

It Takes a Village to Change the Law Strategies and Principles Learned on the Way to Victory

By Carol Waterman

It seemed impossible, or at least very difficult, to get T 21 signed into law in Albany County this year. Some of us found it helpful to reflect on other anti-tobacco battles that were fought and only won after many years of hard work. I thought it likely that we would have to be back next year and as many years thereafter as it would take. We won this year thanks to the hard work and dedication of many people.

The man who started it all in 2015 was County Legislator Tim Nichols who was well known and admired for his longtime work on health issues including tobacco. Powerful forces were at work to see to it that, after 14 years of serving his district, he wasn't re-elected. His T 21 bill was left for dead.

In the same election cycle, Paul Miller was elected in another district: mine. I talked with him about T 21 before his term started and he took the ball and started running with it. He didn't stop running until the bill he sponsored was passed with a surprising 'veto proof' majority of 24 out of 39 votes and signed into law. Of course, just because a vote is 'veto proof' does not mean that the County Executive couldn't veto it and send it back to the legislature. It is not uncommon for some yes votes to be lost in a re-vote. Therefore, the members of our village kept the pressure up until the day the bill was signed. **Principle: Keep the pressure up until you can declare victory.**

Our village accomplished this victory in the face of opposition by powerful people, television coverage that almost always dwelled on pictures of people enjoying smoking and walls of tobacco products in convenience stores as well as grossly disproportionate coverage of people and arguments against T 21.

Paul was able, one by one, to get 16 additional sponsors. As sponsors, they were in a good position to influence others. **Principle: You can't have too many sponsors.**

Paul and I were learning on the job. The outstanding staff at the Capital District Tobacco Free-Coalition led by Judy Wrightmyer were crucial parts of our village and they brought a considerable amount of experience, expertise and hard work to the effort. Other key players were the American Cancer Society, the American Heart Association, the American Lung Association, the NYS Public Health Association and the Albany County Board of Health. Action on Smoking and Health (ASH) played an important role too because I often sought and followed advice from ASH Deputy Director Chris Bostic. Tim Nichols remained a crucial part of our village even though he was no longer a county legislator. He actively participated in the process from beginning to end, and like Chris Bostic, he gave excellent advice.

An important factor in our success was everyone's willingness to work cooperatively and learn from each other. **Principle: It really does take a village.**



The first version of the bill included e-cigarettes but did not list all the possible tobacco products. Paul and I were naïve enough at the time to think that if it passed, we could amend it the following year. Fortunately, Kevin O’Flaherty from the Campaign for Tobacco Free Kids educated us about how difficult it is to make changes at a later date. **Principle: *Get it right the first time.*** We did. Paul rewrote the bill.

There was a substantial amount of pressure to compromise by watering down the bill. Examples of suggested compromises were exempting people serving in the military and only raising the age to 19. Both of these were parts of bills and laws in other localities. I advocated strongly and often not to compromise. We didn’t even if it meant that we would have to come back next year to get the law we wanted. **Principle: *Don’t sacrifice your core principles.***

Like the rest of us, Paul never took his eye off the ball. He talked almost daily with colleagues to make sure sponsors and others who had committed to vote yes hadn’t changed their minds. Some had and Paul was able to change them back. He, of course, also spoke with those who had indicated that they were undecided or would probably vote no and I made phone calls and sent e-mails to them. In addition, advocates from the American Cancer Society the American Lung Association, the American Heart Association held private meetings with key legislators. **Principle: *You have to stay on top of things from start to finish.*** The opposition is not idle.

