

CHAPTER SEVEN

Unscientific

“Not that I had a particularly high opinion of it before, but the irrational and not-very-science-driven regime of COVID policies in California, coupled with the hypocrisy of so many elected officials there, has really lowered my opinion of the quality of governance in that state.” – Nate Silver, 538

“When it comes to re-opening, SCIENCE – not politics – must be California’s guide,” Governor Gavin Newsom tweeted on April 14, 2020. Two weeks later, in an apparent shot at Andrew Cuomo, Newsom tweeted, “The West Coast is – and will continue to be – guided by SCIENCE.” On May 4 came: “CA is led by data and SCIENCE.” On June 24: “This isn’t about politics. It’s about SCIENCE.” The next day Newsom added, “Dr. Fauci is right – this isn’t about politics. It’s about SCIENCE.” The tweet was not clear as to whether Dr. Fauci had himself screamed the word.

These were just the times the Governor gave science the all-caps treatment. Twenty-six other tweets made similar pronouncements at a conversational volume. While a purported adherence to science is not usually the stuff of social media chest-beating, the layers of irony ran deeper than that. With every edict from Sacramento—every new order, regulation, or guidance document; every reinvented taxonomy of tiers, phases, or colors; every addition or deletion of criteria, metrics, or indicators; every introduction of novel vocabulary, like attestation or

emergency brake—California’s COVID experience grew more surreal. Absent in all of this was the key feature of the scientific method: an “unwillingness to take unverified and untheorized claims about the world as truth, simply because someone states that they are true.”

In Gavin Newsom’s California, science was reduced to an incantation, an elixir, a shibboleth. It became a device for easy virtue signaling, a muzzle for silencing debate, a weapon for beating opponents over the head. It was a code serving to keep government secret and centralize authority; an all-purpose justifier for any policy no matter how political or self-serving; a trump card against any other human good, legal nicety, or even non-preferred scientific theory. It was made into a dog whistle for the unassailable orthodoxy—wall-to-wall lockdowns—rather than an invitation to inquiry and discovery. It stood as a barricade denying access, input, and democratic self-determination to the untutored masses who couldn’t possibly have anything to contribute.

What resulted was not only a COVID-19 response with the nation’s worst outcomes, but a diminishment of each enterprise, science and politics, along with their capacity for collaboration in a world fraught with uncertainty and peril.

A DAY NOT AT THE BEACH

At the 28 minute and 29 second mark of his April 30 press conference, Governor Newsom told Orange County to pound sand. “We’re going to do a hard close in that part of the state,” Newsom said as he shut down the county’s beaches. “They’ve done a wonderful job down there. I just think we can tighten that up a little bit.”

Apparently forgetting the dictum that “the plural of anecdote is not data,” Newsom cited a few “disturbing” images of OC beachgoers he had seen. He added that anyone who did not find the images

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concerning was not “paying attention to this pandemic and how it is spread.” Asked for evidence of a “health impact of those crowds on the beaches,” Newsom could not cite any. Nate Silver of 538 said that given “what we seem to be learning about outdoor transmission” Newsom’s order would produce a public backlash “while not necessarily getting a huge amount of mileage in terms of public health.” Local officials were “livid,” with Michelle Steel, chairwoman of the Orange County Board of Supervisors, saying the order was based on a “few misleading pictures” and lacked any “rational basis.” The Mayor of Newport Beach agreed the closure was not “grounded in data” as there was no showing that beaches were a “direct threat to health and safety.” He added that Newsom did not speak “to a single local official” and “substituted his will for our judgment from 428 miles away in Sacramento.”

The Associated Press described the beach closure announcement as a “clumsy rollout.” The night before, word had gotten out via a memo from the California Highway Patrol that all beaches in the whole state would be closed. After receiving pushback from other coastal lawmakers, Newsom decided to single out Orange County. Yet at the press conference, he flatly denied he had considered the statewide order at all. This was a lie, as Politico reported in a story headlined “Newsom considered statewide beach closure despite publicly dismissing idea.” Other states, meanwhile, were not closing beaches at all. Thus began a pattern: Newsom failing to justify a uniquely restrictive action while misleading the public and ignoring data-based input from local communities even as he claimed the mantle of scientific veracity—yielding disastrous consequences for public health.

