



# National Newspaper Publishers Association

## *BLACK PRESS OF AMERICA*

September 28, 2021

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2138 Rayburn House Office Building  
Washington, D.C. 20515

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2138 Rayburn House Office Building  
Washington, D.C. 20515

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and Homeland Security  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Andy Biggs  
Ranking Member  
Subcommittee on Crime, Terrorism  
and Homeland Security  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Nadler, Chairwoman Jackson Lee, Ranking Member Jordan and Ranking Member Biggs:

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The National Newspaper Publishers Association (NNPA) respectfully request the United States House of Representatives Committee on the Judiciary, hold a hearing on policing practice of stopping and searching persons whenever there is a reasonable suspicion of criminal activity. The unintended consequences - the cause of criminal justice reform and racial justice. The purpose of the hearing is to understand how the policy implications attendant to the Food and Drug Administration's ("FDA") announcement of a proposed ban of menthol cigarettes ("the proposed ban") **may exacerbate existing, simmering issues around Stop and Frisk, racial profiling, discrimination, and policing.**

We begin our correspondence with a compelling statistic. According to the Centers for Disease Control ("CDC"), 77% of Black smokers prefer menthol cigarettes, a result the CDC claims is the result of many years of aggressive targeting of and marketing to Black smokers to buy these products. Other reputable sources place the number as high as 85%. Thus, there is the immediate concern that a proposed ban of this product will become a proxy for racial policing.

As experienced law enforcement professionals, we foresee many other problems with the proposed ban of a substance proved to have additive properties consumed in large numbers by members of the Black Community. While well-intentioned, the FDA's proposed ban has the potential to create major disruptions in the lives of police and the communities they patrol. This is because we fear that any such proposed ban, should it be realized, will fall to members of local law enforcement to police. As such, we fear that placing on law enforcement the burden of policing this ban will cause an increased number of interactions between law enforcement members of the community, some of which may turn fatal.

This concern is not hypothetical. On July 17, 2014, in Staten Island, New York, members of the New York Police Department (NYPD) stopped Eric Garner, whom they accused of illegally selling cigarettes without appropriate tax stamps. Mr. Garner denied the allegation. Members of NYPD placed subsequently placed Mr. Garner in a chokehold, and Mr. Garner soon lost consciousness. He died that afternoon, as a result of the chokehold. We at NNPA fear that an FDA ban on menthol cigarettes will soon lead to other situations not dissimilar to the one faced by Mr. Garner, one which ended his life.

Moreover, this ban will do more than just target guilty parties. As there is no discernible way to differentiate menthol cigarettes from non-menthol cigarettes, policing a proposed ban could further erode trust between law enforcement and the communities they patrol, at a time when the relationship between these two entities is already fraught. This has the result of exacerbating tensions. According to the Prison Policy Initiative, unfortunately, Black residents have a long and troubled legacy of disproportionately larger numbers of police stops and interactions with police. The proposed ban will do nothing to quell this troubled reality.

### PRESIDENT AND CEO

**Dr. Benjamin F. Chavis, Jr.**

And, while in and of itself extremely troubling, the foreseeability of increased stops of mostly Black Americans is also problematic when considered alongside the fact that this proposed ban will undoubtedly create an illicit, underground market for this product. This is because proscribing a product does not mitigate demand, as much as it drives demand to unsafe venues, away from federal regulation and supervision. Our background, training and experience teaches us that whenever products—especially those with additive properties like menthol cigarettes—are driven underground to an illicit market, there are greater incidences of illegal activity. Often times, these illicit markets are rife with criminal elements and exploitation, creating dangers for consumers, many of whom have been purchasing these addictive products and have to resort to alternative markets to satiate their addictions.

We also fear that a proposed ban will increase the rates of smuggling and trafficking of this newly designated contraband. Indeed, a report by the National Bureau of Economic Research echoes this concern and suggests that a prohibition on menthol cigarettes is “unlikely to be a panacea,” because while the product may be prohibited in Canada, it is available on Native Canadian reserves, and still available for purchase throughout Mexico.

We are committed to ensuring that all within our borders are able to live lives of dignity, and with interactions with law enforcement only when the circumstances require nothing less. We believe a prohibition on menthol cigarettes will complicate this goal, as it will lead to the creation of an illicit market for the product, increase international trafficking and cause more interactions between law enforcement and communities of color, especially Black and Hispanic communities, and that inevitably, some of these interactions will turn fatal.

In closing, we write this letter to state our position and to request that the NNPA has an opportunity to brief members of the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security so that we may highlight the perils of this well-intended, but misguided policy. Thank you, and we look forward to appearing before your committee to address this and other pressing criminal justice reform issues and matters of salience to communities of color.

Sincerely,

A handwritten signature in blue ink that reads "Benjamin F. Chavis, Jr." The signature is written in a cursive, flowing style.

Dr. Benjamin F. Chavis, Jr.  
NNPA President and CEO