TOBACCO -- ADDICTING AMERICA'S CHILDREN: A JUDICIAL RESPONSE

Introduction

Our nation's war on drugs has come to include the most pervasive, addictive, and lethal drug of all.

Tobacco.

The reasons are clear. What was once considered purely a moral issue has become one central to the public health, safety, and welfare — especially in the case of children. This is because, in contrast with their antiquated predecessors, today's tobacco products are highly addictive and uniquely deadly.¹

This was not always the case. In 1919, at Barnes Hospital in St. Louis, a physician gathered a group of medical students to witness an autopsy. The disease that had killed the patient was so rare, he said, that the students might never see an instance of it again. What was the bizarre disease? Lung cancer.² Doctors of that era had not yet made the connection between the increasing occurrence of cigarette smoking and lung cancer. Dr. Oschner, the physician who assembled the medical students for the lung cancer autopsy, probably would have found it hard to believe that by the end of the twentieth century, lung cancer would be responsible for more than 130,000 deaths per year in the U.S., 87 percent of which would be due directly to cigarette smoking.³
Yet, only 30 years before that St. Louis physician identified this, then rare form of cancer, cigarette smoking was very much an uncommon habit in the United States. Virtually all tobacco manufactured and sold in the United States up to that time was used as cigars, pipes, and chewing tobaccos. The invention of the cigarette rolling machine changed all that. A young inventor named John Bonzak took up a tobacco industry challenge to create a reliable mechanical cigarette rolling machine. Spurred on by a $75,000 prize, Bonzak invented a machine that easily rolled 10,000 cigarettes a day. Cigarettes could now be rolled and packaged in a uniform manner. With the problem of product uniformity overcome, the tobacco manufacturers could now turn their attention to expanding their market through advertising and promotion.
Tobacco use continued to increase and was spurred on by the opportunity World War I presented. The tobacco industry began to provide the armed forces with free cigarettes as a patriotic gesture. This bold marketing move truly hooked a nation.

Tobacco use skyrocketed in the United States during and after World War I. With an approximate thirty year latency period, widespread lung cancer, first identified by the medical community in about 1945, marked the beginning of the greatest epidemic of preventable illness and premature death ever to occur in human history - an epidemic which is now perpetuated largely by two phenomena:

First, tobacco industry marketing and other influences enticed children and adolescents into experimenting with tobacco. Every day 3,000 adolescents become regular cigarette smokers, even though tobacco products, like alcoholic beverages, are illicit substances for those below the age of 18 in most states. Tobacco industry advertising has been found to be twice as influential as peer pressure in prompting young people to smoke or use smokeless tobacco.

Second, today's tobacco products are highly addictive. As many as one-half of all young people who use tobacco become physically addicted, largely because of tobacco manufacturers' systematic manipulation of nicotine delivery.

One cannot escape the fact that the prevalence of tobacco use is largely an industry-driven behavior. Just as the spread of malaria is caused by the mosquito, lung cancer and numerous other diseases are spread across our society by tobacco manufacturers and marketers. Cigarettes and smokeless tobacco are merely the drug delivery devices by which it is disseminated.

**Tobacco's Health Toll**

Tobacco products are the only consumer products sold legally in the U.S. that cause the deaths of approximately one-half of all the users when used exactly as intended by the manufacturer.

Cigarette smoking kills approximately 419,000 Americans each year — about 1 in 5 deaths — and is the leading preventable cause of death in the United States. Cigarettes cause more deaths annually than *the combination of* deaths due to alcohol (100,000), firearms (16,000 murders, 19,000...
suicides, and 1,400 unintentional deaths), AIDS (21,000), motor vehicle accidents (47,000), illicit drugs (30,000), microbial agents (90,000), all environmental and occupational exposure to toxic agents (60,000), \(^\text{14}\) and fires (4,000). \(^\text{15}\)

**Comparative Causes of Annual Death in U.S.**


**418,000 Deaths Attributable to Cigarette Smoking - United States, 1990**

Source: CDC SAMMEC, MMWR 1993; 42:645-9
Cigarette smoking is a significant contributing factor to numerous illnesses including lung cancer, cardiovascular disease, stroke, pneumonia, bronchitis, emphysema, chronic airway obstruction, and cataracts, as well as cancer of the mouth, throat, stomach, bladder, kidney, pancreas, uterine cervix and ureter. It also strikes young families by causing 10 percent of infant deaths and 20 percent to 30 percent of low-birth-weight babies.

