

Tobacco Laws

**UC Smoke and Tobacco Free Fellows
Webinar**

October 5, 2016

Introductions

- Fellows
 - Ekland Abdiwahab UCSF
 - Neema Adhami UCR
 - Elaine Cheung UCLA
 - Angela Zou UCSD
- Other Task Force Members

Goal

Familiarize UC Smoke and Tobacco Free Fellows and other Task Force members with the laws governing the use and sale of tobacco products and the impact that they have had on our health.

Presenters

- Stan Glantz, Ph.D., School of Medicine and the Center for Tobacco Control Research and Education, University of California, San Francisco



Presenters

- Phil Gardiner, Dr. P.H., UC Smoke and Tobacco Free Program Officer; Tobacco Related Disease Research Program, University of California Office of the President



Ground Rules

- Each Presentation will be approximately 40 minutes
- Q&A after each Presentation
 - Voice
 - Written
- Closing Thoughts and Lessons for next time




Stanton A. Glantz, PhD

UC TOBACCO FELLOWS



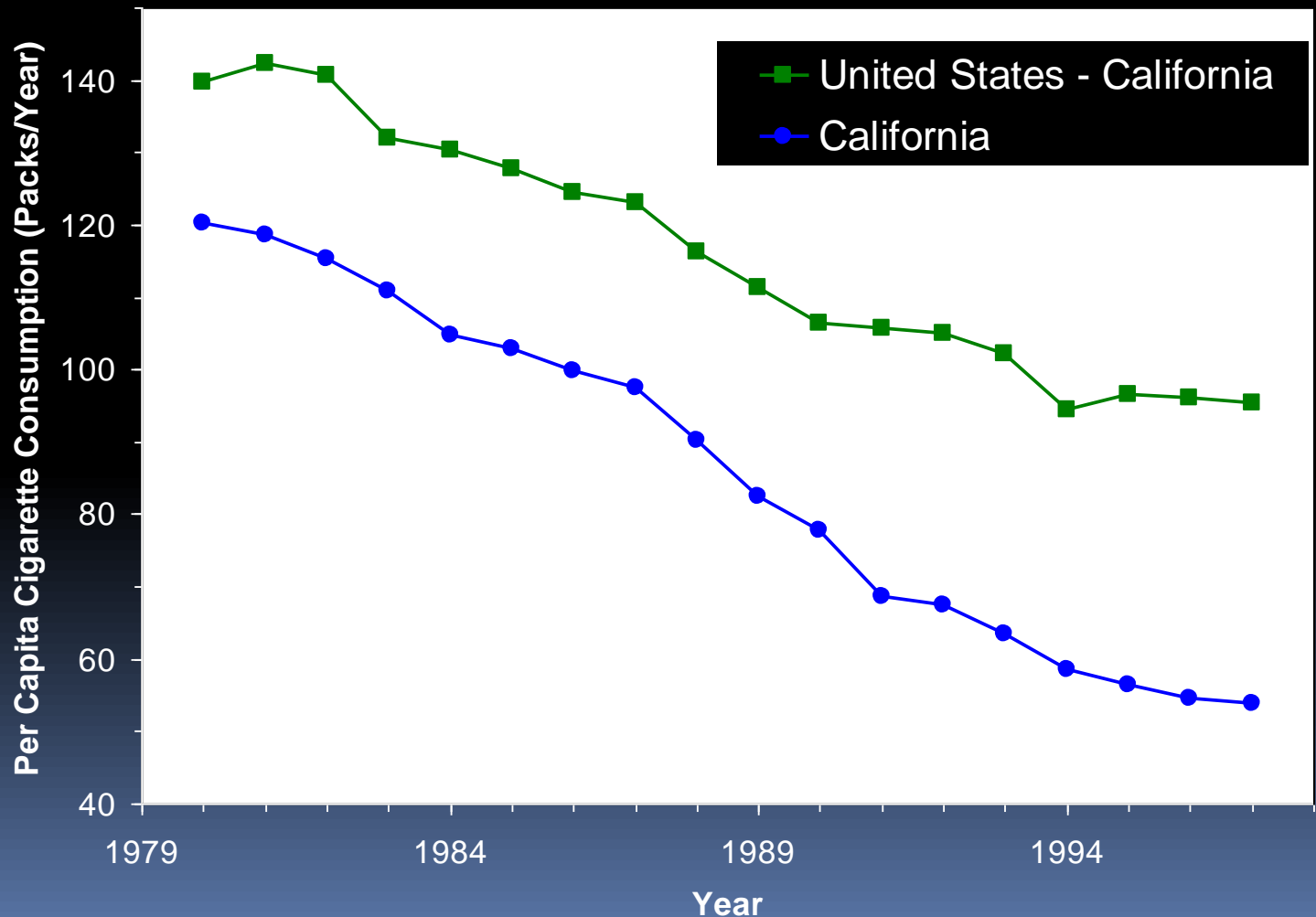
Early years

- Nonsmokers' rights movement
 - Propositions 5 and 10 in 1978 and 1980
 - Local ordinance strategy
 - State law (1994)
 - Workplaces, restaurants, 1995
 - Bars, 1996; delayed to 1998
- 

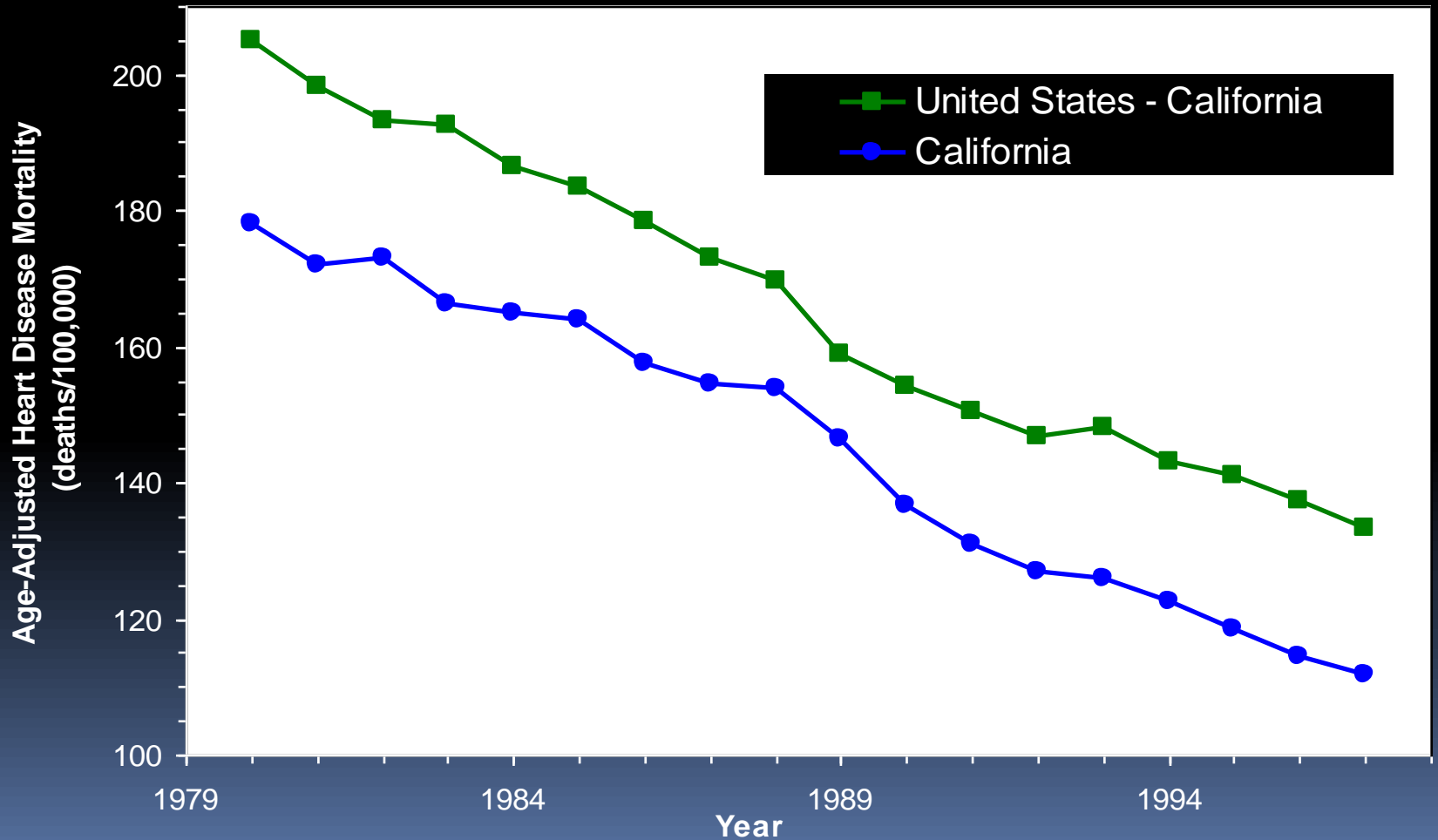
Proposition 99 (1988)