Calls and e-mails to legislators are most effective when they come from constituents. The majority of citizens I asked to do this did not know who their legislator was and did not believe their representative would talk with them. I was very pleasantly surprised that all the legislators I left messages for returned my calls within 24 hours regardless of their stands on T 21. Now that people have seen that their representative will talk with them, it will be easier to get those people involved in the next effort. **Principle: *Citizens need to be reminded that they are the employers of their representatives and have a right to and probably will be listened to.***

The Capital District Tobacco-Free Coalition solicited letters of support from local and statewide organizations for submission to the Chair of the Legislature and to the County Executive. The first letter of support I got was, of course, from ASH. Getting letters from concerned citizens who agreed with us was like rolling a large ball uphill for each letter and having to remind, sometimes several times, people who had agreed to write. When I talked with Theresa Zubretsky at the Capital District Tobacco-Free Coalition about preferring to use my time for something else that required less nagging, she told me that letters from citizens were very important and that I should keep at it. I’m glad I did because after the bill was signed, I learned that letters played an important role in this. **Principle: *When you are exhausted and the going gets tough, focus on how you will feel when you win.***

A record number of letters (90) were received. The staff at the Capital District Coalition Against Tobacco deserves most of the credit for soliciting and getting an impressive number of letters of support from organizations. A list of those organizations is attached as Appendix 1. A list of organizations that have endorsed T 21 can be found at <http://tobacco21.org/endorsements>. A wealth of other information can be found on that outstanding website. Letters to the editor are also very important and many people in our village wrote them, some more than once. **Principle: *You can’t have too many letters.***

In addition to letters, online petitions are important. St. Peter’s Health Partners and the American Cancer Society each initiated these. Because after the successful vote, the bill was vulnerable to a veto, the American Heart Association coordinated an online petition on change.org to send to the County Executive. People, and there were many, who did not want to invest any effort could and did sign this as of course did

many others. **Principle:** *Give supporters who don't have the time or motivation to invest much effort something easy to do.*

I can't overemphasize the importance of testifying at public hearings. Many people on the list of organizations above gave outstanding testimony at every public hearing as did many others including Tim Nichols.

Numbers count, so it's important that people who are uncomfortable about speaking up show up. They can submit written testimony for the record if they prefer, but even just showing up helps.

I realize that the sum of what our villagers did sounds like overkill. **Principle:** *Don't underestimate the power of overkill.*

We had to be very prepared to refute opposition arguments which we heard at every hearing and which other counties and states heard as well. The arguments and how we countered them are as follows:

a) There is no evidence that T 21 works. Yes there is. Needham, MA passed T 21 in 2005 and is the only municipality that has had T 21 long enough to collect meaningful data on its effects. In the first seven years after T 21 was passed, smoking among high school students in Needham was reduced by approximately 60%. This was triple the reduction in surrounding towns that did not have a T 21 law. We have found that presenting this data to opposition people was sometimes met with disbelief and/or disregard. The view that if a big lie is repeated often enough, people will start to believe it also applies to a big truth. **Principle:** *Don't underestimate the effect of repetition.*

It should also be noted that the major source of tobacco products for youths under 18 are their 18-21 year old peers. T 21 cuts off much of that supply and anything that reduces access is a good thing. Equally important is that T 21 laws play a role in changing the cultural climate about the acceptability of smoking.

b) The public doesn't support T 21. They definitely do. A Center for Disease Control survey of US adults found that 75% of the population supported T 21. Among smokers, 70% supported it. This makes sense because most smokers don't want their children to smoke.

c) If 18-21 year olds can't buy tobacco products where they live (in this case, Albany County), they will go elsewhere to buy them (in this case, Schenectady). There is no evidence that much of this has happened in communities that are adjacent to ones that have T 21 laws. In our case, Schenectady County recently passed a T 21 law. According to several sources, at least some of their inspiration came from our success in Albany County.

d) If someone is in the military, they should be allowed to smoke. This argument implies, and was often explicitly stated, that we should grant the privilege of choosing to smoke to men and women who are serving our country and fighting for our freedom. I believe that debating about whether military servicemen and women being able to buy tobacco products is a privilege they deserve is counterproductive and is antithetical to supporting our troops. **Principle:** *Never let the opposition frame the argument.*

I prepared a document entitled "Support Our Troops: Don't Put Them in Harm's Way for the Profits of Tobacco Companies" (See Appendix 2). This document includes statements from multiple people

high up in the military as well as the Department of Defense that smoking decreases the combat capability of smokers as well as compromises mission readiness. Also, wounded warriors have increased risk of surgical complications and delayed wound healing.

