

SB

237

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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MEMORANDUM

January 25, 2002

SUBJECT: CSSB 237() relating to civil defense and disasters
(Work Order No. 22-GS2090\C)

TO: Senator Randy Phillips

FROM: ^{JB}
Theresa L. Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above.

Privacy concern. This concern is not triggered by your requested changes, but is caused by another part of the bill. In the proposed amendment to AS 26.23.020(g) that is set out as paragraph (12), the governor is given nearly unlimited power to access, inspect, and share health care and medical records. While a disaster or emergency certainly provides a compelling state interest in allowing some access, inspection, and sharing of these records, if the privacy of some or all medical records is considered to be a fundamental right, the right to privacy (Alaska Constitution art. I, sec. 22) may also require that any other available, less restrictive means be used to handle the situation. See Sampson v. State, Op. 5474, September 21, 2001, at page 5. Therefore, the proposed language may need to be more carefully designed for the situations it is meant to cover. In addition, since the records would be considered to be in a constitutionally protected zone of privacy, the records must be relevant to the state's situation. See Gunnerud v. State, 611 P.2d 69, 72 (Alaska 1980). For example, among other changes you might want to make, the general reference to medical records might be rewritten to cover "medical records that are necessary to deal with the emergency or disaster" or "medical records that are determined by (a specified person or agency) to be necessary to deal with the emergency or disaster." Also, you may want to insert a requirement that the records be kept confidential.

If I may be of further assistance, please advise.

TLB:med
02-048.med

22-GS2090\C
Bannister
1/25/02

CS FOR SENATE BILL NO. 237()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to civil defense, terrorist attacks, and disasters; and providing for an**
2 **effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1. AS 26.20.040 is amended to read:**

5 **Sec. 26.20.040. Emergency powers of the governor. In the event of actual**
6 **enemy or terrorist attack against the state, or credible threat of enemy or terrorist**
7 **attack against the state, the governor may declare that a state of emergency exists,**
8 **and, during the period of time that the state of emergency exists or continues, the**
9 **governor has and may exercise the additional emergency power**

10 **(1) to enforce all laws and regulations relating to civil defense and**
11 **assume direct operational control of all civil defense forces and helpers in the state;**

12 **(2) to seize, take, or condemn property for the protection of the public**
13 **or at the request of the president, the armed forces or the civil defense agency of the**
14 **United States, including**

1 (A) all means of transportation and communication, except
2 newspapers and news services;

3 (B) all stocks of fuel of whatever nature;

4 (C) food, clothing, equipment, materials, medicines, and
5 supplies; and

6 (D) facilities including buildings and plants;

7 (3) to sell, lend, give, or distribute the fuel, food, clothing, medicines,
8 and supplies among the inhabitants of the state and account to the commissioner of
9 revenue for funds received for the property;

10 (4) to make compensation for the property seized, taken, or condemned
11 on the basis described in AS 26.20.045;

12 (5) to perform and exercise other functions, powers, and duties that are
13 considered necessary to promote and secure the safety and protection of the civilian
14 population.

15 * **Sec. 2.** AS 26.20 is amended by adding a new section to read:

16 **Sec. 26.20.195. Additional remedies and powers.** If the governor
17 determines that the provisions of this chapter are not adequate to handle or prevent a
18 terrorist attack and that a provision of AS 26.23.010 - 26.23.220 would be useful, the
19 governor may apply that provision to the terrorist prevention or attack, unless the
20 provision conflicts with a provision of this chapter.

21 * **Sec. 3.** AS 26.20.200(1) is amended to read:

22 (1) "civil defense" means the protection and defense of the civilian
23 population by the organized efforts of the residents of the state other than those in the
24 military service, and includes without limitation, fire fighting, policing, rescue, air raid
25 warning, communications, medical service, transportation, evacuation of persons,
26 welfare aid, guard duty, anti-espionage, anti-terrorist, and anti-sabotage service,
27 construction of temporary housing and bomb proof shelters, and any other service
28 necessary for the protection of and aid to the public not normally furnished by the
29 military services;

30 * **Sec. 4.** AS 26.23.020(g) is amended to read:

31 (g) In addition to any other powers conferred upon the governor by law, the

1 governor may, under AS 26.23.010 - 26.23.220,

2 (1) suspend the provisions of any regulatory statute prescribing
3 procedures for the conduct of state business, or the orders or regulations of any state
4 agency, if compliance with the provisions of the statute, order, or regulation would
5 prevent, or substantially impede or delay, action necessary to cope with the disaster
6 emergency;

7 (2) use all available resources of the state government and of each
8 political subdivision of the state as reasonably necessary to cope with the disaster
9 emergency;

10 (3) transfer personnel or alter the functions of state departments and
11 agencies or units of them for the purpose of performing or facilitating the performance
12 of disaster emergency services;

13 (4) subject to any applicable requirements for compensation under
14 AS 26.23.160, commandeer or utilize any private property, except for all news media
15 other than as specifically provided for in AS 26.23.010 - 26.23.220, if the governor
16 considers this necessary to cope with the disaster emergency;