- 25 cent tobacco tax
 - 5 cents for tobacco control
 - 2 cents for research
- Tobacco control program
 - Focuses on social norm change
 - Directly confronts industry

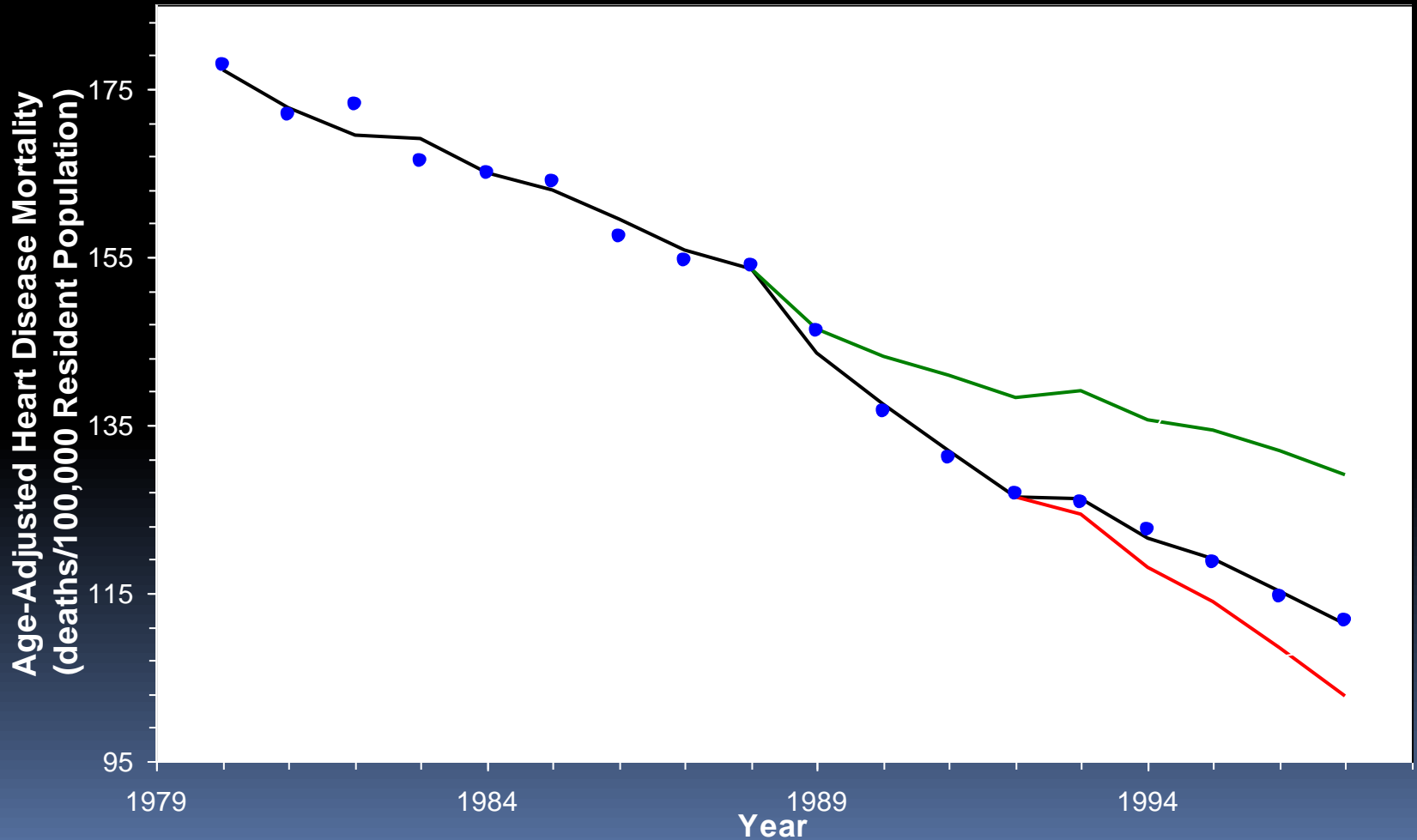
Per capita cigarette consumption



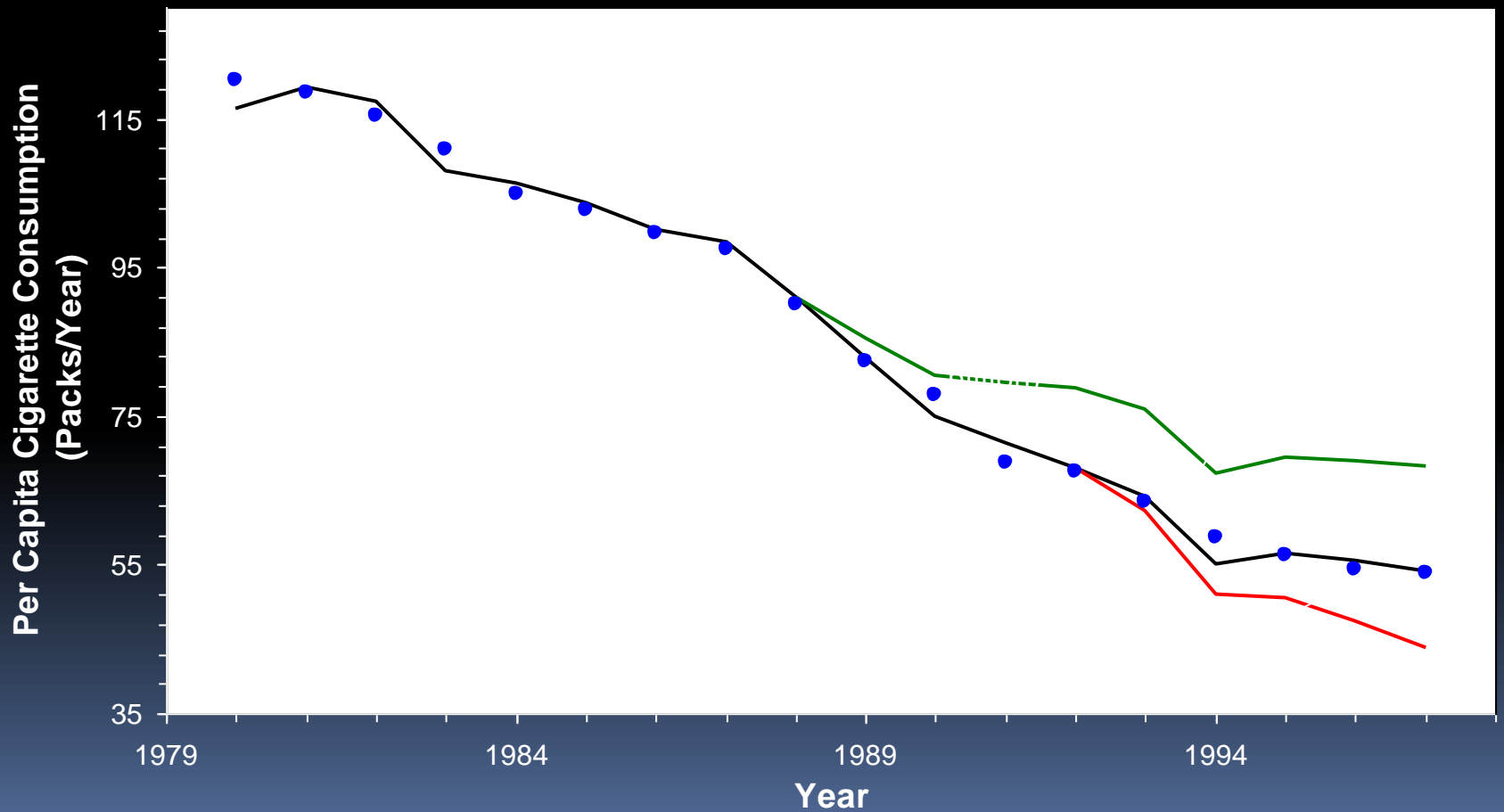
Age Adjusted Heart Disease Mortality



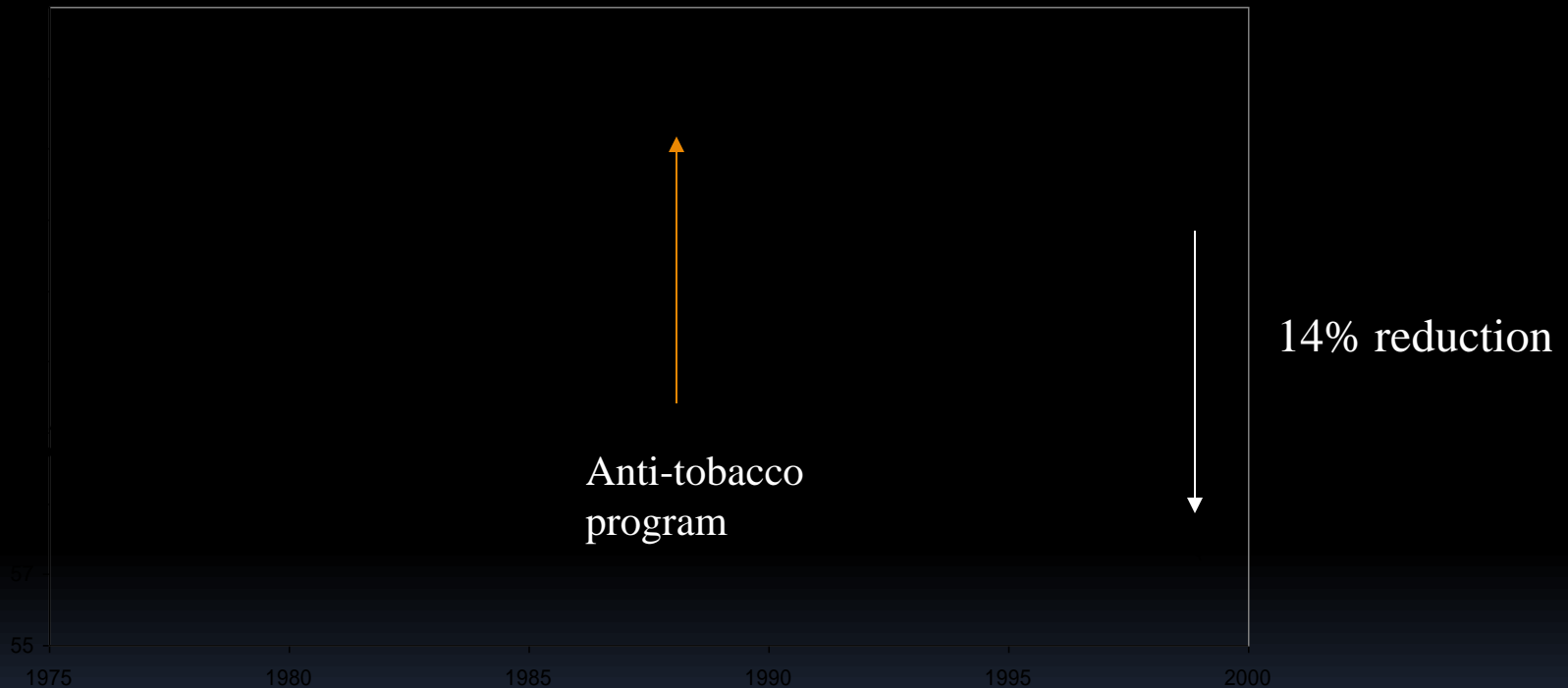
Effect on Mortality



Effect on Industry Sales

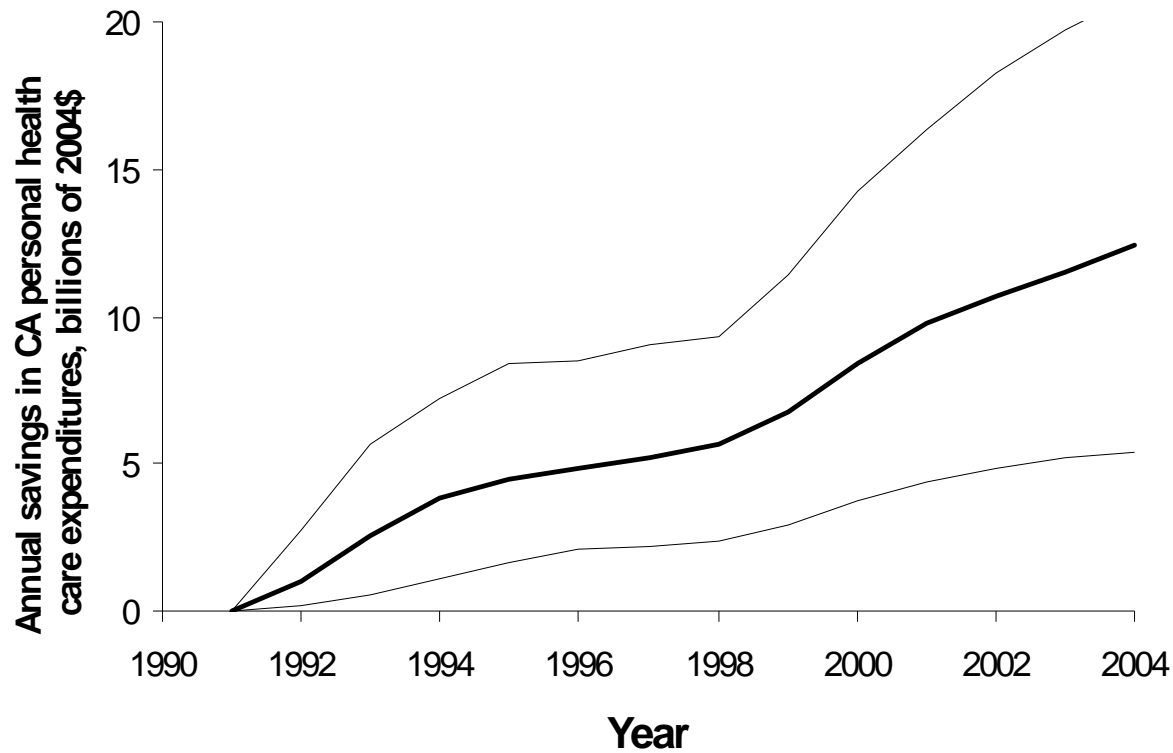


Lung cancer incidence in SFO California



In the first 10 years in SFO: 6% cases (2036 cases in SFO)
Statewide: 11,000 cases in 10 years

Annual Health Care Savings Attributable to Historical CA Tobacco Control Expenditures





But it is fading


- Inflation
- 

Litigation against industry

- Mississippi, Florida, Texas
- Minnesota
 - Tobacco documents
- Then other states
- Washington and MSA
 - \$246 billion
 - Little for tobacco control
 - More documents
 - American Legacy Foundation



RICO case

- Same law used to prosecute organized crime
 - No money
 - Broke up industry
 - Restricted denials
 - Banned “light and mild”
 - Even more documents
 - They are “racketeers”
- 