Once someone is addicted, they don't have much freedom of choice. Enabling smoking among our brave service men and women is no way to support our troops.

e) Retail establishments, especially convenience stores, will lose money they currently gain from selling tobacco products to 18-21 year olds and the county and the state will lose tax dollars. Even if this were true, which it isn't, it is morally reprehensible for anyone to argue that we should protect profits from products that addict and kill when used as directed. ***Principle: Profits and tax dollars should not be valued over public health.***

Here are some facts: Money that is not spent on tobacco products will not disappear from the economy. It will be spent on other taxable items. Counties pay 25% of Medicaid bills that, of course, are higher for smokers. Also, smokers on average earn less than nonsmokers and therefore pay lower taxes.

It surprised me to learn that New York State was the highest of all states in monetary losses due to smoking and exposure to second-hand smoke. You can find the document [“The True Cost of Smoking by State” on the ash.org website](#). Basically, some convenience and other storeowners want to continue to make sickening (literally) profits while the taxpayers pick up the bill.

Mr. Calvin, President of the New York Association of Convenience Stores spoke at every hearing about the dire economic consequences of T 21. Local TV news channels covered him each time while ignoring most of the other speakers. Mr. Calvin basically repeated the same falsehoods every time. ***Principle: Counteract the big lie technique with the big truth technique.*** We did.

It's very important to send thank you e-mails and/or phone calls to people for big things such as their votes and for not-so-big things such as taking the time to talk with you on the phone. In that spirit, I want to thank all the members of the county legislature for being so attentive and respectful during long public hearings. I am especially grateful to those who supported T 21 and to those who spoke at the legislature's press conference at which, not surprisingly, no press showed up. Their absence made the event feel more like a celebration. It was wonderful sharing the victory together.

Appendices

1.) Supporting Letters from Organizations

Action on Smoking and Health
American Cancer Society
American Lung Association
American Heart Association
Asthma Coalition for the Capital Region
Campaign for Tobacco-Free Kids
Healthy Capital District Initiative

MVP Healthcare
NYS Public Health Association
St. Anne's Institute
St. Peter's Health Partners

2.) Support Our Troops: Don't Put Them in Harm's Way for the Profits of Tobacco Companies

We will be doing the men and women who serve our country no favor by making it easier for them to use a product that kills when used as directed. More US citizens have died from smoking than from all the wars the US has ever fought put together. The members of our armed services already risked or are willing to risk their lives for our country. We shouldn't make it easier for them to risk their lives for the profits of tobacco companies.

Stand To, an Army publication, contains the following: "Personnel who smoke are more prone to injury and illness" and smoking "negatively impacts force readiness and the health of all members of the Army family." According to the Army Surgeon General, "soldiers who smoke are less combat ready and take longer to heal." Let's also bear in mind that non-smoking members of our armed forces do not have a choice about inhaling second-hand smoke and having their combat readiness reduced. *Smoking puts our troops in harms way.*

The Assistant Secretary of Defense (Health Affairs) Jonathan Woodson, M.D. wrote the following: "Tobacco use undercuts military readiness and harms individual performance...Wounded Warriors who smoke suffer from increased risk of surgical complications and delayed wound healing."

Countering the view that if they're old enough to serve, they're old enough to smoke, Rear Adm. John Fuller, Commander of Navy Region Hawaii, stated: "If someone is young enough to fight for their country, they should be free from addiction to a deadly drug" and "being tobacco-free is one of the best things we can do to improve fitness and readiness."

The reality is that once someone is addicted, they don't have much of a choice. Cigarette smoking is more addictive than heroin, cocaine and marijuana.

In addition, some 18-21 year olds in our armed forces have children and these children do not have a choice about breathing second-hand smoke.

Making an exception for 18-21 year olds serving in the military is *removing* more choices than it is creating. Also those 18-21 year olds who 'choose' to smoke are probably unaware that it is well-settled science that their brains are not fully developed until age 25 and that smoking adversely affects brain development. They may also not know that smoking is a cause of erectile dysfunction.

Making an exception for men and women in the armed services is singling them out for harm. If we are increasing the age to purchase tobacco in order to protect people, we should be protecting our brave men and women in the armed services.