17 (5) direct and compel the relocation of all or part of the population
18 from any stricken or threatened area in the state, if the governor considers relocation
19 necessary for the preservation of life or for other disaster mitigation purpose;

20 (6) prescribe routes, modes of transportation, and destinations in
21 connection with necessary relocation;

22 (7) control ingress to and egress from a disaster area, the movement of
23 persons within the area, and the occupancy of premises in it;

24 (8) suspend or limit the sale, dispensing, or transportation of alcoholic
25 beverages, firearms, explosives, and combustibles;

26 (9) make provisions for the availability and use of temporary
27 emergency housing;

28 (10) allocate or redistribute food, water, fuel, pharmaceuticals and
29 other medicines, supplies, or clothing; [AND]

30 (11) use money from the oil and hazardous substance release response
31 account in the oil and hazardous substance release prevention and response fund,

1 established by AS 46.08.010, to respond to a declared disaster emergency related to an
2 oil or hazardous substance discharge; and

3 (12) access, inspect, and share health care and medical records on
4 an as-needed basis to facilitate a response to protect public health and safety.

5 * Sec. 5. AS 26.23.900(2) is amended to read:

6 (2) "disaster" means the occurrence or imminent threat of widespread
7 or severe damage, injury, loss of life or property, or shortage of food, water, or fuel
8 resulting from

9 (A) an incident such as storm, high water, wind-driven water,
10 tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide,
11 avalanche, snowstorm, prolonged extreme cold, drought, fire, flood, epidemic,
12 explosion, or riot;

13 (B) the release of oil or a hazardous substance if the release
14 requires prompt action to avert environmental danger or mitigate
15 environmental damage; [OR]

16 (C) equipment failure if the failure is not a predictably frequent
17 or recurring event or preventable by adequate equipment maintenance or
18 operation; or

19 (D) an outbreak of disease or a credible threat of an
20 outbreak of disease;

21 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

AMENDMENT

OFFERED IN THE HOUSE

BY _____

TO: SB 237

1 Page 3, following line 18:

2 Insert a new bill section to read:

3 **** Sec. 3.** AS 26.23.210 is amended to read:

4 **Sec. 26.23.210. Relationship to civil defense laws.** (a) AS 26.20 (civil defense)
5 applies to preparedness, response, and recovery from disasters caused by enemy attack,
6 terrorist attack or credible threat of such attack, and other hostile military or
7 paramilitary action.

8 (b) The provisions of this chapter [, OTHER THAN AS 26.23.130,] apply to
9 preparedness, response, and recovery in cases of natural and manmade disasters [OTHER
10 THAN DISASTERS LISTED IN (a) OF THIS SECTION]."

11

12 Renumber the following bill sections accordingly.

SECTIONAL ANALYSIS OF SB 237
Re civil defense and disasters

Section 1 amends AS 26.20.040 (civil defense; emergency powers of the governor) to provide that the governor may exercise his existing civil defense powers in the event of a terrorist attack against the state or a credible threat of such an attack. Presently, the statute provides that the governor can exercise these powers only in the event of an "actual enemy attack against the state." The governor's powers in a declared civil defense emergency are enumerated in existing AS 26.20.040(1)-(5) and are similar to the governor's powers in a declared disaster emergency under AS 26.23.020

Section 2 amends AS 26.23.020(g), listing the powers of the governor in the event of a disaster emergency, to add the power to allocate or redistribute pharmaceuticals, medicine, and supplies. Presently, the governor only is authorized to allocate or redistribute food, water, fuel, or clothing in the event of a disaster emergency. This amendment also authorizes the governor to access, inspect, and share health care and medical records as necessary to protect public health and safety in the event of a disaster emergency.

Section 3 amends the definition section of the disaster statutes, AS 26.23.900, to include in the definition of "disaster" a terrorist or enemy attack, an outbreak of disease, or a credible threat of either such event. This authorizes the governor to declare a disaster emergency and to exercise the existing disaster emergency powers if a terrorist or enemy attack, an outbreak of disease, or a credible threat of either such event, causes or imminently threatens widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel. Presently, such events are not included within the definition of "disaster," which hampers the ability of the state to respond if they occur.

SB 237 Civil Defense and Disasters

What does this bill accomplish?

1. This bill amends AS 26.20 (Civil Defense) to authorize the governor to declare a state of emergency and to exercise emergency civil defense powers in the event of a terrorist attack or the credible threat of a terrorist attack on the state.
2. This bill amends AS 26.23 (Alaska Disaster Act) to add terrorist or enemy attack, outbreak of disease or a credible threat of such an event to the definition of "disaster."
3. This bill amends AS 26.23 to include in the enumerated powers of the governor, in the case of a disaster emergency, the power to allocate or redistribute pharmaceuticals and other medicines and the power to access, inspect and share medical records as necessary to protect public health and safety.

Why are these changes necessary?