The harmful effects of cigarette smoke are not limited to smokers themselves. Environmental tobacco smoke, classified as a Group A (known human) carcinogen by the Environmental Protection Agency, has been attributed to approximately 3,000 lung cancer deaths and 57,000 heart disease deaths each year. Children are particularly vulnerable to secondhand smoke which contributes annually to 150,000 - 300,000 respiratory infections in babies and triggers up to one million childhood asthma attacks, including 26,000 new cases in previously uninfected children.

**Nicotine Addiction**

The United States Surgeon General concluded in 1988 that cigarettes and other nicotine-containing tobacco products are physically addictive. Nicotine is a drug that causes profound changes in the brain and central nervous system, and causes a physical dependency that is similar to that caused by heroin and cocaine. Nicotine addictions meet the standard criteria of a drug dependency as set forth by the World Health Organization and the American Psychiatric Association, including compulsive use, drug-reinforced behavior, recurrent drug cravings, tolerance, withdrawal, relapse following abstinence, and use despite knowing harmful effects. The psychoactive effect of nicotine addiction is at least as powerful as addiction to those drugs. The addiction caused by nicotine in tobacco products was long ago confirmed and described in extensive scientific studies carried out by all the leading U.S. tobacco companies.

"The evidence...describes the statements, research activities, and actions of the tobacco industry related to the role of nicotine in cigarettes and smokeless tobacco. Industry statements show that tobacco company officials at the highest levels are aware that nicotine's drug effects are the primary reason people use their products. The tobacco industry's research shows that it has knowledge of the pharmacological role of nicotine in tobacco use, including its ability to affect brain function and behavior and to produce dependency. The industry has also conducted research to determine what constitutes an adequate dose of nicotine. The tobacco industry's actions show that it has manipulated nicotine delivery in marketing products and..."
attempted to develop products to provide a dose of nicotine that satisfies consumers' desires for the pharmacological effects of nicotine.  

Nicotine addiction is believed to be the root cause of the tobacco epidemic. No mass-marketed tobacco product has ever succeeded commercially in the U.S. without containing addictive levels of the drug. From this perspective, it appears that the tobacco industry's control over the drug is directly responsible for most tobacco-related deaths. Given modern tobacco manufacturing technology, tobacco products need no longer be addictive.  

A Children's Disease  

While tobacco-caused disease usually kills in adulthood, it almost always begins in childhood. Indeed, tobacco-related nicotine addiction has been labeled a "pediatric disease."  

Nearly all of the adults who smoke, 89 percent, started before reaching the age of 18 — the age at which one may lawfully purchase tobacco products in virtually all states. Adolescents who smoke only a few cigarettes a day are likely to become heavy smokers as adults. The earlier in life a child starts using tobacco, the likelier it is that he or she will become physically dependent on nicotine and a regular tobacco user. The average age of initiation has fallen in recent years, due at least in part to increasingly aggressive tobacco industry marketing campaigns. Every day our nation's youth are bombarded with commercial messages encouraging the use of tobacco.  

In 1993, the U.S. cigarette industry spent $6.034 billion — more than $16 million a day to advertise and promote cigarette smoking. Each day in the United States 3,500 smokers quit and an additional 1,200 die. In order to maintain its current profit the tobacco industry must actively recruit new smokers. Because only one out of every ten adult smokers begins smoking after the age of 19 the conclusion is inescapable — the industry must target children.  

The 1994 Report of the Surgeon General, Preventing Tobacco Use Among Children, determined that cigarette advertising increases a teenager’s risk of smoking by affecting his
or her images of smokers and smoking. Tobacco industry spokespersons assert that the advertising strategy for their product is predominately informative and designed to induce smokers to switch brand preference.