FCTC 2003

- Global health treaty
- 180 parties
- Followed by more
 - Smokefree laws
 - Health warning labels
 - Taxes
- But fading

FSPTCA/FDA 2009

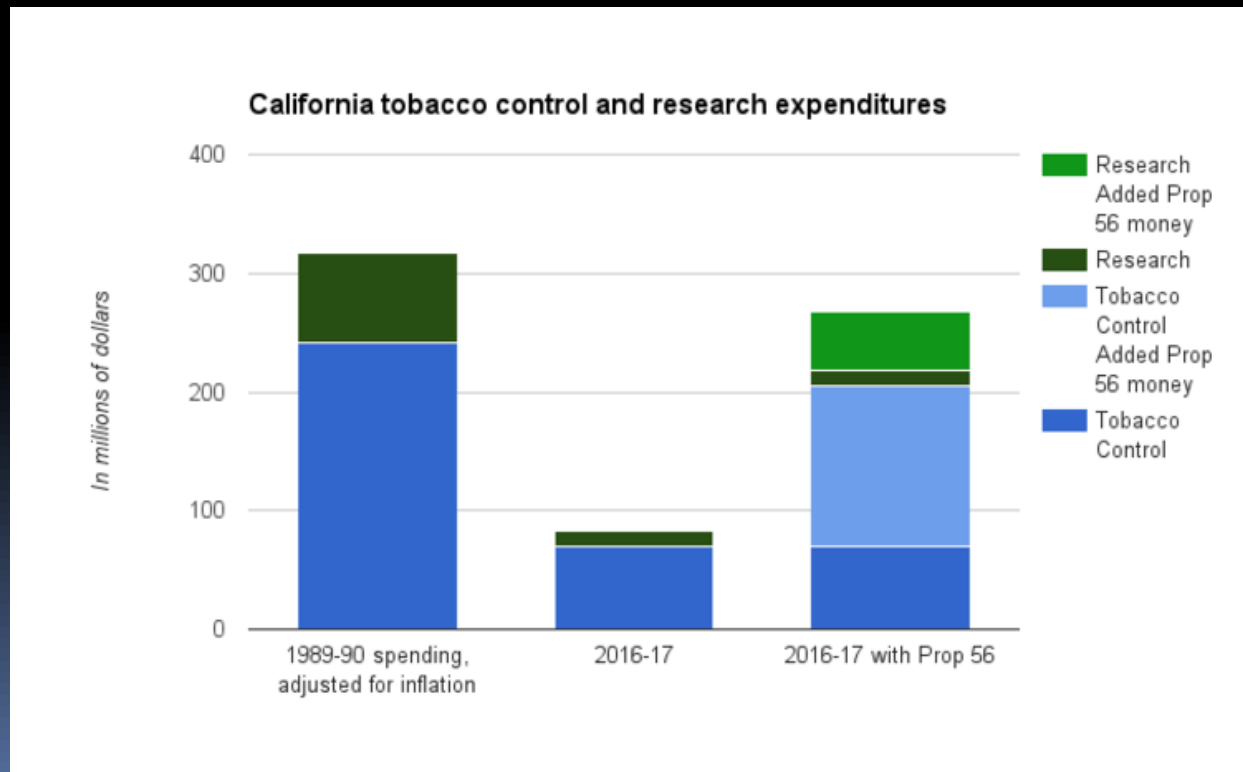
- Granted FDA authority over cigarettes and smokeless tobacco
- Banned “characterizing flavors”
 - Except menthol
- Banned “light and mild”
- Allowed “deeming” other tobacco products
 - Finally happened in May 2016

FDA actions

- Not much
- Warning labels thrown out
 - Underestimated effect
 - Consumer surplus (“lost pleasure”)
- Report but no action on menthol
- Funding research
- Strong educational campaigns
- No meaningful product regulation

California Action

- Lead on e-cigarettes
- Proposition 56: Tobacco Tax



What's Menthol Got To Do With It? Everything!

Phillip S. Gardiner, Dr. P. H.

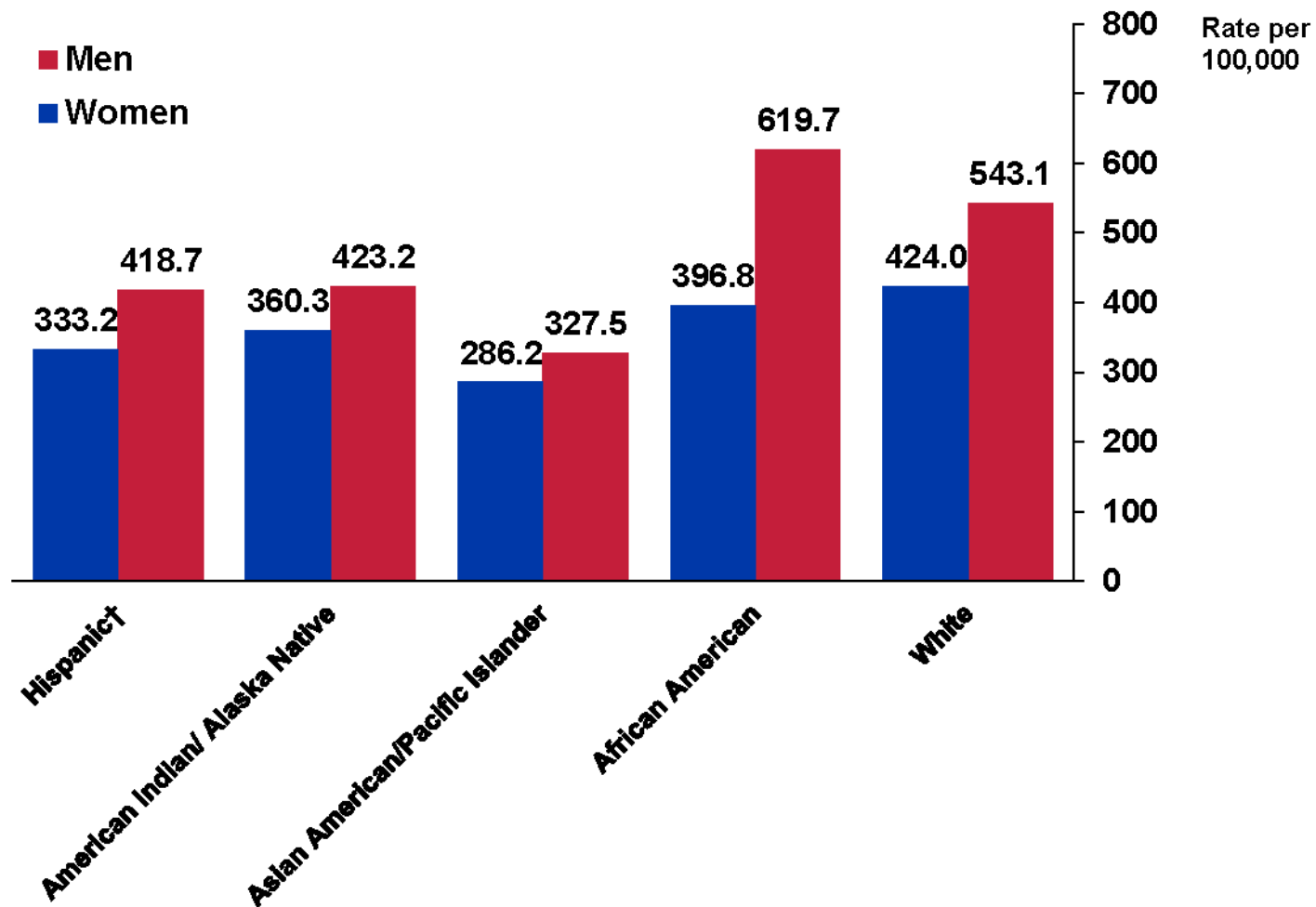
UC Smoke and Tobacco Free Fellowships Awards Program Officer,
Tobacco Related Disease Research Program **(TRDRP)**
University of California Office of the President and Co-Chair
African American Tobacco Control Leadership Council
(AATCLC)