1. The current world situation and recent events in the United States indicate that the governor of Alaska needs greater flexibility in order not only to respond rapidly to a terrorist attack, but to prepare for one as well. These changes would provide that flexibility.
2. AS 26.20 currently allows the governor to declare a civil defense emergency only in the event of an actual enemy attack. This bill would change AS 26.20 to allow the governor to declare that a state of emergency exists in the event of an enemy or terrorist attack, or credible threat of an enemy or terrorist attack against Alaska. This change is necessary to allow the state to make adequate preparations for a threatened enemy or terrorist attack, and to be able to respond just as quickly to an actual terrorist attack as to an actual enemy attack by another country.
3. AS 26.23 currently allows the governor to declare a disaster emergency for a variety of natural and man-made events. However, the list does not specifically include either actual enemy or terrorist attack, or outbreak of disease, or the credible threat of enemy or terrorist attack, or outbreak of disease. The same rationale for changing AS 26.20 applies to the need to change AS 26.23. In addition, because bioterrorism is a potential threat to the state, even in a scenario where the state is not the primary target of an attack (that is the attack occurs in another state, but the disease has the potential to spread to Alaska), the state needs to add

the outbreak or threatened outbreak of disease to the list of specific disaster emergencies. This bill will allow the state to more quickly prepare for threatened enemy and terrorist attacks (to include bioterrorism attacks) and to more effectively respond if, despite our best efforts, one occurs.

4. Under AS 26.23, in the event of a disaster emergency, the governor has the power to allocate or redistribute food, water, fuel, and clothing. Given the threat of bioterrorism the governor should also have the power to allocate or redistribute medical supplies. A bioterrorism event could trigger shortages of critical medicines and therefore the governor would have to make decisions on which parts of the population should receive the limited quantities of medicine available.

5. Finally, in the event of a bioterrorism event, the governor needs the power to inspect medical records and share certain contents of them within the public health community. This power is a key component of the public health system's surveillance and detection capability. It is a necessary power in an emergency to help the public health system determine the geographic extent of a disease, which parts of the population are most at risk, the point or points of origin of the disease, and who has been exposed to the disease. The answers to these and other questions will allow the system to make predictions about the rate and extent of the spread of the disease and on how to contain its spread and eliminate it.

TONY KNOWLES
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January 14, 2002

The Honorable Rick Halford
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Halford:

I am transmitting a bill relating to disasters and civil defense, which results from recommendations of the Terrorism Disaster Policy Cabinet following the tragic events of September 11, 2001. It is one of six bills I am forwarding to the Legislature today to ensure Alaska is fully prepared in terrorism prevention and emergency response.

This bill would authorize the governor to declare that a state of emergency exists and to exercise emergency civil defense powers in the event of a terrorist attack or a credible threat of a terrorist attack on the state. Presently, the governor is authorized to declare a civil defense emergency and exercise these powers only in the event of an "actual enemy attack."

This bill also would amend the definition of "disaster" in state law to include a terrorist or enemy attack, an outbreak of disease, or a credible threat of such an event. This would authorize the governor to declare a disaster emergency and to exercise the disaster emergency powers if any of the above events occurred and causes or threatens severe damage, injury, loss of life or property, or shortage of food, water, or fuel. Presently, such incidents are not included within the definition of "disaster," hampering the state's ability to respond if they occur.

Finally, this bill would amend the enumerated powers of the governor in the event of a disaster emergency to include the ability to allocate or redistribute pharmaceuticals and other medicines and supplies. Presently, the governor is authorized to allocate or redistribute only food, water, fuel, or clothing in the event of a disaster emergency.

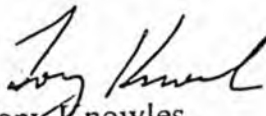
The Honorable Rick Halford

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It also would authorize the governor to access, inspect, and share health care and medical records as necessary to protect public health and safety in the event of a disaster emergency. Without this authority, the state is unable to effectively respond to a bioterrorist attack or an epidemic.

I urge your prompt and favorable action on this measure.

Sincerely,



Tony Knowles
Governor



adn.com

Anchorage Daily News

Knowles enters java war

SAFEMART: Governor urges grocer to stick by its buy-Alaska pledge.

By Paula Dobbyn

Anchorage Daily News

(Published: February 7, 2002)

Alaskans, including Gov. Tony Knowles, take their java seriously.

On Wednesday, Knowles waded into a dispute over the brand of coffee served at Carrs Safeway stores in Alaska. Angered by the Pleasanton, Calif.-based grocery store chain's decision to replace locally roasted coffee with Starbucks at several Carrs Safeway snack bars in Anchorage, Knowles penned a letter to Safeway's top executive Wednesday, chastising him for the move.

"This action is a slap in the face of many Alaskans -- the Alaskans your company works to have as loyal customers. In the strongest possible terms, I urge you to reconsider your decision," wrote Knowles in a letter to Steven Burd, Safeway president and chief executive officer.

In December, Carrs Safeway introduced Seattle-based Starbucks in the espresso bars of its Muldoon and Eagle River stores, replacing Kaladi Bros. and Cafe del Mundo, two homegrown Anchorage businesses. The grocery chain's district manager in Anchorage, Glenn Peterson, said this week that at least five stores in Alaska -- four in Anchorage, one in Juneau -- will serve Starbucks espresso drinks and test customer reaction.