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California “has had the strictest regulations throughout the lockdown.” The state is an outlier not only in the overall extent and

duration of restrictions, but also with respect to a number of specific activities. For instance, California has been one of only a few states not to allow bowling, with its inherent social distancing. We were one of three states to forbid youth sports. We had one of the only state-imposed curfews and one of the only statewide school closure orders. Newsom had little company in banning outdoor dining and closing playgrounds, though he quickly reversed himself on the latter after some lawmakers protested.

The head of the state restaurant association reported that California's "most restrictive" lockdown was "inflicting the most devastation" anywhere in the country "on small businesses and the most economically vulnerable service workers." The state's economy was in extended freefall as a result, with nearly the worst unemployment rate in the country throughout the pandemic. In the last week of August, for instance, California accounted for 25 percent of the nation's unemployment claims while having only 12 percent of its population. As one of countless examples, Garth Gilmour, owner of a home wireless and security small business, said he had to "lay off all of my employees after having exhausted PPP and SBA loans but at least I will have tried to achieve the no-longer-achievable American dream." Yet perversely, by December California was also the leading COVID-19 hotspot, with by far the worst case rate in the country. In fact, cases would have been declining nationwide if not for California overwhelming that trend. "By any calculation, California's outbreak numbers are stunning," Politico reported.

But there had been no reason to expect Newsom's approach would work, since he refused to provide evidence for it. Nate Silver, considered by many the high priest of data science, criticized the "irrational and not-very-science-driven regime of COVID policies in California," adding, as a New Yorker, "Don't mistake us for California." The California Business Roundtable repeatedly asked Newsom for data

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“that would show how business openings have affected COVID rates and transmission.” He would not provide it. A judge in Los Angeles County struck down an outdoor dining ban as “not grounded in science, evidence, or logic,” yet Newsom thought it was such a good idea he applied it statewide. A San Diego Court then came to the same conclusion: “Given every opportunity, the State has provided the Court with no evidence” to justify outdoor dining restrictions. Underscoring this arbitrariness, a video posted by a sobbing Los Angeles restaurant owner showed that the filmset for NBC Universal’s “Good Girls,” complete with outdoor dining, was operating free and clear within feet of her shuttered location. “Everything I own is being taken away from me and they set up a movie company right next to my outdoor patio,” she said. Her video received 9.6 million views on Twitter.

It became increasingly clear that Newsom’s restrictions were not just inflicting needless harm but backfiring and contributing to spread of the virus. From the earliest days, he offered guidance that turned out to be off base. In a March 30 Daily Show appearance, he confidently implored millions of viewers to start “making better decisions” by avoiding four specific activities, all of an outdoors variety: “not going to the beach, or playgrounds, or parks” and “not going on a jog” when there were people around. As the distinction between indoor and outdoor transmission risks became even clearer, the state failed to take heed. Julia Marcus, an infectious-disease researcher at Harvard University, said while moving activities outdoors is crucial, many policies in California “actually do the opposite.” Brown University health economist Emily Oster observed that “[s]ome of the things they’re telling you not to do are incredibly low-risk. When you are so strict about what people can do, they stop listening.”

“It’s not because the public is irresponsible; it’s because they are losing trust in public health officials who put out arbitrary restrictions,” said Dr. Monica Gandhi, an infectious-disease specialist at UC San

Francisco. “California is unique because this particular lockdown came off as arbitrary and not data driven. Californians have listened to the news. They have seen the data on the virus, they know that being outside is safer, they know the impact the lockdown will have on businesses that could die forever, and they just don’t buy it.” Dr. Gandhi noted that opposition to the lockdown came from “medical professionals, lawmakers, parents and those with nuanced thinking who believe it’s too restrictive, and didn’t incorporate the biology of the virus.”

