

HOMELAND SECURITY ADVISORY COUNCIL



HOMELAND SECURITY ADVISORY SYSTEM TASK FORCE REPORT AND RECOMMENDATIONS

SEPTEMBER 2009

EXECUTIVE SUMMARY

SIX MAJOR THEMES

#1 Enduring Merit of a Dedicated Terrorism Advisory System

In the view of the Task Force, a national threat warning system for terrorist attacks is as central now as it was when today's system was established in 2002. Further, that warning system should remain dedicated to threats from terrorism and not be combined with other national warning systems for weather, natural disasters, infectious disease and so forth. Though the Task Force offers suggestions to reform the current system, the members unanimously share the Secretary's view that maintaining the nation's vigilance is the key to protecting against terrorism.

#2 Two Audiences – The Public and “Institutions”

The Task Force members agreed that there are two primary audiences for the Homeland Security Advisory System. Institutions including the federal government, state and local governments, and the private sector have used the Advisory System for planning and for calibrating responses. The current system has functioned reasonably well for this audience, especially as alerts have become more targeted geographically and to specific sectors; however, improvements are needed. The system's ability to communicate useful information in a credible manner to the public is poor. Significant rethinking of how to communicate to this audience is warranted.

#3 The Current Advisory System - Commanding Insufficient Public Confidence

The Task Force members agreed that, at its best, there is currently indifference to the Homeland Security Advisory System and, at worst, there is a disturbing lack of public confidence in the system. In our judgment, this lack of public confidence must be remedied. As outlined below, the Task Force is unanimous in its view that there are constructive measures to be taken.

The Question of Colors

As to the specific question of whether to retain some form of the nation's current color code system, the Task Force was divided. Though recommending reform of the current system, half of the Task Force membership believes the concept of color-coded alerts is sufficiently clear, powerful and easily understood to be retained as one element in the Secretary's alerts to the nation. By equal number, Task Force membership believes the color code system has suffered from a lack of credibility and clarity leading to an erosion of public confidence such that it should be abandoned. However, the Task Force members are unanimous, that if the Secretary decides to retain a system of alerts utilizing colors, that substantial reform is required.

Measures to Restore Public Confidence

- The Task Force recommends that the Secretary consider the measures below to restore confidence in the Advisory System. These include:
- A discipline of more narrowly targeting the specific region and sector under threat, avoiding elevating the alert status of the nation as a whole.
- A practice of providing more specific information on new threats: including information on the type of threat, the credibility of the source of the information, and the steps the government is taking to mitigate the vulnerability.
- A practice of accompanying new alerts with actionable steps the public can take.
- An acknowledgment that the new baseline for the United States is guarded. We remain a nation confronting the threat of terrorist attack, but given that we remain ever on guard, the number of levels can be reduced from five to three.
- As disciplined a focus on lowering the alert status as now goes into raising it.
- A practice of debriefing the nation after alerts have been issued - what happened to the threat, can we now return to (what we recommend to be termed) "guarded" status?

#4 Changing the Alert Level Baseline to Guarded Status

In the judgment of the Task Force, a central undermining feature of the current alert system is that the threat level more easily moves up than comes down. Understanding that in a post September 11, 2001 world the nation will always remain guarded - for terrorism threats, there should be a bias against keeping the nation, or any region or sector, at an elevated alert in the absence of specific, ongoing threat information. In the words of the Task Force, “the escalators need to run both ways.” As it is institutionally difficult for the Department to lower a threat level, the Secretary should consider some “forcing mechanism” by which alert status defaults to “guarded” in the absence of an affirmative override. The lowering of the alert level should be automatically lowered to “guarded” within 15 days unless credible intelligence shows a reason to keep it elevated.