"This is retail. You're testing the water everyday," Peterson said earlier this week. Carrs Safeway representatives could not be reached late Wednesday.

Any move by Carrs Safeway to replace locally made products touches a raw nerve with many Alaskans. Safeway's 1999 purchase of Carr Gottstein Foods Co., an Alaska grocery chain, was the subject of a class-action lawsuit brought by consumers who argued the takeover would give Safeway a monopoly over the state's grocery business.

The lawsuit was settled after the Alaska attorney general negotiated a consent decree that required Safeway to sell seven of its Alaska stores to viable competitors. The agreement attempted to settle potential antitrust violations.

The consent decree ultimately failed. Six of the seven stores, sold to Alaska Marketplace, faltered under the new management. Alaska Marketplace became defunct 14 months after the purchase. The seventh store, at the University Center in Midtown, continues to operate as Natural Pantry.

At the time of Safeway's acquisition of Carrs, the national chain promised to support local vendors, noted Perry Merkel, owner of Cafe del Mundo. Knowles mentioned it, too, in his letter to Burd.

"Two years ago you personally committed to me Safeway's intention to remain a supporter of Alaska products when your company purchased Carrs," the governor wrote. "The decision to reduce the availability of Alaska products at Safeway-Carrs shelves violates, at a minimum, the spirit of the consent decree."

The grocery chain has said it will continue to stock Cafe del Mundo and Kaladi's whole-bean coffee on

its shelves.

Knowles also telephoned Safeway executives to communicate his displeasure and to remind them of their promises to buy Alaskan. The governor said they assured him Safeway would take another look at the matter and come up with a win-win situation.

"I think Alaskans ought to speak out all over the state," about what's happening to Kaladi and Cafe del Mundo, said Knowles in an interview.

The way University of Alaska Anchorage economics professor P.J. Hill sees it, the Starbucks decision is fallout from a botched negotiation by the state attorney general's office before the takeover. Hill served as an expert witness for the consumers who tried to block Safeway's purchase of Carrs.

"Knowles ought to be the guy with egg on his face. He didn't oppose the merger," Hill said.

Steve Conn, executive director of the Alaska Public Interest Research Group, agreed.

"This is a direct result of his promotion of that merger," Conn said.

Knowles staunchly defended the attorney general's role in overseeing the deal and said the state did its best to protect Alaska consumers.

Reporter Paula Dobbyn can be reached at pdobbyn@adn.com or 907 257-4317.

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GRAY DAVIS AND THE RISE OF THE STAFFER MENTALITY.

Foreign Aide

by Franklin Foer

Post date 02.07.02 | Issue date 02.18.02

Gray Davis is facing a tough year. His reelection, once deemed near certain given California's overwhelming Democratic tilt, has been thrown into question by an energy crisis and a moderate, well-known, well-funded Republican challenger. And considering the boon that a GOP victory in the Golden State would represent for the national party, expect the White House and the Republican National Committee to mount an all-out effort--à la the demonization of Tom Daschle--to savage Davis's reputation.

But what's more surprising is that Democrats haven't really rallied around their man in his moment of need. For many liberals, Davis embodies the corporate centrism that has hijacked the party since the Clinton era. "[A] minimalist governor in a state, and at a time, of maximalist needs and opportunities," decreed *American Prospect* Executive Editor Harold Meyerson. "I fear that there's no telling how far right he'd go," says liberal State Senator John Vasconcellos. The critics are correct that Davis represents a troubling trend, but that trend isn't ideological. Davis's scripted, timid, money-driven brand of politics isn't a function of strongly held beliefs--when circumstances warrant, he just as easily shifts left. It's a function of his background. Davis represents the apotheosis of a new political breed that crosses ideological lines: the staffer-turned-politician.

Once upon a time, the idea that working on a politician's staff constituted a useful apprenticeship for elective office would have been difficult to imagine. As recently as the 1950s, even top aides were little more than glorified executive assistants. "Early on, there was no such thing as staffers. Congressmen had clerks," says American University political scientist Susan Hammond. "And, in fact, their jobs were largely clerical." The real business of electioneering was left

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largely to party and machine operatives. When candidates needed money, they didn't spend hours schmoozing with lobbyists at cocktail parties; they asked party leaders like Sam Rayburn and Tom Pendergast to open their coffers. And when they ran for reelection, they didn't take six months off to campaign; they relied on their patrons to do the hard work for them. The system may have been undemocratic and corrupt, but it served both sides well. The big-city bosses and state party chairmen got control over patronage and other parochial concerns. The legislators had time to spend on broader issues and fewer concerns about the immediate electoral implications of the votes they cast.