In another counterproductive policy, Newsom deputized his Health and Human Services Secretary to announce a curfew. Yet the “virus doesn’t care—day or night,” said Mark Cullen, an infectious disease expert and former professor at Stanford University, calling the restriction “an odd one that doesn’t in and of itself address the problem.” Another infectious disease professor, Lee Riley, pointed out that curfews could drive more people indoors, especially younger people. Ellie Murray, an epidemiologist at Boston University’s School of Public Health, said, “I’ve spoken with a lot of other epidemiologists and public health specialists, and we’re not really sure at all where the justification in terms of the science for these curfews is.” She added the effect of the curfew could just be to cram more people into a shorter time window.

To make matters worse, the rules kept changing in major ways without any coherent justification. On April 14, Newsom announced six “indicators” for modifying the stay-at-home order—testing, protection of high-risk populations, hospital surge capacity, therapeutic development, ability to support physical distancing, and ability to determine when to re-impose restrictions—which became the basis for a “Resilience Roadmap” consisting of four reopening “stages.” On May 18, counties were given a “new attestation opportunity” where they could move to a new stage more quickly. Several did so, with local

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governments, businesses, and citizens putting a great deal of effort into adapting community life to the requirements for attestation. But on June 28, amid an uptick in cases, the Governor started closing whole categories of establishments statewide. Then, on August 28, came a lightning bolt from Mount Olympus: the Resilience Roadmap was out, supplanted by a totally new “Blueprint for a Safe Economy.” The six “indicators” were replaced by two entirely different metrics: case rates and positivity rate, which would be used to assign counties to one of four color-coded “tiers.” Counties were shuffled across these tiers for a few months until, on November 16, a new “emergency brake” was applied moving most of the state to the most restrictive “purple” tier. On November 21 came the curfew and then on December 3 a state-at-home order linked to yet another new metric: ICU capacity.

The whole point of setting criteria is to have a stable yardstick for evaluating variable data. I urged Governor Newsom to be transparent and work with the Legislature and local communities to get everyone on the same page and get things right. But instead, he resorted to unilateral, insular, haphazard decision-making, with the criteria in constant flux. The result was chaos, distrust, and needless suffering. The people of California, who had heroically risen to the occasion in March and April, were treated like clay in his hands, subject to zig-zagging, life-altering edicts lacking any basis in science. “It feels like during this whole pandemic, the people in charge have been acting like this is an experiment in a lab at Stanford,” one advocate said.

But at least Newsom learned one thing. On December 10, 2020, with California going through the nation’s worst COVID surge, he released some suggestions for safe activities. First on the list: “Go to a beach.”

KILLING OUR KIDS

One reason Newsom’s COVID response was so unscientific is

that science was getting in the way of other political priorities. In the last chapter, we saw how a preternatural subservience to powerful Special Interests was the cause of his school closure policy. As much of an indictment as that is, even more damning is the effect: a tragedy for millions of California kids that mountains of scientific evidence warned against.

California schools were ordered closed statewide on April 1 and remained so through the summer. By the time the question of reopening for the new school year presented itself, the evidence was clear on three counts: the minimal risks to children from COVID-19, the enormous harms of extended school closures, and the negligible impact of school openings on community transmission. The day of Newsom's July school closure order, I released a statement citing evidence that "school closures do little to flatten the epidemic curve, while they are a calamity for kids." That evidence only became more rock solid in the latter half of 2020. Yet by the end of the year, Headmaster Newsom had still expelled the vast majority of students from the classroom.

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A deadly virus is not always less deadly for kids. One of the few things to be grateful for in 2020 was that this particular virus turned out to be not very dangerous for them at all. The Journal of the American Medical Association reported in May that "the overall burden of COVID-19 infection in children remains relatively low" and that "children are at far greater risk of critical illness from influenza than from COVID-19."