However, scrutiny of tobacco advertising strategies shows that tobacco advertisers use images that attempt to sell their product by associating it with socially desirable qualities. Smokers are depicted as independent, healthy, youthful, and adventurous. The adverse consequences of smoking are never shown. The result of this form of advertising is that nearly half of eighth graders do not believe that smoking a pack of cigarettes a day represents a health risk.

Tobacco advertisers target youth with a high degree of success. For example, smoking rates increased dramatically in teen-age girls around 1967, exactly the same time period that young women were being targeted by such new brands as Virginia Slims. In 1991, the Journal of the American Medical Association published several studies that further support the argument that tobacco advertising significantly impacts children.

Studies of RJ Reynolds’ Joe Camel cartoon advertising concluded that the ads effectively targeted children. Compared with adults, more than twice as many children who reported exposure to Joe Camel were able to recognize an association with Camel cigarettes and found such ads to be appealing. Before the Joe Camel campaign, the Camel brand was
considered a “mature” cigarette brand preferred by middle-aged and older adults. Three years after the introduction of Joe Camel, the preference for Camels increased from 0.5% of adolescent smokers studied to a full 32%. A separate study documented that six-year-olds are as likely to recognize Joe Camel as they are Mickey Mouse.\textsuperscript{36} Even at age three, 30% of children could still associate Joe Camel with cigarettes.

Tobacco advertisers have systematically and consciously promoted smoking through the television and movie media without directly advertising their product. This strategy cleverly avoids violating the Public Health Cigarette Smoking Act of 1969 that banned tobacco advertising beginning in 1971. By paying placement fees, tobacco advertisers can influence movie producers to portray characters appealing to young moviegoers as smokers. Part of the overall tobacco industry strategy is to portray smoking as being more popular than it is in real life. A 1994 study has found that since 1960, the top-grossing films have shown movie stars lighting up at three times the rate of American adults.\textsuperscript{37} Movie smokers tend to be white, middle-class male characters who are usually the heroes. Studies have consistently reported that adolescents are far more likely than adults to overestimate the prevalence of cigarette smoking.\textsuperscript{38}

Indirect tobacco advertising abounds in sporting and competitive events. Race car drivers, crews and the race cars are emblazoned with tobacco logos.
Americans for NonSmokers’ Rights reported that a child watching a Grand Prix Formula I race will see a minimum of 2,000 tobacco brand images during one race.

The tobacco industry’s massive and ongoing tobacco advertising campaign drives its marketing strategy. An unregulated distribution system enhances the continuous flow of tobacco products and promotions to the retail level. Convenience stores, gas stations, general stores, supermarkets, pharmacies, liquor stores, restaurants, and hospitals are common locations for tobacco outlets. Increasing amounts of the tobacco industry’s annual advertising and promotion budget are being directed into promotional give-away. Industry give-aways are found everywhere — at sporting events, at race car events, through magazine clipouts, and through promotional vans that travel to retail locations. Predictably, these promotional items are becoming increasingly visible on virtually every item of clothing favored by youth, ranging from t-shirts to designer jackets.

A Gateway to Illicit Drug Use

One of the most serious, but lesser known, consequences of nicotine addiction among adolescents is that it can contribute to their use of alcohol and illicit drugs and to other dangerous behaviors.

Nicotine in tobacco products is generally the first drug used by young people who use alcohol, marijuana, and harder drugs. Cigarette smoking has grown in significance as a gateway drug as smokable preparations of illicit drugs, including marijuana, heroin, crack, "ice" (methamphetamine), and PCP (phencyclidine), have grown in popularity. *The National Drug Control Strategy, 1997,* from
the Office of Drug Control Strategy, states:

“Youth aged twelve to seventeen who smoke are about eight times more likely to use illicit drugs and five times more likely to drink heavily than non-smoking youth. Of adults who use cocaine, 83 percent identify cigarettes as a gateway drug.”