Thanks to campaign reforms and fractious intramural spats over ideology, the parties and machines began to weaken and collapse in the 1960s and 1970s. At the same time, the expanding welfare state meant politicians needed greater expertise in a broader range of policy areas. For any individual pol, therefore, the demands of both governing and campaigning dramatically increased. Legislators responded by hiring more staff--in 1961 the average congressional office housed six aides; today it houses 18. The staffers both picked up the political slack left by the machines' demise--enforcing message discipline, crafting images, raising money--and tracked an increasingly complex and diverse set of policy debates. The result was that, to a greater and greater extent, the business of governance and the business of campaigning were conducted from the same offices, often by the same people.

And since staffers ran this new system, it's little wonder that they soon began seeking office themselves. In 1960, 15 members of Congress had staff jobs on their resumes. Today 131 do, including both Senate Majority Leader Tom Daschle (former legislative assistant for Senator James Abourezk) and Minority Leader Trent Lott (former administrative assistant for Representative William Colmer). Former staffers have helped usher in the scripted, processdriven, poll-obsessed political style

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that today defines American politics. And no one personifies this style better than Jerry Brown's old chief of staff, Gray Davis.

The political apprenticeship of Gray Davis began in 1973. Returning from Vietnam, where he had repaired radar, he set out on the partner path at a five-name Los Angeles law firm. But he couldn't shake the memory of watching poor and black soldiers fight and die in disproportionate numbers half a world away. "That struck me as totally unfair," he told one reporter. Guided by this burst of conscience, he steered away from his parents' country-club Republicanism, quitting his comfortable job to volunteer his services to Tom Bradley's insurgent campaign against law-and-order Los Angeles Mayor Sam Yorty.

But if his choice of the black, liberal Bradley bespoke Davis's idealism, his particular duties on the campaign suggested a nascent streak of political realism. Under the tutelage of the financier Max Palevsky, Davis became the campaign's finance director, mining Palevsky's substantial Rolodex for donations. Following Bradley's 1973 victory, Davis mounted his own campaign for state treasurer--a remarkably ambitious goal for a 31-year-old with a slight resume. Davis was trounced in the primary, but the campaign brought him into contact with his party's gubernatorial candidate, Jerry Brown, and he quickly returned to the familiar role of campaign aide. Arriving just after Brown's primary victory, Davis didn't initially crack the inner circle--a realm reserved for far-out thinkers like the French

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Stanley
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Ali and *Black
Hawk Down*
have no
discernible
purpose.

filmmaker Jacques Barzhagi and *Small Is Beautiful* author E.F. Schumacher. But Brown understood that, given his well-earned reputation for flakiness, he needed an anal-retentive counterweight. And so, upon his election, Governor Moonbeam tapped Davis to be his chief of staff.

Though Davis was certainly more fastidious and less bohemian than his beret-wearing colleagues in the governor's office, he wasn't any less committed to social change. He proposed a progressive pay structure for his staff, "to provide some economic assistance to the lower-paid employees in the office who don't get the recognition that some of the others of us do." To drive the point home, he took a 7 percent pay cut himself. Davis also exhibited a candor that might surprise people more familiar with his current political demeanor. In a mid-'70s conversation with the journalist Orville Schell that he now surely regrets, Davis mused on the record about going to see the skin flick *Deep Throat* after a disastrous press conference. "In those days, Gray was human," says the writer Joel Kotkin, who used to drink whiskey with him at a Sacramento watering hole called The Broiler.

But spontaneity and idealism were not part of Davis's job description under Brown; micromanagement and cynicism were. "His job was to make the trains run on time," says "Crossfire" co-host Bill Press, a former Brown policy adviser. "Jerry knew he needed someone like Gray to handle the neglected details." Davis set the governor's schedule, placated miffed legislators ("Gray has to eat shit every day," a staffer told Jerry Brown's biographer Robert Pack), and vetted memos and press releases for gaffes-- all the while trying to prevent Brown's cadre of pseudo-intellectual visionaries from distracting the governor. "He was the wet rag of the staff," remembers one Brown aide. "It was clearly frustrating for him that he couldn't assert more control on an operation that was always flying off the handle." Nor was he universally popular with his colleagues on the governor's staff, many of whom mocked him as a tight-ass behind his back.

But while brown and his bull-session buddies daydreamed about colonies on the moon and genetically engineered tomatoes, Davis dealt with the administration's political survival. When business

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Stanley Kauffmann's Films Worth Seeing.

lobbies threatened to finance a Republican challenger in 1978, Davis called to reassure them that Brown wasn't a socialist. He encouraged Brown to block a proposed tax rebate that would have disproportionately benefited low-income workers, arguing that the state couldn't afford it.

More than most of his contemporaries, Davis understood the political zeitgeist. Describing the growing importance of television in Joel Kotkin and Paul Grabowicz's 1982 book *California, Inc.*, Davis enthused, "[P]eople really care about who is Suzanne Somers's favorite governor.... Who will Charlie's Angels endorse for President? That question might well be a serious one." Indeed, it was Davis who skillfully packaged Brown as the populist outsider the post-Watergate era demanded. Taking Davis's advice, Brown ditched his limousine for a blue Plymouth. And it was Davis who broadcast the fact that Brown slept on a mattress in a small apartment rather than living it up in the governor's mansion. "He was very sophisticated about modern campaigning. He understood how to handle TV and image," remembers Bill Boyarsky, a veteran *Los Angeles Times* correspondent who covered the Brown era.