By the time of Newsom's July 17 closure order, these limited risks from the virus were well-understood. Equally well-established were the wide-ranging and inequitably felt harms of keeping kids home from school. On June 29, the American Academy of Pediatrics "strongly

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advocate[d] that all policy considerations for the coming school year should start with a goal of having students physically present in school.” In a 125-page report released on July 15, the National Academies of Sciences, Engineering, and Medicine concluded after weighing risks that “school districts should prioritize reopening schools full time.” On July 24, the CDC joined the chorus with a statement on “the importance of reopening America’s schools this fall.” Even the New York Times published an editorial calling for schools to open, leaving Newsom torn between his two main constituencies: California special interests and the national news media.

As we saw in Chapter 6, Newsom stuck with the former. The most direct consequence has been substantial learning loss, with students losing between 50 and 100 percent of a whole year’s worth of math in the Spring, according to the Brookings Institute. This was not experienced equally by all students: McKinsey found that “learning loss will exacerbate existing achievement gaps by 15 to 20 percent.” Many kids in low-income areas never logged in for remote learning and were completely unaccounted for. Richard Rothstein, author of *The Color of Law: A Forgotten History of How Our Government Segregated*, wrote that closing schools would “take existing academic achievement differences between middle-class and low-income students and explode them,” as kids with attentive parents would outpace those with a challenging home life. Dan Walters called it “nothing short of educational apartheid.”

Yet the harms did not end there. The American Academy of Pediatrics cited other risks from school closures, including “child and adolescent physical or sexual abuse, substance use, depression, and suicidal ideation,” placing kids “at considerable risk of morbidity and, in some cases, mortality.” The depression and suicide fears have been tragically borne out, with mental-health related Emergency Room visits for minors increasing between 24 and 31 percent. I’ve personally heard

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from counties where utilization of youth mental health services went up 60 percent—a humanitarian crisis of the government’s creation.

Most jarring, a November study by the Journal of the American Medical Association found that because learning loss diminishes life success, elementary school students across America had already lost 5.5 million years of life expectancy. It takes a fairly simple calculation to show what that finding would mean for California: Newsom’s school closures have caused even greater loss of life than COVID-19. That’s why Dan Walters wrote that school closures are “killing our kids.”

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Still, Newsom argued, keeping schools closed was necessary to stop the spread of COVID-19. It should first be recognized that even if this were true, we would be sacrificing our kids’ education, development, health, and years of life to some other social objective—a morally uncomfortable proposition, to say the least.

But it’s not true. Newsom’s own Health and Human Services Secretary acknowledged this on October 6: “We have not seen a connection between increased transmission and school reopening,” he said. That was certainly the experience of schools in the district I represent, and it’s what the evidence had shown for months. As early as March, an Imperial College research team found school closures “hardly impact the epidemic curve.” In April, another study found that “school closures alone had little effect on the speed and burden of the epidemic.” A report out Finland and Sweden found “closure or not of schools had no measurable direct impact on the number of laboratory confirmed cases in school-aged children.”

Fearmongering claims were repeatedly shot down. A study in the New England Journal of Medicine reported, “We have not found a single instance of a child infecting parents.” Mark Woolhouse, an

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epidemiologist at the University of Edinburgh, said it is extremely difficult to find any instance anywhere in the world of a child transmitting to a teacher in school.” On the strength of this evidence, Dr. Anthony Fauci recommended keeping schools open even as the country experienced a surge in the fall.

Governors across the country followed the evidence. On August 7, Andrew Cuomo cleared all 749 New York school districts to open. On October 27, the Secretary of Education in Massachusetts observed “it is increasingly clear that schools are not a source of transmission” and told even high-risk communities to keep schools open. Meanwhile, kids withered at home in California, in what Nate Silver, in a dramatic understatement, called a “not particularly science-driven” policy.