Moreover, adolescent tobacco use is associated with being in fights, carrying weapons, and engaging in higher-risk sexual behavior.\(^{40}\)

**Poor Enforcement of the Minimum-Age Laws**

In addition to heavy tobacco industry promotion and marketing, another factor that has fueled the escalating use of tobacco by adolescents\(^ {41}\) has been a lax enforcement of the prohibition against the sale of tobacco products to those below the age of 18, which is the law in every state except for a few with higher minimum-age cut offs.\(^ {42}\) As reported by the Food and Drug Administration:

“Millions of American children and adolescents can easily buy or obtain cigarettes and smokeless tobacco products. State [minimum age] laws are rarely enforced. It is estimated that each year children and adolescents smoke between 516 million and 947 million packages of cigarettes. In addition to cigarettes children and adolescents use 26 million containers of smokeless tobacco products.

Poor law enforcement and aggressive youth-oriented marketing efforts combined to spur the following increases in youth tobacco consumption:
**The Economic Costs**

Cigarette smoking costs the U.S. economy approximately $100 billion a year - half in direct health care expenditures, half in lost productivity. That equals approximately $3.65 for each pack of cigarettes smoked in this country. The estimated average life-time medical costs for a smoker exceed those for a nonsmoker by more than $6,000.

**The Toll on the American Family**

It may be possible to view the harm caused by tobacco in our society as a matter of mere statistics. It is only natural to want to avoid focusing on human pain and suffering, no matter how dramatic the statistics may be. Juvenile and family court judges address the needs of real people, however, not statistics, and therefore consider the human side with heightened sensitivity. This human side was poignantly illustrated by one courageous teenager who chose to tell her own story to the world by writing to "Dear Abby":

"DEAR ABBY: I'm writing in response to 'Gail H. in Georgia,' the woman who is paying the price for being a smoker. She breathes with a respirator's help.

"When I read her sad letter, I cried. My mother also tried to quit smoking. She tried hypnosis three times at $60 a pop. Her resolve lasted only 45 minutes after each session.

"For as long as I can remember, my two brothers and I pleaded with Mom to quit - not only for her health but ours as well. My brother, Brett, had constant earaches, and I had throat problems due to her smoking.

"Although I hounded her about her smoking for years, I failed. She was diagnosed with lung cancer on Sept. 7, 1993. After two weeks of testing, cancer was found throughout her body.

"Even though she was on oxygen at the hospital and could barely breathe without it, she was sent home with only 'pump' treatments. As soon as she finished her treatments, she'd ask someone to light a cigarette for her. She was furious with me because I refused. She could no longer sit up in a chair without support, yet I continued to argue with her about smoking.

"They say that she was dying. How could she be dying? She was only 49 years old. I was her youngest - her 16-year-old daughter. Besides, the doctor told us she had six months to two years - not 37 days. She stopped smoking when she died of cancer on Oct. 11, 1993.

"Two years ago, I was crying out to my mother and to God. Now I'm crying out to every smoker. Mother started smoking when she was 16, but she never intended to smoke her entire life. Many teens have the same idea. They think they'll smoke 'for now' - then quit without a problem. My mother's death is proof that it's not that easy. If teen smokers could have seen what my mother went through, they wouldn't even start.

"I think Mother's history should be included in the health education classes offered to students. Also
students should have to spend at least one week with a dying cancer patient and his or her family. It's a living hell.

"Abby, your column reaches millions. I hope my letter will make a difference. If it prevents just one person from smoking it will be well worth it."46

The Judicial Response

Juvenile and family court judges can play an effective role in reaching citizens in their own communities. Members of the judiciary can participate in a variety of ways in helping to reduce the health and economic toll that tobacco takes both on our nation and on individual families. The paramount concern is to help prevent adolescents from becoming the next generation of nicotine addicts, and the tobacco industry from replacing dead and dying smokers with new customers enticed by the illegal youth market. Unfortunately, judges may encounter resistance both from the community and other agencies who do not have tobacco law priorities. However, judges can overcome resistance by educating people regarding the dangers of tobacco.