Even as Davis was managing Brown's image and reputation, he was using his post to cultivate his own. Although he had a press secretary next door, Davis took calls from the *Los Angeles Times* himself. According to the *Times*, he'd call reporters back as many as four or five times, constantly editing and reediting his quotes, even down to the placement of punctuation. And when stories didn't quote him by name, he'd raise hell: "Since when is my name spelled A-I-D-E?" he once fumed. It worked. "Gray became a ubiquitous figure. He was always in front of the cameras," says University of Southern California political scientist Sherry Bebitch Jeffe. "The joke was that Gray was the governor."

Almost as soon as the Brown era closed in 1982, Davis set about making that joke a reality. First he did a four-year stint in the state assembly, where he won national acclaim for conceiving the idea of placing photos of missing children on milk cartons. (Davis managed to milk this for all its self-promotional worth: Missing-children billboards across the state also prominently featured his own name.) In 1986 he

ascended to the office of state controller and, in 1994, to lieutenant governor. Along the way, he built the most extensive fund-raising network the state had ever seen.

And, in 1998, he finally achieved his goal. "It's taken me twenty-three years to traverse the fifteen feet from the chief of staff's desk to the governor's desk," he joked. But his mind-set hasn't made the move at all. Unhindered by a flaky boss or resentful colleagues, he's governed the state like the ultimate political staffer, with control over the smallest details. Davis personally approves nearly every press release to leave his office. Internal memos, he insists, must never waste expensive official letterhead. If anonymous leaks from ex-staffers appear in the press, Davis hunts down the perpetrators himself. ("He smells them out," says Democratic consultant William Bradley.) And Davis has tried to interview personally hundreds of administration appointees, including mid-level ones. This penchant for micromanagement may be one reason that, three years into his administration, Davis had 87 judicial posts left to fill.

Whereas Brown favored near-endless internal debate, Davis stifles the slightest dissent. "Nobody has their own agenda. There's only one agenda. It's Gray Davis' agenda," Davis told his Cabinet in the early days of his administration. When his environmental chief, Mary Nichols, discussed withdrawing a court brief filed by former Governor Pete Wilson in an obscure lawsuit over water rights, Davis dressed her down as the Cabinet filed out of a meeting. He later told reporters, "Their job is to think like I think." Nor is this view limited to members of Davis's own administration. He once blustered that the legislature's "job is to implement my vision." On another occasion he suggested that his judicial appointees should resign if their rulings contradicted his policies. "My appointees should reflect my views. They're not there to be independent agents."

But if there's an activity in which Davis most betrays this staffer background, it's fund-raising. For most politicians, raising money is an unpleasant necessity; for Davis, it's an obsession. According to adviser Garry South, in campaign mode Davis has spent as many as twelve hours per day in pursuit of donors. When he visited ground zero last October, he tacked fund-raisers onto the trip. At the end of the 2000 legislative session,

when hundreds of bills waited on his desk to be signed, a TV cameraman caught the governor sneaking through the bushes to avoid cameras staked out in front of a Sacramento fund-raiser's home. During one two-week period in December, Davis took in an average of \$159,000 per day in contributions. (By contrast, New York Governor George Pataki, who also faces a tough reelection, last year averaged \$26,000 per day.) Davis's \$39.5 million war chest earned \$900,000 in interest during the first six months of 2001--almost enough to finance an entire congressional campaign.

And while Bill Clinton's presidency may have popularized the "permanent campaign," Gray Davis's governorship has perfected it. No adviser wields greater influence over Davis's policies than South, his chief political strategist. "As far as I can tell, he's really Gray's only adviser," one Democratic consultant says of South. The result is policy gimmickry that would make Dick Morris blush. Because Wilson profited from a backlash against crime, Davis has staked out an ultra-hard line on the issue, at one point declaring Singapore, where first-time drug offenses routinely merit hangings, "a good starting point in terms of law and order." The state appeals court has reprimanded Davis for exceeding his authority by intervening to prevent the parole of 40 prisoners. When the state legislature, influenced by mounting evidence on the inefficacy of "three strikes and you're out" laws, voted to study the impact of California's version, Davis opposed it. And when legislators of both parties unanimously agreed to eliminate mandatory expulsions for elementary school students carrying weapons or toy guns to school, Davis vetoed the bill.

In 1998, after polls showed education to be the issue foremost in the mind of the electorate, Davis made it his "first, second, and third priority" and convened a special session of the legislature to pass his education agenda. There was only one problem: He barely had any education agenda. Even teachers opposed his "crown jewel" initiative exempting them from state income taxes. (Teachers feared that Davis's proposal would foster popular resentment toward them, which in fact it did.) Ultimately, Davis scaled back his proposal to a \$1,500 tax credit. When the measure passed, Davis aide lined the path from the governor's office to the press conference with children plucked out of tours of the state capitol. "Great stage managing," says Kotkin, "but without any ambition."