THE EQUITY METRIC

As Newsom widened inequities in our schools and throughout our state, on September 30 he made a startling announcement. Suddenly, he cared so much about “equity” that it became the name of an additional third metric for the Blueprint for a Safe Economy, which counties would have to satisfy before they could move up a tier. This new Equity Metric was possibly the most unscientific policy adopted anywhere in the COVID era.

No other state had anything resembling it. But that’s not because other states don’t care about equity. Based on their policies, they seem to care about it much more than California. We have the highest poverty rate in the country and the second worst income inequality (as measured by Gini coefficient), largely as a result of laws like AB 5 and other Special Interest payouts that limit opportunity and raise costs for ordinary California. Likewise, we have among the nation’s worst educational achievement gaps because keeping kids trapped in failing schools supports the business model of our state’s biggest political

spender. As discussed in the previous two sections, these inequities have been radically amplified by Newsom's corrupt and unscientific COVID shutdown policies.

So on September 30, we had the setup for a typical Gavin Newsom announcement: seeking to grab a headline by making California the "first" to do something while sabotaging the purported goals of the initiative by letting Special Interests drive the policies that matter. But this day marked a new level of absurdity. Newsom was going to keep counties locked down if areas with marginally higher infection rates had lower voter turnout, fewer tree canopies, or less alcohol flowing than the rest of the county. Characteristics like these, among 25 "socioeconomic" factors in a so-called Healthy Places Index, would be used to score a county's dozens of census tracts. The lowest scoring fourth of these tracts would get cherry-picked from across the county and lumped together into one group. Then, the average COVID case rates for this purely invented subgroup could keep the county in a lower tier, even if the countywide averages merited advancement.

Under this scheme, two counties with identical case positivity rates could be subject to different restrictions based not on how cases were distributed physically—a plausible public health consideration—but on how that distribution lined up with voter turnout, environmental quality, proximity to bars, and other supposed socioeconomic factors. The freedom of whole counties would depend on minor differences between fabricated subdivisions in a grab bag of dubious characteristics.

Even if this scheme were measuring equity in some real sense, it would not have been the right way to combat some of the disproportionate impacts of COVID-19. The way to do that was what dozens of other states (as well as California to some extent) were already doing: targeting investments where they were needed to increase access to PPE or needed services. But Newsom took this idea in a chilling direction. Restricting the basic liberties of citizens to

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impose a notion of “equity” defined by the government is a move with some very bad precedents in world history.

Writing for CATO, Walter Olsen suspected the point of the new metric was to obtain “leverage with which to push counties into ‘equity’ initiatives that go beyond criteria of sound disease control.” Such initiatives would surely wind up being the not-so-equitable kind that usually prevail at our Capitol. The long and short of it was that the most authoritarian “emergency power” claimed by Gavin Newsom—to shut down communities, shutter businesses, close schools, separate friends and family, and imprison citizens in their homes—was being used in service of political goals with no relation to public health.

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When Gavin Newsom threw out the Resilience Roadmap in favor of the Blueprint, what angered many people most was that one color was missing. “We don’t believe there’s a green light that says go back to the way things were,” the Governor said. Nothing could have been further from the truth. Coronavirus was a temporary problem; it was not the end of history. The Governor’s fatalism was the height of hubris. Our collective future is never up to a single person, and certainly not a person who’d been so wrong at such a high cost to so many.

As it happened, Newsom was also taking steps to get in the way of the one thing scientists were saying was a green light: the vaccine. At an October 19 press conference, Newsom announced he was setting up a separate approval process that any FDA-approved COVID vaccine would have to pass before anyone could get it in California. “We’re not going to take anyone’s word for it,” Newsom said, though we’d keep taking the FDA’s word for every other drug. U.S. Senator Lamar Alexander, Chair of the Senate Health Committee, admonished Newsom to “stop second guessing” the “career scientists” at the FDA,

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which Alexander said would “delay approval, discourage Americans from taking the vaccine, and cost lives.”

Newsom’s disregard for science had made the COVID era as insufferable in California as anywhere. Now, his disrespect for scientists was going to keep the era from drawing to a merciful close.