UC Smoke and Tobacco Free Webinar Series

October: Policy

October 5, 2016

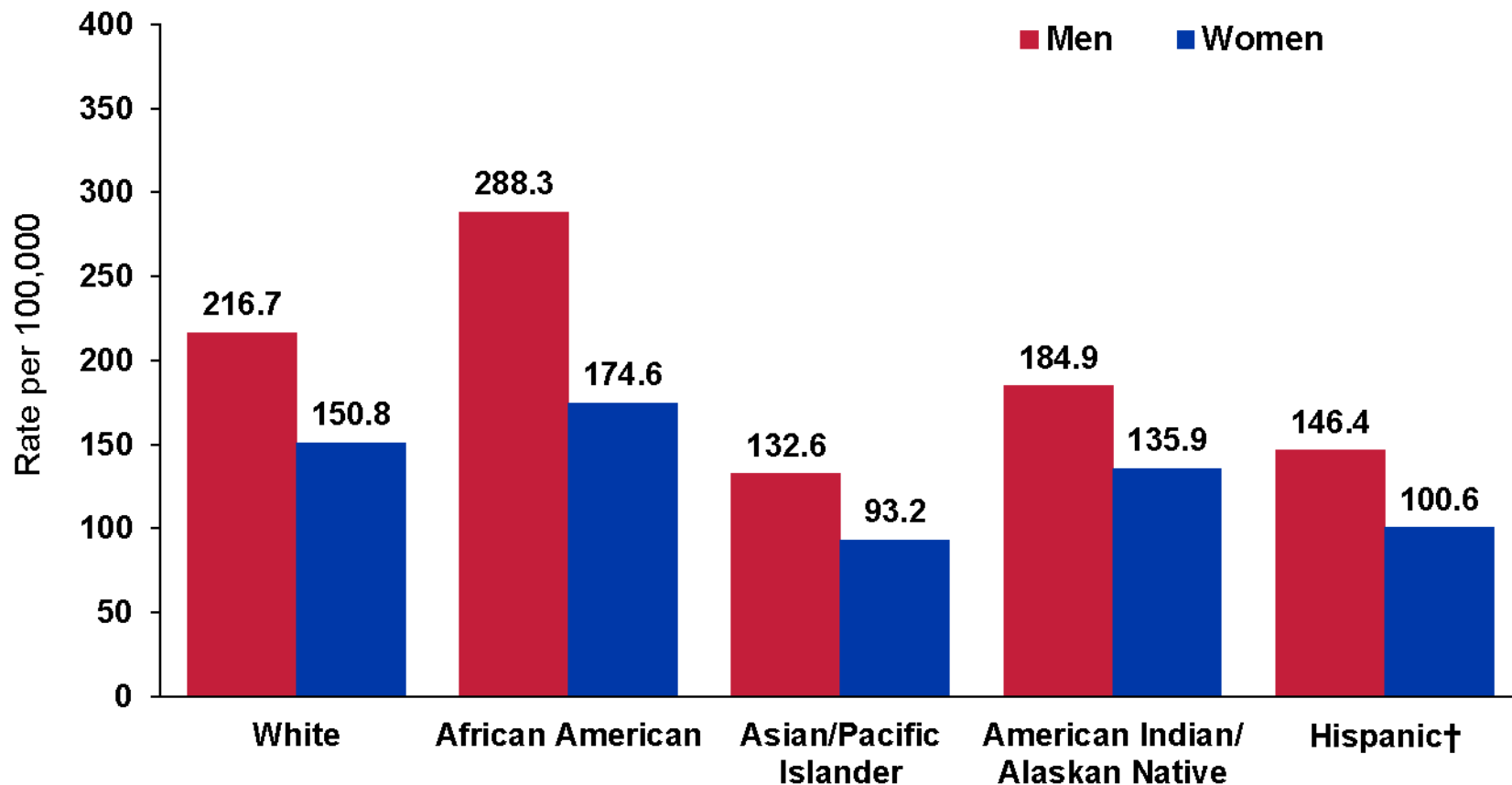
Cancer Incidence Rates* by Race and Ethnicity, 2005-2009



*Age-adjusted to the 2000 US standard population.

†Persons of Hispanic origin may be of any race.

Cancer Death Rates* by Race and Ethnicity, US, 2005-2009



*Per 100,000, age-adjusted to the 2000 US standard population.

†Persons of Hispanic origin may be of any race.

Age Adjusted Incidence Rates

(All sites and Lung) per 100,000 (Females and Males, ACS 2007)

	AA	AIAN	AAPI	Whites	Hispanic
All Sites					

M	639.8	359.9	385.5	555.0	444.1
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F	383.8	305.0	303.3	421.1	327.2
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Lung Cancer					
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M	110.6	55.5	56.6	88.8	52.7
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F	50.3	33.8	28.7	56.2	26.7
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Age Adjusted Mortality Rates

(All sites and Lung) per 100,000 (Females and Males, ACS 2007)

	AA	AIAN	AAPI	Whites	Hispanic
All Sites					
M	331.0	153.4	144.9	239.2	166.4
F	192.4	111.6	98.8	163.4	108.8
Lung Cancer					
M	98.4	42.9	38.8	73.8	37.2
F	39.8	27.0	18.8	42.0	14.7

The African Americanization of Menthol Cigarettes

50 Years of Predatory Marketing

African American Menthol Use Skyrockets

1953 5%

1968 14%

1976 44%

2006 >80%

Roper, B.W. (1953). A Study of People's Cigarette Smoking Habits and Attitudes Volume I. Philip Morris, Bates No. 2022239249. MSA, Inc. (1978) The Growth of Menthols, 1933 -1977. Brown & Williamson, Bates No. 670586709-785. NSDUH, 2004-2008.

Tobacco Industry's Assault on the African American Community (1960s & 70s)

- Use of Male Actors with more Black Features
 - Tripled Cigarette Advertising in Ebony
 - “Menthols got a brand new bag”
 - Cool Jazz; Cool Lexicon
 - Philanthropy

(Gardiner, 2004)

A new idea in smoking

Salem refreshes your taste



- menthol fresh
- rich tobacco taste
- modern filter, too

Springtime is irresistible... In the freshness of the air... the fragrance of soft, new grass... Just one pack of a Salem cigarette suggests all the fresh and fragrant things of Springtime. Through Salem's pure white filter flows the richest taste in cigarettes... rich tobacco... with a new, menthol softness. That's what makes Salem a whole new idea in smoking. Smoke refreshed... *Salem* Salem.

© 1964 R.J. REYNOLDS TOBACCO COMPANY

N. Y. YANKEE STAR **ELSTON HOWARD** FLASHES THE SIGN:

"YOUR CIGARETTE'S NOT TASTING COOL ENOUGH
TILL YOU *Come Up to KOOL*"



"Feel extra coolness in your throat..!"

says *Elston Howard*

"Extra coolness no other cigarette can offer. Taste a new freshness that lasts all through the day . . . Kool after Kool after Kool. Believe me," says Yankee Star Elston Howard, "I know!"

Take Elston Howard's advice: "Try just one carton of Kool. You'll never go back to those hot and dry-tasting cigarettes again!"

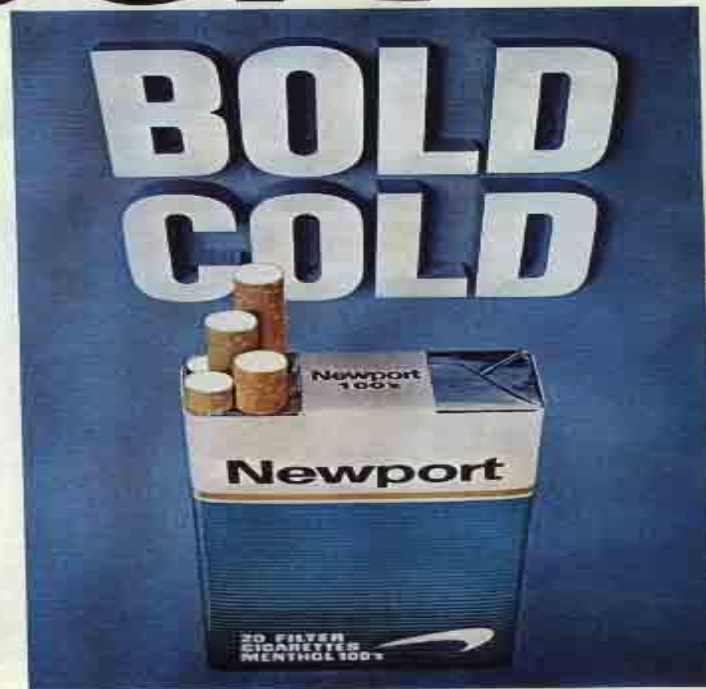


**Cool
ain't Cold.
Newport
is.**



A whole
new bag of
menthol
smoking
filter kings & 100's

© 1970 Philip Morris Inc.