A year or so ago, California was booming, and Davis and his hypercautious, hypercalculated political style seemed unstoppable. Al Gore considered him for the second spot on the Democratic ticket. Newspaper articles frequently mentioned him as a "potential presidential contender." But then something funny happened: Crisis hit. First, Silicon Valley tanked. Then came the state's energy crisis. Unsurprisingly, Davis has reacted more aggressively to the politics of the blackouts than to the blackouts themselves--importing Gore's chief flacks, Chris Lehane and Mark Fabiani, to help spin the problem his way. Davis even outwitted Karl Rove, admonishing George W. Bush to his face at a joint press conference last June. Before Enron became a household name, Davis was blaming the crisis on Texas "energy cowboys," "snakes," and "gougers." But, his shrewd p.r. strategy notwithstanding, Davis--afraid of demanding painful sacrifices from either the electorate or the electric companies--took months to propose a remedy. And his solution failed miserably. Locking the state into a lengthy, overpriced contract with Pacific Gas and Electric, Southern California Edison, and other power producers, he did nothing to address the underlying problem of long-term shortages. What's more, his deal could send the state deeper into debt.

Then, in early November, Davis tried to get out in front of the terrorism issue. An FBI memo warning of "uncorroborated information" about attacks on unspecified bridges quickly morphed into a grandstanding gubernatorial announcement about "credible" evidence of impending strikes on four named targets. In his State of the State address, Davis boasted shamelessly that "[n]o state has done more than California to protect its citizens and vital assets since the terrorist attacks." Last November *Los Angeles Times* writer Mark Z. Barabak blasted Davis's response to September 11 as "driven more by politics than by principle."

By January 2002 Davis's approval rating was at 39 percent, down from 60 percent one year before. And, as of last week, he trails his likely Republican opponent, former Los Angeles Mayor Richard Riordan, by seven points. The irony is rich. Riordan is, in many ways, the anti-staffer. He spent most of his life outside politics,

winning his first election, as mayor of Los Angeles, at age 63. A sort of cross between John McCain and Paul O'Neill, Riordan is prone to statements like "Gosh, I don't have a clue how to answer that." And he often seems to make up his highly unorthodox political positions--support for gay civil union, for instance--as he goes along. But Riordan's somewhat bumbling style proved popular in Los Angeles because it underscored his authenticity and his independence. And it sets Davis's bloodless maneuvering in stark relief. Post-9/11, earnestness is in. At the very moment Davis and his fellow staffer-politicians have reached the peak of their power, the electorate, it seems, finally craves more.

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Davis Defends Warning of Bridge Attack

Security: Governor is unapologetic about his decision to reveal potential threat. President, public appear to be on his side.

By DAN MORAIN
Times Staff Writer

November 3 2001

Gov. Gray Davis said his first reaction was that he had no choice: Bulletins issued by the FBI and two other federal agencies warned of possible terrorist attacks on the West Coast, and, more specifically, against bridges.

"My first impression was, 'My God, this is going to happen [Friday]--at rush hour,'" Davis said, recounting the briefing he received from top aides Thursday morning.

With that, he opted to issue an extraordinary public warning about the potential attacks. Other public officials, including Western governors privy to the intelligence data, did not release it, and several law enforcement authorities were taken aback by his decision.

On Friday, even as traffic moved across bridges without incident, Davis was unapologetic about his decision, while President Bush defended the governor's right to speak out and initial public reaction appeared to be on Davis' side.

"As a former governor," Bush told reporters in Washington. "I didn't particularly care when the federal government tried to tell me how to do my business. When I was a governor of Texas, I was elected by the people of Texas and I handled my state's business the way I thought was necessary. And I think any governor should be able to conduct their business the way they see fit."

Davis' decision to make public the threat--and criticism he received from some law enforcement officials for doing so--raises anew the question of how officials should act in the aftermath of the terrorist attacks on the World Trade Center and the Pentagon.

Davis describes the predicament as "uncharted territory."

"There is no playbook," he said Friday.

"I made the call I know was right," he added. "God forbid that something would happen."

If he had had the information and hadn't released it, he said, "I couldn't live with myself."

However, one Republican candidate for governor criticized Davis as going too far. Citing what he described as the governor's "low credibility" with Californians, GOP rival Bill Simon Jr. called on Davis "to disclose this information that he relied upon in making the statements that he did."

"When you come out and make a blanket statement that the bridges might be attacked," Simon added, "I think that sends a certain level of panic and fear in people. And I think if he did indeed have a basis for which to make the statement, I'd like to know what the basis is."

Former Los Angeles Mayor Richard Riordan, a presumed candidate for governor, had no comment.

Secretary of State Bill Jones, another GOP candidate for governor, said Davis should be careful about releasing such information.

"Make sure that decisions are made off data that has been analyzed by the FBI, CIA and reputable sources," Jones said. "That's important because, I gather, there are huge amounts of different reports coming in, some probably more reputable than others."

