the FDA was given authority to regulate tobacco products, long after other flavours favoured by white children were banned from most tobacco products, and long after the first of several scientific reports found menthol cigarettes to pose a public health risk above that seen with non-menthol cigarettes,<sup>22–24</sup> the FDA still has not acted. The black community has been abandoned at the federal level, leaving activists to seek local and state policy changes. So, the question for me is: Given the mountains of evidence, will anything push the federal government to consider social justice and act on its commitment to finally ban menthol cigarettes and all flavoured cigars?<sup>25,26</sup>

The recent highly publicised killings of black men and women, including George Floyd, Ahmaud Arbery, Breonna Taylor and many others, brought to the forefront

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of our nation's conscience how pervasively racism permeates everyday life. Whether one is on the receiving or perpetuating end of racist behaviours or if one benefits from or is negatively impacted by racist policies, we all recently watched how quickly the world mobilised to support the Black Lives Matter movement. Are we in a moment to leverage this movement?

If menthol cigarettes are allowed to stay in the marketplace, the lives of African Americans and others remain at increased risk. Conversely, removing these terrible products will benefit not only the black community but also other racial and ethnic groups, the lesbian, gay, bisexual and transgender community, youth and those with behavioural health issues, since these groups also disproportionately smoke mentholated cigarettes over non-mentholated cigarettes.<sup>27-30</sup> I ask that others stand with us to repair a wrong done to the black community, as we stand with you. There is simply no ethically acceptable reason to allow the tobacco industry to continue using a flavouring that makes it easier to start smoking and harder to quit. Whether we work at the federal, state or local level, we are empowered in our collective work to protect our communities from our number one killer, a corporate industry of federally adjudicated racketeers.<sup>31</sup> This paper provides us with added ammunition to get that vital work done. It is long past time for the FDA to get inoculated against whatever the hell is keeping it from getting these deadly products out of the marketplace.

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## The African American Tobacco Control Leadership Council

**September 7, 2022**

**To:** Mayor Mary Casillas Salas, Councilmember Steve Padilla, Councilmember Andrea Cardenas, Councilmember John McCann, and Councilmember Jill Galvez

**From:** The African American Tobacco Control Leadership Council (AATCLC)

**Re: End the Sale of Menthol Cigarettes and all Other Flavored Tobacco Products in Chula Vista! No Exemptions: All Flavors, All Products at All Locations!**

The African American Tobacco Control Leadership Council (AATCLC) strongly encourages the Chula Vista City Council to end the sale of menthol Cigarettes and all flavored tobacco products, with no exemptions. We are glad to see that the Council is considering this issue. Frankly, this couldn't come at a better time. We already know that 80% of youth, 12-17 start smoking using flavored cigarettes (Ambrose et al., 2015). Indeed, in the midst of the ongoing COVID 19 pandemic, nothing could be more important than getting these products out of our community. We already know that smokers are more susceptible to COVID infection (CDC, 2020). If the Council truly wants a healthier Chula Vista, and we believe that you do, then it is imperative that menthol-flavored cigarettes and other flavored tobacco products be prohibited. This will end the predatory marketing of these products that disproportionately impact poorer communities, marginalized groups, youths, and communities of color.

**Menthol the Ultimate Candy Flavor; It Helps the Poison Go Down Easier!**

**This is no minor matter.** Menthol cigarettes and flavored tobacco products are driving tobacco-related deaths and diseases nationwide. While the use of non-flavored tobacco cigarettes has been decreasing, the use of menthol cigarettes is on the rise, among youth and adults; among Latinos, Blacks, and Whites (Villanti, 2016). Let's be clear, the majority of women smokers smoke menthol cigarettes; folks from the LGBTQ community disproportionately smoke these products; 47% of Latino smokers prefer menthol cigarettes, with 62% of Puerto Rican smokers using menthol; nearly 80% of Native Hawaiians; a majority of Filipinos; and a majority of smokers with behavioral health issues smoke menthol cigarettes. Frankly, the most marginalized groups disproportionately use these so-called "minty" products (CDC, 2010; Fallin, 2015; Forbes, 2013; Delnevo, 2011; Hawaii State Dept. of Health, 2009; Euromonitor, 2008; Hickman, 2015).

Be appraised that 85% of African American adults and 94% of Black youth who smoke are using menthol products (Giovino, 2013). These striking statistics arise from the predatory



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marketing of these products in the Black Community, where there are more advertisements, more lucrative promotions, and most disturbing menthol cigarettes are *cheaper in the Black community* compared to other communities (Henriksen et al., 2011; Seidenberg et al., 2010). These predacious practices for the past 50 years have led to Black folks dying disproportionately from heart attacks, lung cancer, strokes, and other tobacco-related diseases (RSG, 2014).