1970 *Ebony* magazine advertisement

Box: 17 mg. "tar", 1.1 mg. nicotine; 100's: 19 mg. "tar", 1.3 mg. nicotine av. per cigarette. FTC Report Nov. 1975.

Alive with pleasure!
Newport

*After all, if
smoking isn't
a pleasure,
why bother?*



Warning: The Surgeon General Has Determined
That Cigarette Smoking Is Dangerous to Your Health.

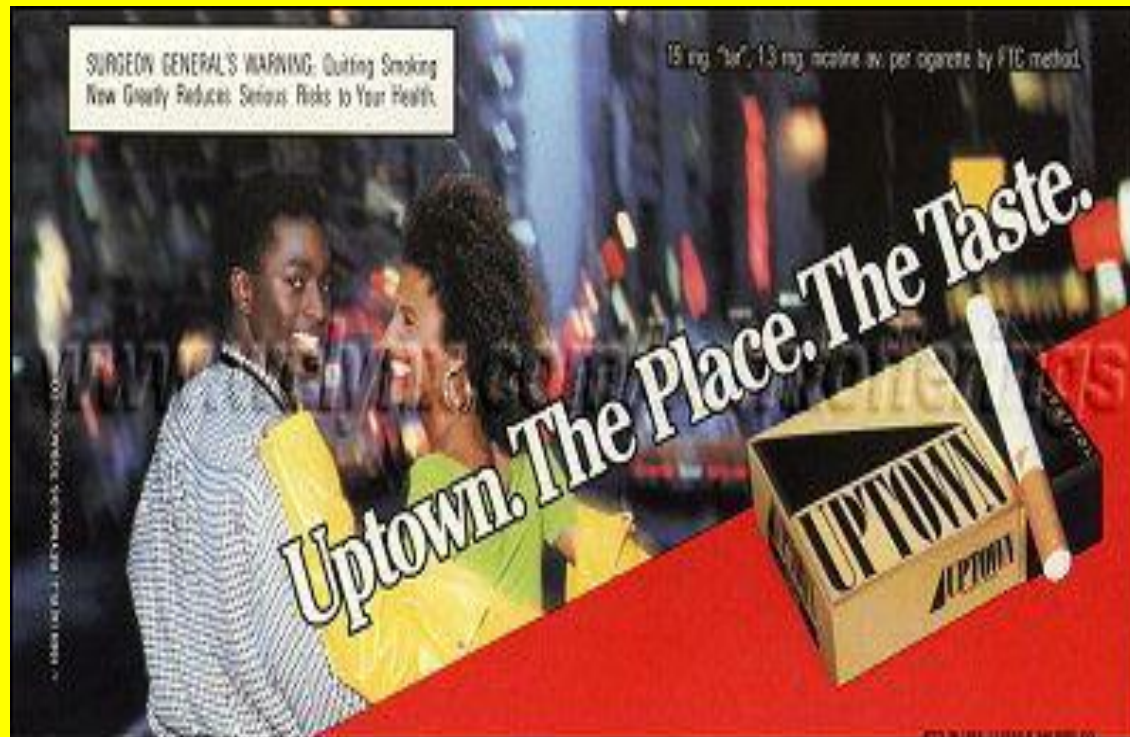
Menthol Wars: The 1980s and the Fight for Market Share

- **Cigarette Sampling *Vans***

- The fight between Kool, Newport, Salem, Benson & Hedges et al.
- Free Cigarette Samples
- Blasting Music
- High Traffic Areas: Parks, Known Street Corners, Daily Routes

(Yerger, Przewoznik and Malone, 2007)

Uptown Cigarettes: 1989



SURGEON GENERAL'S WARNING: Cigarette
Smoke Contains Carbon Monoxide.

**Fire
it UP!**

**Newport
pleasure!**



© Lorillard 2002

Lights Box: 9 mg. "tar," 0.8 mg. nicotine; Medium Box: 12 mg. "tar," 0.9 mg. nicotine; Box: 16 mg. "tar," 1.3 mg. nicotine av. per cigarette by FTC method.

X Brand Cigarettes 1995



KOOL MIXX

IF IT'S MUSIC, IT'S IN THE MIXX

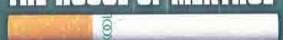


COAST TO COAST : HEAD TO HEAD

KOOL MIXX IS ALL ABOUT CONNECTING YOU WITH MUSIC, AND RIGHT NOW IT'S BEARING UP FOR ITS FIFTH BIG YEAR. ALL ACROSS THE NATION, DJs WILL BE BATTLING FIERCELY TO BECOME THE NEXT KOOL MIXX NATIONAL CHAMPION AND WINNING ALL THAT GOES WITH IT. TO LEARN MORE, CALL 877-604-5665.

IN ASSOCIATION WITH
VIBE

THE HOUSE OF MENTHOL®



SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight.

©2003 B&W T Co.

Box Kings, 17 mg. "tar", 1.3 mg. nicotine av. per cigarette by FTC method. The amount of tar and nicotine you get from this product varies depending on how you smoke it. There is no such thing as a safe cigarette. For more information visit www.bw.com

KOOL MIXX

KOOL recognizes DJs as the center of Hip Hop! Inspired by the real feel and energy of the streets.

The 2004 DJ Battle Is On. Be There.

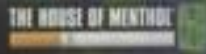
In its sixth year, this fierce coast-to-coast battle of the hottest rising DJs is the ultimate way for you to...



EXPERIENCE THE SOUNDTRACK TO THE STREETS

Also experience it at www.houseofmenthol.com or call 877-604-434 (5665) for more info.

You must be 21 years of age or older and a smoker to log on to this website.