Sean Walsh, one of Jones' campaign aides, was more direct: "This comes very close to crying fire in a crowded theater. The irony is he is having an economic summit [Friday], and I wonder what damage he has done to the state's economy by making this announcement without having any of the facts verified."

Indeed, at the economic summit Davis convened at Disney Studios in Burbank on Friday, much of the focus was on ways to jump-start the state's tourism industry. As the discussion progressed, a banker questioned the wisdom of assuring tourists that California is a safe place to visit while also warning of possible terrorist attacks.

"You can't say, 'We're expecting another terrorist attack,' and then say, 'Come to California,' " said Kaoru Hayama, chairman of Union Bank of California.

Still, in Davis' view and that of his top aides, the governor had little choice.

The first bulletins detailing the uncorroborated threats arrived at the state Office of Emergency Services at about 3:30 p.m. Wednesday. At the time, Davis was in the air, returning from a four-day trip to the East Coast, where he had met with federal authorities in Washington, visited ground zero in New York and held political fund-raisers.

State emergency officials relayed the information to Vincent Harris, one of the governor's top aides, who in turn briefed Chief of Staff Lynn Schenk and senior advisor Michael Bustamante.

The intelligence was raw. But there were bulletins from the FBI, the U.S. Customs Service and a third agency. One aide to Davis said the third agency was the U.S. Coast Guard, although a Coast Guard spokesman declined to discuss whether the Guard had issued such a warning.

Davis aides would not release the full text of the bulletins on which the governor based his decision. However, portions of the memos were obtained.

One said in part: "Reliable information has been received indicating that terrorists are planning an attack on bridges on the West Coast, beginning Friday, 11-2, 2001, during rush hours."

A second bulletin said: "US Customs informant indicates six terrorist incidents will occur on the West Coast beginning on Nov. 2."

The FBI's bulletin, released by the bureau, says: "The FBI is in possession of uncorroborated information indicating the possibility of additional terrorist attacks against the United States, specifically the West Coast."

"Reportedly, unspecified groups are targeting suspension bridges on the West Coast. Six incidents are to take place during rush hour beginning Friday, Nov. 2, and continuing through Nov. 7, 2001."

The FBI's memo noted that agents were attempting to verify the report's validity.

Heightening concerns, California Highway Patrol officers had discovered untended suitcases near the base of the Golden Gate Bridge two weeks ago. And officers stopped four Pakistani men standing on an overlook at the Golden Gate Bridge at 1:20 a.m. Oct. 7.

The men were detained when two of them failed to produce identification. A CHP spokeswoman said two of the men were in the United States illegally, and the other two had violated their immigration status.

"They were turned over to the FBI in San Francisco," she said.

Discussions among Davis' aides and his terrorism task force continued into the evening. Bustamante also conferred with a top officer at Coast Guard. As they spoke, the Coast Guard officer received an FBI bulletin warning of the threat.

By Thursday morning, when Schenk and Bustamante briefed Davis, the governor's top aides were in agreement that the governor should release the information--and Davis did so at a press conference in Los Angeles.

He did add details, however, by naming the bridges--the Golden Gate, the San Francisco-Oakland Bay Bridge, the Vincent Thomas Bridge and the Coronado Bridge in San Diego. The law enforcement bulletins contained no mention of specific bridges. And he upgraded the seriousness of the alert to "credible" from the FBI's characterization of "uncorroborated."

"The best preparation," Davis told reporters Thursday, as he announced that he was deploying National Guard troops for added security around the bridges, "is to let the terrorists know we know what you're up to. We're ready. It's not going to succeed."

On Friday, calls to the governor's office ran 10-1 in favor of the decision to make the warnings public, said Davis spokesman Steve Maviglio. The decision was the focus of the CNN show "TalkBack Live." A spot poll of CNN viewers showed that more than 80% supported Davis' decision. That information was relayed via e-mail on his hand-held organizer to Maviglio, who was at the Disney Studios economic conference.

The state has received scores of threats and warnings since Sept. 11. Most are general and vague. CHP Commissioner D.O. "Spike" Helmick said he could recall only one other warning that contained such specificity--a bulletin shortly after the Sept. 11 terrorist attacks that movie studios were targets. In that instance, Atty. Gen. John Ashcroft contacted Davis and the studios to warn them.

"This is very similar to what we heard when Ashcroft talked about an alert at the studios," Helmick said. "There may be others. I don't recall seeing them."

The FBI has put out about 15 nationwide threat alerts since the Sept. 11 strikes, alerting police to threats from crop dusters, trucks carrying hazardous materials and possible attacks on Hollywood studios, among other alerts.

FBI officials said Friday that they still considered the threat regarding the West Coast suspension bridges to be uncorroborated and less serious than prior warnings.

"You never really want to discount anything," one FBI official said, "but the way to interpret all of this is to realize that the attorney general didn't hold a press conference or anything to announce [the bridge warning]," as was done with prior threats. "That should tell you some about how serious or credible we consider this to be."

Times staff writers Mark Z. Barabak and Carl Ingram in Sacramento, and Eric Lichtblau in Washington contributed to this article. Morain reported from Los Angeles.

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