**Take note that new research shows that menthol cigarettes were responsible for 1.5 million new smokers, 157,000 smoking-related premature deaths, and 1.5 million life-years lost among African Americans from 1980–2018. While African Americans constitute 12% of the total US population, these figures represent, respectively, a staggering 15%, 41%, and 50% of the total menthol-related harm (Mendez & Le, 2021).**

The Council should be aware that menthol is an anesthetic by definition, and as if to add insult to injury, masks the harsh taste of tobacco and allows for deeper inhalation of toxins and greater amounts of nicotine. The greater the nicotine intake, the greater the addiction. Hence, it is no surprise menthol cigarette users find it harder to quit than non-menthol cigarette users (Ton et al., 2015; Levy et al., 2011). The “cool refreshing taste of menthol” heralded by the tobacco industry is just a guise; ultimately, menthol and all flavors allow the poisons in cigarettes and cigarillos “to go down easier!”

### **Hookah: The Manipulation of Culture for Industry Profits!**

While we have all become aware of the meteoric rise of E-Cigarette use, especially among kids, another addictive product is growing in popularity: flavored shisha / Hookah. Let’s not be fooled: passing tobacco smoke through water does nothing to stop the user from inhaling all the toxins, nicotine, and cancer-causing chemicals associated with tobacco smoking. Let’s be clear, Hookah is just as deadly as cigarettes, if not more. Studies show that in a single hookah smoking session of 40 minutes, smokers consume 25 times the tar, 125 times the smoke 2.5 times the nicotine, and 10 times the carbon monoxide compared to smoking a cigarette (Primack et al., 2016). Moreover, both patrons and employees at Hookah lounges are exposed to elevated levels of 2<sup>nd</sup> hand smoke an already recognized cause of cancer (Zhou et al., 2016)

Then there is the fiction that Hookah smoking is a 1000-year-old tradition in the Middle East. Look, tobacco only made its way to Europe some 500 years ago and only gradually made its way to the Middle East 3 to 4 hundred years ago. Make no mistake about it, it’s the Hookah Lounge owner’s manipulation of culture argument that is used to attract more business and profits. **Flavored shisha like Blue Mist, Irish Kiss, and Sex on the Beach has nothing to do with Middle Eastern Culture. Once it was determined in the 1960s that smoking kills, Islamic Leaders deemed tobacco, Hookah, and Shisha Forbidden. At bottom, Hookah**



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**lounges with their nightclub atmosphere have nothing to do with Middle Eastern Culture, rather it's all about the Benjamin's! It's not about getting rid of all hookahs or all tobacco products, it's about getting rid of all flavors, at all places, in all products, period.**

### **We Can't Wait on the State or the FDA**

The AATCLC is calling upon the City Council of Chula Vista to join a growing number of cities, counties, and states around the country that are prohibiting, jurisdiction-wide, the sales of menthol cigarettes and all other flavored tobacco products. In June 2018, San Francisco voters passed the first-ever citywide restriction on the sales of all flavored tobacco products, including menthol cigarettes and flavored e-cigarette juices. This “strongest flavor ban law ever” was rapidly replicated in numerous cities in California and around the country, including Oakland, Alameda, Hayward, Fremont, Berkeley, and Sacramento, just to mention a few. Just recently, the County of Sacramento adopted its own menthol and flavor restrictions. Today over 72 municipalities prohibit the sale of all menthol tobacco products including flavored e-juices [no-smoke.org/wp-content/uploads/pdf/flavored-tobacco-product-sales.pdf](https://no-smoke.org/wp-content/uploads/pdf/flavored-tobacco-product-sales.pdf) Indeed, in June of 2020, the State of Massachusetts became the first state to prohibit the sale of menthol cigarettes and all flavored tobacco products state-wide and in August of 2020 California followed suit and became the second state to do so. With the tobacco industry forcing a referendum of SB 793, now Prop 31, it becomes even more imperative that local jurisdictions take steps to protect their citizenry. We can't wait on the State, let's take steps to make Chula Vista healthier now!

While it is important that the FDA finally began the rulemaking process in April of 2021 to remove menthol cigarettes and flavored little cigars from the marketplace, this process will take years. First, the proposed rule was only made public in April of 2022. And we have just come through a summer where the tobacco industry dragged out the comment period to August of this year. We already know that 100,000's of comments have been sent to the FDA, the majority of them from the tobacco industry. Once the public comment is over, the “rule” is sent to the Office of Management and Budget (OMB), whose review could take a number of months. Once a final rule is made public and there is more public comment, the industry will sue to stop the process from going forward. And may sue for numerous reasons. The bottom line is that we can't wait on the FDA. Cities like Chula Vista must take steps to protect the health of our citizens, lives are at stake.