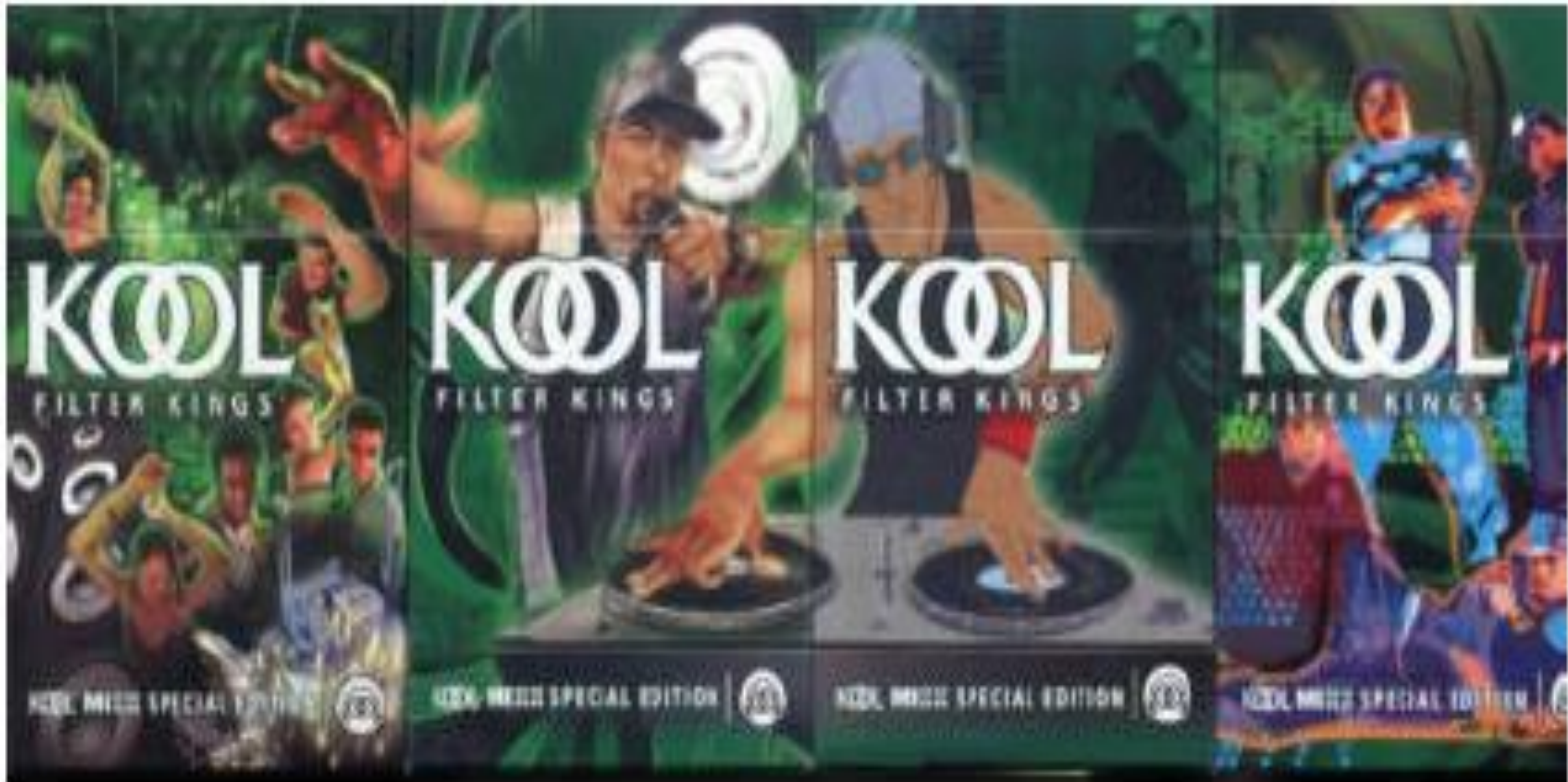
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KOOL Cigarette Packs

KOOL MIXX SPECIAL EDITION PACKS



Focus vs. Non Focus Communities

(Wright, 2009)

▶ **Focus Communities: Inner-city, Colored and Poor**

- Less expensive, more desirable promotions
 - Buy 1, Get X Free
 - Summer/ Holidays

▶ **Non-focus Communities: Upscale, suburban, rural and white**

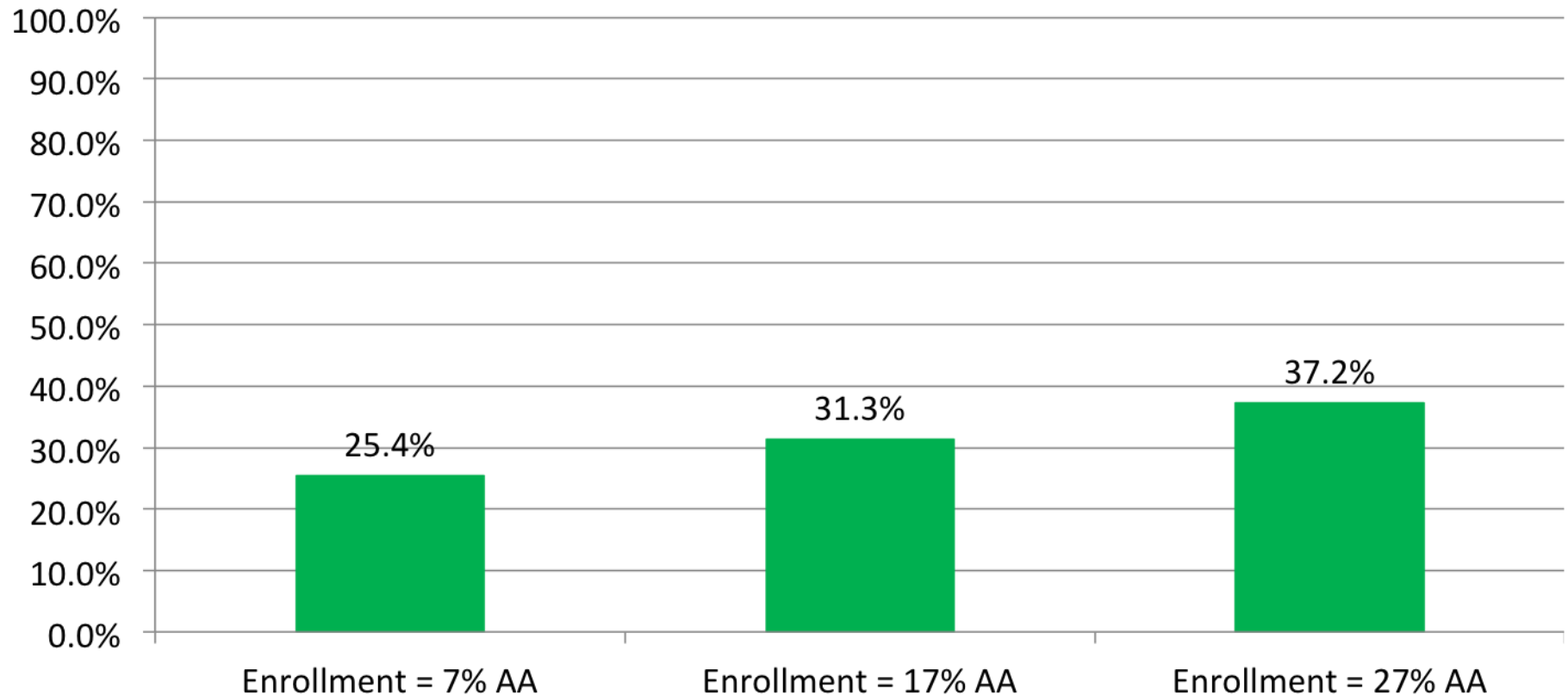
- More expensive, less desirable promotions
 - Buy 2, Get X Free
 - Buy 3, Get X Free

▶ **Menthol Cigarettes Cheaper**

- Non-focus- 50 cents off/ pack (\$5.00 off/ ctn)
- Focus- \$1.00-\$1.50 off/ pack (\$10.00-15.00 off/ ctn)

Predatory Marketing Patterns (Henriksen, 2011)

As the % African American students increased, proportion menthol ads increased:



Menthol Cigarettes: Cheaper for African Americans

- For each 10% increase in the proportion of African American students:
 - Newport discount 1.5 times greater
 - The proportion of menthol advertising increased by 5.9%
 - Newport promotion were 42% higher
 - The cost of Newport was 12 cents lower

(Henriksen, et al., 2011)

Storefront Cigarette Advertising Differs by Racial/Ethnic Community

	Brookline	Dorchester	<i>p-value</i>
	n= 42	56	
	%	%	
• Retailer w/ Ads	42.9	85.7	<0.001
• Small Ads	56.8	20.1	“
• Large Ads	2.0	23.7	“
• Menthol Ads	17.9	53.9	“
• Average Price	\$4.94	\$4.55	“

(Seidenberg, et al., 2010)

The Ultimate Candy Flavoring; Menthol Helps The Poison Go Down Easier

- Chief Constituent of Peppermint Oil; Minty-Candy Taste; Masks the Harshness of Smoking
- Cooling Sensation; activates taste buds; cold receptors; increases throat grab
- Anesthetic effects; Mimics Bronchial Dilatation; easier to inhale; more nicotine taken in. (Ahijevch and Garrett, 2004)
- Independent Sensory Activation Neurotransmitters (Brody, 2012)
- Increases Salivary Flow; Transbuccal Drug absorption (Hopp, 1993)
- Greater Cell Permeability (Ferris, 2004; Benowitz, 2004)

Menthol Harder to Quit!