Judges certainly will not stand alone in their efforts to reduce tobacco use by youth and their families. Hundreds of groups across America have dedicated themselves to combating the tobacco epidemic. In 1995, for example, more than 100 health, children's, women's, minorities', religious, and other organizations joined together to support the Food and Drug Administration's proposals to regulate tobacco products as drugs and to protect children against illegal sales and youth targeted tobacco industry marketing appeals.47 Every state health agency has a tobacco control program and full time staff to assist in policy or program planning and implementation. Many state attorneys’ general offices have become involved in a campaign to advocate for greater merchant compliance with youth access laws.

Juvenile and family court judges are uniquely situated to address this issue at the same time as they combat the use by children and their families of alcohol and other drugs. Members of the bench can, moreover, involve themselves by recommending and supporting public policy measures designed to reduce tobacco use, protect children, and reduce involuntary exposure of nonsmokers to harmful environmental tobacco smoke. Such activity is encouraged by the American Bar Association's Code of Judicial Conduct which calls on members of the bench to lend the prestige of their office to advance the public interest and the administration of justice.48

Since the use of tobacco fosters adolescents' use and abuse of alcohol and other illicit drugs,
realistically judges cannot fully address the latter problem without addressing the former in assertive and meaningful ways. Judges have the capacity and the responsibility to use the power and prestige of the office in their communities to improve the health and safety of juveniles and their families by combating the tobacco epidemic both inside and outside the courtroom.
The courts are unique and vital institutions within the American system of government. Juvenile and family courts have an important community responsibility to protect the health and safety of children and families. Consistent with these responsibilities, courts can play a role on behalf of children and families to reduce the harmful effects of tobacco use. Judges who take a proactive role in their communities are in a unique position to address tobacco issues, and thus have a positive impact on the health and safety of children and their families. To assist with this role there should be strong and enforceable laws limiting a youth’s access to tobacco products with penalties for the illegal sale of tobacco to minors.

Another aspect of this role is that judges have an exceptional window of opportunity to educate those who come before them. Thus, training for judges as to the most current science and standards of care could result in upgrading the protection of children. Educational programs for judges and court personnel should include information on youth tobacco issues designed to foster activities that will reduce tobacco use by children and their families. Educational programs for judges and court personnel could include:

- national/state information and data on tobacco use, age-related risk factors and correlations of tobacco as a precursor activity to other drug usage;
- the health effects of environmental tobacco smoke on children, and considerations these effects may have in abuse and neglect cases and in child placement and custody decisions;
- availability of resources to combat nicotine addiction within the community and allow for collaboration;
- assistance in identifying strategies and resources to promote the health and safety of children, and;
- marketing and advertising strategies used to sell tobacco to youth.
Parent and Family Responsibility

*Parents and other household members or guardians are the primary protectors, educators, and providers for their children. The use of tobacco products is an important health and safety issue for families. This family responsibility should not be abandoned to the schools, courts, or other agencies.*

**Standard 1.** Judges should encourage parents to assume ultimate responsibility and not permit or condone use of tobacco products by their children.

**Action Steps**
- Judges may request information regarding the tobacco use habits of children and their families as part of routine pre-sentence reports.
- Judges may request that tobacco use be included as a component of an alcohol and other drug use assessment.
- Judges may counsel children and their families to consult a family physician or other health professional about the risks associated with tobacco, including diseases to the heart, lung and other cancers, babies’ low birth weight and sudden infant death syndrome, dangers of secondary smoke, and the role of tobacco as a gateway drug.
- Judges may ask parents and other household members, as primary educators of their children, to model appropriate behavior to effectively prevent their children's use of tobacco products.
- Judges may counsel parents, family and household members, and teachers on the strength and nature of tobacco addiction, and to set an example themselves by not using tobacco products.
- Judges may counsel parents and other household members that it is their fundamental responsibility to discipline their children and reinforce, with consequences, their own expectations. Schools, communities, and courts can reinforce children's non-use of tobacco products, and provide consequences for smoking at home, at school, or on the street.
- Judges may counsel parents to withhold a child’s allowance if the child is using the money to buy cigarettes.

**Standard 2.** Judges have an exceptional opportunity to educate the children and families who come before them about the dangers of tobacco, and to influence their
tobacco use behavior.