### **Who Are the Racists: The Tobacco Control Advocates or the Tobacco Industry?**

Some groups funded by the tobacco industry insist that removing menthol cigarettes and flavored little cigars would be taking away “our” cigarettes; we'd be discriminatory; racist. This line of argumentation stands history on its head. As was pointed out earlier, it was and is the tobacco industry that predatorily markets these products in the Black Community. The facts are



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these: there are more advertisements, more lucrative promotions, and most disturbing is that menthol cigarettes are *cheaper in the Black Community* compared to other communities (Henriksen et al., 2011; Seidenberg et al., 2010). This is how these flavored death sticks became “our” cigarettes, they pushed them down our throats!

Still, other groups, spurred on and funded by the tobacco industry, have been spreading falsehoods, stating that restricting the sale of menthol cigarettes and flavored tobacco products, including flavored e-juices will lead to the “criminalization” of particularly young Black men. Nothing could be further from the truth. All ordinances adopted around the country would *prohibit the sale* of flavored products, it would *not prohibit the possession* of these products. The facts are that the adoption of menthol restrictions will not lead to police having any greater interaction with any youth; it won’t be illegal to possess these products, just retailers cannot sell them.

These same groups rail about “unintended consequences.” We respond: **Look at the Intended Consequences!** As mentioned before, Black folks die disproportionately from tobacco-related diseases of heart disease, lung cancer, and stroke compared to other racial and ethnic groups. (RSG, 2014); menthol cigarettes and flavored little cigars are the agents of that destruction. It is estimated that 45,000 Black folks die each year from tobacco-related diseases (RSG, 1998). In this regard, the Committee should remove all criminal penalties associated with the purchase, use, and possession of all tobacco products. Decriminalize tobacco! Hold retail owners responsible, not clerks, don’t punish kids!

### The AATCLC

Formed in 2008, the African American Tobacco Control Leadership Council is composed of a cadre of dedicated community activists, academics, public health advocates, and researchers. Even though based in California, we are national in our scope and reach. We have partnered with community stakeholders, elected officials, and public health agencies, from Chicago, Boston, and Minneapolis to Berkeley and San Francisco. Our work has shaped the national discussion and direction of tobacco control policy, practices, and priorities, especially as they affect the lives of Black Americans, African immigrant populations, and ultimately all smokers. The AATCLC has been at the forefront in elevating the regulation of mentholated and other flavored tobacco products on the national tobacco control agenda, including testifying at the FDA hearings in 2010 and 2011 when the agency was first considering the removal of menthol cigarettes from the marketplace. In November of 2019 we testified on Capitol Hill in support of HR 2339 (The Pallone Bill), this bill would prohibit the manufacturing and sale of menthol and all flavored tobacco products throughout the United States. This Bill was passed in



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the House of Representatives in February of 2020 but went nowhere in the Senate. In June of 2020 the

AATCLC along with its partner Action on Smoking and Health (ASH) filed a lawsuit against the FDA for dragging their feet by leaving menthol on the marketplace with overwhelming scientific evidence showing that it should be removed immediately. Subsequently and importantly the American Medical Association (AMA) and the National Medical Association (NMA) have joined the lawsuit as plaintiffs.

### **Call to Action!**

Now is the time to adopt strong tobacco control measures that can protect our families. We already know that menthol and flavors “make the poison go down easier.” Let’s not now allow menthol to make COVID-19 go down easier too! The City Council needs to put the health of Chula Vista at the forefront of their thoughts, not the interests and profits of the tobacco industry, the vaping industry, and their surrogates. This is not the time for half-steps, like continuing to allow these products to be sold in adult-only venues, rather it is time to take a stand for the public’s health and say: **No Selling of Menthol Cigarettes and All Other Flavored Tobacco Products, including Flavored E-Juices and Flavored Hookah in Chula Vista!** Say “No” to the continued predatory marketing of menthol-flavored tobacco products to our youth and say “Yes” to the health and welfare of our kids, who are the most vulnerable. Say “Yes” to the protection of **all** residents of Chula Vista.

We are all counting on you!

Sincerely,



Phillip Gardiner, Dr. P.H. Co-Chair AATCLC [www.savingblacklives.org](http://www.savingblacklives.org)



Carol McGruder, Co-Chair AATCLC



Valerie Yerger, N.D., Co-Chair AATCLC