	Quit Attempts	% Difference
Non-Menthol	38.1%	
Menthol	41.4%	+8.8%

	Cessation (>3 mo.)	% Difference
Non-Menthol	21.2%	
Menthol	18.3%	-13.8%

(Levy, et al., 2011)

All Tobacco Products Contain Some Menthol

- **Menthol content of U.S. tobacco products**

Product	Menthol (mg)
• Regular (non-menthol) cigarettes	0.003
• Menthol cigarettes (weak effect)	0.1–0.2
• Menthol cigarettes (strong effect)	0.25–0.45
• Pipe tobacco	0.3
• Chewing tobacco	0.05–0.1

(Hopp, 1993)

The Fight To Ban Menthol

Still A Burning Issue

Menthol A Sacrificial Lamb



1823060 www.fotosearch.com

Menthol: A Missed Opportunity

- Cigarette or any of its component parts (including the tobacco , filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (**other than tobacco or menthol**) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke.

(HR 1256, Sec. 907, (a) (1))

The Push Back

- “Cigarette Bill Treats Menthol with Leniency.”
Stephanie Saul’s NY Times Article (May 13, 2008)
- National African American Tobacco Prevention Network, and other on the ground activists spearheaded agitation work
- Joseph Califano, Louis Sullivan and seven former U.S. Secretaries of Health authored a stinging open letter to House and the Senate members.

The Push Back

- “To make the pending tobacco legislation truly effective, menthol cigarettes should be treated the same as other flavored cigarettes. Menthol should be banned so that it no longer serves as a product the tobacco companies can use to lure African American children.”
- “We do everything we can to protect our children in America, especially our white children. It’s time to do the same for all children.”

(Califano, et al., 2008)

The Result: Amended FDA Bill

- `(e) Menthol Cigarettes
- `(1) REFERRAL; CONSIDERATIONS- Immediately upon the establishment of the Tobacco Products Scientific Advisory Committee under section 917(a), the Secretary shall refer to the Committee for report and recommendation, under section 917(c)(4), the issue of **the impact of the use of menthol in cigarettes on the public health, including such use among African Americans, Hispanics, and other racial and ethnic minorities.** (HR 1256, Sec. 907 (e) (1))

Federal Inaction: A Sordid History

- The TPSAC produced a report 2011 that stated that the removal of menthol products from the marketplace would be beneficial to the public's health. **The OMB sat on this report until early 2013.**
- The FDA CTP conducted its own study on menthol and came to the same conclusion as the TPSAC; **still no action**

Stirring?

- The tobacco industry sued the FDA CTP saying the TPSAC report couldn't be used because members of the TPSAC had ties to the pharmaceutical industry; **thus effectively blocking the use of the report.**
- This ruling was overturned in the summer of 2015, thus allowing the FDA CTP to use the report.
- In the Spring of this year, 2016, the **FDA CTP took the bold step of including restrictions on the selling of menthol and all other flavors in the new deeming regulations for e-cigs, hookah, cigars, cigarillos and the like.**

Same Old, Same Old!

- However, to add insult to 7 years of inaction and injury, 16 pages of the new deeming regulations on e-cigs, cigars, cigarillos and other products were **red-lined by the OMB that pertained to flavors and menthol in, thus again exempting menthol.**

(FDA, May, 2016)

Snake in the Grass

- **Andrew Perraut** White House's Office of Information and Regulatory Affairs in the OMB from 2008 to 2014. He supervised FDA and USDA policies relating among other things, tobacco.
- Hired by the Cigar Industry and NJOY in 2014
- Re-hired by the White house to serve in the OMB in 2015 (NY Times, September 2, 2016)

AATCLC Calls on The President: This Has Gone Far Enough

1. President Obama should order the FDA/CTP to initiate a new ruling that will remove all flavored tobacco products, including menthols, from the market place.
2. As a first step in addressing this situation, President Obama should convene a meeting of tobacco control leadership from around the country.

Chicago Set the Local Standard

- 500 Foot Buffer Zone Around City Schools
 - Mayor and Health Department, Major Actors
 - Town Hall Meetings
 - Aggressive Media Campaign
 - Organized Community Support
 - National Tobacco Control Movement Involvement
- Baltimore, Berkeley, San Francisco, Minneapolis, St. Paul, So Cal, Santa Clara Co.

Possible Alternatives

1. 500- 1000 Foot Buffer Zones
2. Restrict Menthol Sales to Tobacco Shops
3. Prohibit Menthol Sales City / City or County-wide
4. Restrict the Sale of All Tobacco Products Around Schools and Parks

State and National Resolutions

- TEROC
- Delta Sigma Theta
- NAACP*

Thank You!

TRDRP

Research for a Healthier California

www.trdrp.org

phillip.gardiner@ucop.edu

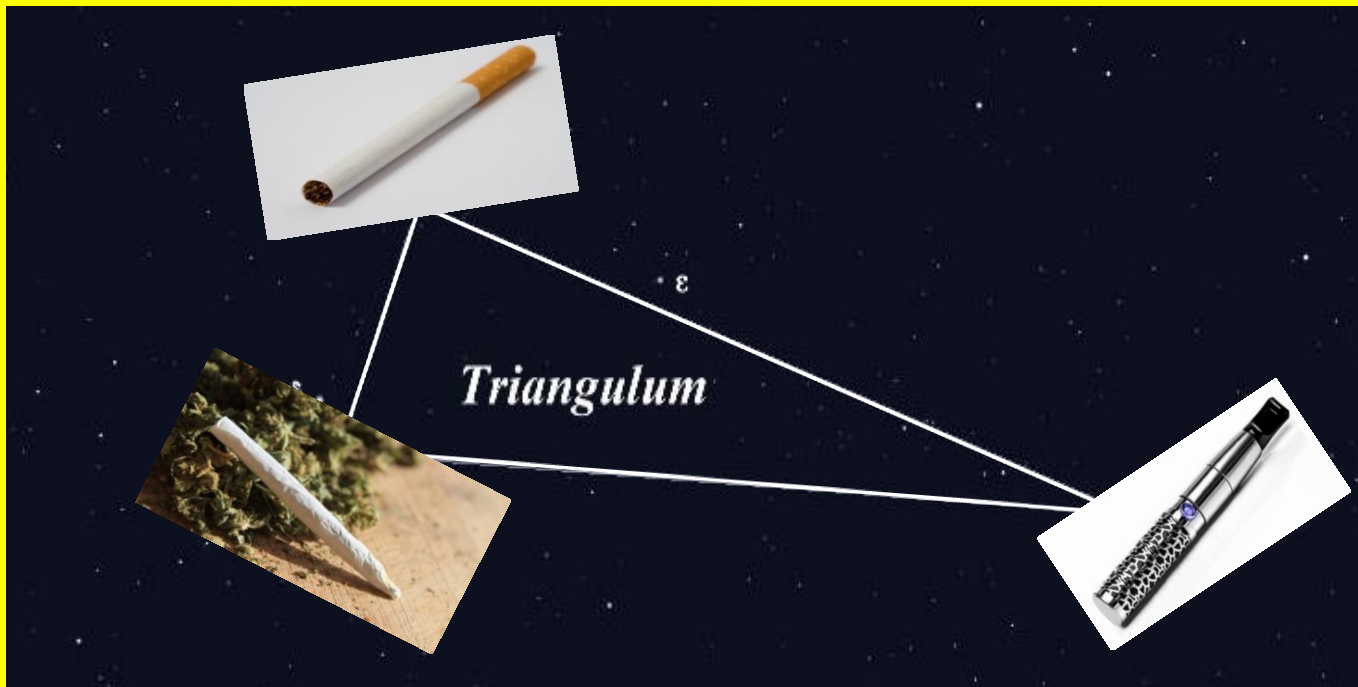
Grant Funding

Cutting Edge Research

Scientific Conferences

Dissemination of Research Findings

The Triangulum: Tobacco, Marijuana, and E-Cigarettes



The Future is Now!