**Action Steps**
Judges may provide tobacco-related education and cessation information in the form of written materials and referrals to community resources which are age-appropriate to children and culturally sensitive to the family.

Judges may help promote tobacco-related education by referring children to community or school prevention groups that increase their refusal skills.

Judges and their staff may exert an educational influence on children by role modeling non-smoking behavior.

**Standard 3.** Parents and other household members should be counseled by the court to actively participate in the prevention, education, intervention and cessation of tobacco use by their children.

**Action Steps**
Judges may encourage parents and other household members to participate in community anti-smoking programs that reinforce and support school bans on smoking or use of other tobacco products on primary, middle and secondary school grounds.

Judges may, in appropriate situations in accordance with law, reinforce parental discipline with court orders and refer parents to parenting classes.

Judges may ask parents and other household members to not allow their children to wear tobacco industry logos, and may make a statement noting that it is inappropriate to wear logo items of tobacco companies in court.

Judges may remind parents and other household members about benefits of applying for lower insurance rates for families whose members do not smoke.

Judges may encourage parents to tell all retailers not to sell tobacco products to their child and eliminate youth's access to tobacco vending machines on the premises.

**Community Responsibility**

*Tobacco is a community problem and communities need strong support from the judicial system. Pro-tobacco influences and tobacco use permeate many elements of a community. Communities must recognize tobacco use as a major health, economic, legal, and ethical issue. Only at the community level can indifference, denial, contradictory messages, and lack of awareness be*
changed. The community shares the responsibility for controlling, preventing, and treating tobacco addiction to protect the health and welfare of children. Judges, through their support and leadership roles in the community, are effective in helping to create awareness and actions in which many community members can participate.

**Standard 4. Communities may assess the extent and nature of the tobacco problem.**

**Action Steps**

Judges may encourage the juvenile justice system to assess the effects on youth attitudes toward police and other authority figures when law enforcement becomes a main agent of tobacco control.

Judges may support surveying of local merchants to ascertain their compliance with the Youth Tobacco Act and their distribution of an educational packet to discourage sales to minors.

Judges may address civic groups and merchants to educate them on the state laws, and the dangers of tobacco use by children and the consequences of non-compliance with the law.

Representatives of the juvenile court may work with community agencies to identify risk factors and other factors which encourage tobacco use and to develop approaches that help to diminish that use.

**Standard 5. Every community should assume responsibility for combating tobacco use and pro-tobacco influences. Communities should establish clear norms, standards and strategies to reduce tobacco use and pro-tobacco influences.**

**Action Steps**

Judges may support the creation of a student health promotion department within each school district to evaluate, develop and implement tobacco and other drug-free strategies including violence prevention.

Judges may support implementation of policies which prohibit cigarette smoking in schools, school facilities, and at school-sponsored events by students and staff.

Judges may encourage schools to enforce tobacco use policies on school grounds.

Judges may support the rigorous enforcement of legislation mandating that providers check picture IDs before providing tobacco products.

Judges may prohibit tobacco usage by youth in custody of the courts. Adults should
not engage in tobacco use in the courtroom area or facilities.

Standard 6. Communities should promote collaborative systems that address the tobacco problem.

Action Steps
Judges may meet with other community leaders to establish youth tobacco councils, tobacco control coalitions, or task forces to develop policies and projects which will reduce tobacco use among children and establish standards in the community.

Judges may help the community through participation in a community-wide campaign including media and community education.

Standard 7. It is in communities’ best interests to initiate comprehensive programs to address tobacco addiction.

Action Steps
Judges may advocate cessation programs and treatment facilities for children who are addicted to tobacco products.

Judges may advocate for wider availability of addiction treatment programs to assure availability of cessation services to all who seek them.

Judges may advocate comprehensive tobacco health education for kindergarten through grade 6 in all schools.

Public Policy and Legislation
Juvenile and family court judges may use their knowledge and experience as members of the community to influence public policy that discourages use of tobacco products by children.

Formerly, reactive methods were used to encourage people to stop using tobacco. Today the judge should actively promote collaboration that leads to policies which can affect the lives of more people.

Standard 8. Public policies including legislation and regulations should be adopted that prevent the advertising, promotion, sale and distribution of tobacco products to underage youth.

Action Steps
Judges may advocate licensing of sales of tobacco products with strict enforcement to
help ensure implementation of existing laws.

Judges may support ordinances eliminating the sale of tobacco products from vending machines. Judges alternatively may take an active role, together with community leaders, legislators, parents, and others in eliminating vending machines in all locations accessible to children.

Judges may work with policy leaders to ban sponsorship by tobacco companies — in the name of a tobacco product — in any facility owned by a city, county, or state government that hosts athletic events (including parks) of sporting and cultural events, and tobacco company distribution and sales of utilitarian items (hats, t-shirts, etc.) bearing a tobacco product's name, logo, or slogan.

Judges may work with community and school leaders to prohibit tobacco product advertising in any facility owned by a city, county, or state government that hosts athletic events (including parks) at which youth may be exposed and restrict tobacco product advertising to text only or "tombstone" formats, or be out of sight of children and teens.

Judges may support ordinances that prohibit tobacco advertising and promotion within a two-mile radius of schools, community centers, parks, and churches.

Judges may support legislation which prohibits the sale of single cigarettes and "kiddie packs" containing fewer than 20 cigarettes and support strict enforcement and prosecution of violators.

**Standard 9. The number of smoke-free public and private areas where children may be protected from environmental tobacco smoke should be increased.**

**Action Steps**

Judges making custody or visitation decisions may, where it has an effect on a particular child, prohibit the use of tobacco products in private homes.

Judges may enter dispositional order(s) affecting the use of tobacco products in custody issues where children live with relatives, and in child placement.

Judges may, when appropriate, implement no-smoking policies in detention facilities or in other places where juveniles meet with probation counselors.

Judges may work with community day care centers and schools to create a tobacco-free policy on school grounds and encourage and support innovative health education and anti-tobacco programs for pre-school through high school children.

Judges may advocate for the revision of state laws to include the prohibition of tobacco
use in areas where children are present.

Judges may support policies which will fund agencies to enforce tobacco laws.

**Standard 10.** Tobacco related research should be pragmatically and collaboratively designed to contribute to the betterment of public policies. Research should be expanded to include state-specific data on reducing tobacco use.

**Action Steps**
Judges may advocate for research on juvenile tobacco use, including identification of risk factors for tobacco use by children and solid action treatment research.

Judges may support the wide dissemination of research related to health care costs of children and their families directly attributable to smoking.

Judges may support the efforts to classify tobacco as a dangerous drug and recognize its role as a gateway drug.

Judges may support efforts to restrict advertising in publications most likely to be read by juveniles.

**Standard 11. Effective penalties should be imposed on all violators of tobacco laws.**

**Action Steps**
States now have laws prohibiting the sale of tobacco to minors. Judges may uphold these laws.

Judges may, in appropriate situations, i.e. custody and visitation proceedings, penalize parents if they provide tobacco to their children.

Judges may encourage the use of inspections, compliance checks and "stings" as enforcement mechanisms.

Judges may impose significant fines and penalties for improper supervision of cigarette vending machines if such fines and penalties are authorized by statute.

Judges may use graduated penalties for subsequent offenses.

Judges may use, as a dispositional alternative, community service that involves working in a health setting which deals with tobacco problems.
NOTES


11. U.S. Department of Health and Human Services, Preventing Tobacco Use Among Young People: A Report of


21. U.S. Department of Health and Human Services, The Health Consequences of


42. FDA 1995, p. 41315


47. These organizations include, inter alia, the American Cancer Society, the American Heart Association, the American Lung Association, the American Public Health Association, the American Medical Association, the National Medical Association, the National PTA, the National Association of Elementary School Principals, the National Association of Secondary School Principals, the Catholic Health Association, the United Methodist Church, the Congress of National Black Churches, the National Coalition of Hispanic Health and Human Service Organizations (COSSMHO), and numerous health and maintenance organizations throughout the country.