#5 Greater Precision is Required in Identifying the Specific Local Governments, First Responders and Private-Sector Companies Threatened and the Protective Measures that Necessitate a Response

The significant success of the Homeland Security Advisory System has been in the detailed planning of protective measures to be taken based on increased threats and alert level. Not only has the Department engaged in extensive planning and communication with thousands of state and local government agencies, police forces, fire departments, first responders and private-sector corporations, but these entities also have developed plans on their own for various alert levels. In fact, as an instrument of national planning, the Homeland Security Advisory System has made a major contribution to our enhanced state of readiness.

However, the Task Force believes the cost in dollars - and skepticism - of overly broad alerts is a substantial problem requiring remedy.

The best response involves:

- 1) Targeted raising of the formal alert status - as opposed to issuance of broad based verbal warnings.
- 2) To the extent possible, the American people should be provided as much threat detail consistent with national security - with focus on specific location and sector at actual risk.
- 3) The alert system must return any elevated status to “guarded” as soon as possible, consistent with the threat intelligence, unless credible intelligence shows a need to maintain an elevated alert.

#6 The Homeland Security Alert System Will Require Dedicated Infrastructure, Staff, Established Protocols and Procedures

The Homeland Security Advisory System was created in a crisis and for that reason it was done with admirable speed in 2002 in the aftermath of the 9/11 terrorist attacks. Moving quickly, responding to a rapid succession of threats, executive branch leaders depended on ad hoc practices for changing the nation's alert status and communicating that message. Further, the system has had no staff dedicated to manage the work in a crisis. The Task Force believes the Secretary should establish the protocols, procedures, and staff capable of supporting the Secretary.

This basic infrastructure should include:

- Criteria for deciding when an alert shall be made or a change in threat status announced.
- A protocol for applying the criteria to new threat information.
- A protocol for consultation with the White House.
- A protocol for communicating alerts and new status information.
- A protocol for providing the supporting information to the public at the time of the alerts.
- Individuals designated to coordinate the resulting communications.

RECOMMENDATIONS FOR THE SECRETARY

I. Threshold Conclusions

#1 The Task Force believes that, with reform, the advisory system should remain exclusively focused on the threat of terrorism to the United States.

#2 The Task Force viewed with concern the vulnerabilities with the current Advisory System:

- An erosion of public confidence in and respect for the current system.
- A frustration that the information provided with each alert is insufficient and unactionable.
- A concern that alerts are overly broad and insufficiently targeted on specific region and sector.
- A reluctance of the government to bring down color alert status after it has been elevated - leading to public cynicism about the color status.

II. Recommendations for Whole System

Fuller Disclosure

#3 Consistent with national security, alerts issued by the Secretary should provide the fullest degree of information possible. The Secretary should consider, consistent with national security concerns, the declassification and disclosing of:

- Specific detail of the threat information (e.g. credible, specific, actionable)
- Region and sector most affected
- Level of credibility and confidence in the threat information
- Steps government is taking to respond to the threat
- Protective measures public can take
- Places to go to get more information
- When and how the government will keep public updated

#4 During periods of threat, communications from the Secretary - or her designate - should be ongoing and regular. The Secretary's public communications should be coordinated and consistent with State and local officials and first responders.

#5 Whatever threat alert system is adopted, the federal government - across agencies - would benefit from a common vocabulary - exactly what each level of threat means to the general public.

Fullest Transparency

#6 Consistent with national security, the Department of Homeland Security should offer the greatest transparency possible on the process by which alert decisions have been made.

- What has triggered the alert?
- Who has been involved in the considerations?
- Who has made the final decision? (The Secretary)
- And the complete absence of political interest in the decision process.

The Nation Managed at “Guarded, the New Baseline.”

#7 The new “baseline” for the United States is an attentive, “guarded” state. For reasons of public credibility - and public and industry expenditure - the Secretary should elevate the threat status only when compelled to do so in the interest of public safety and security. To the extent possible, the nation should be managed at a guarded state.

#8 When public security merits an increase in threat status, the Secretary should target that higher alert level, as best possible, on the specific location and the specific sector at risk.

#9 To retain credibility with the general public, the threat level of the country must be regularly reassessed and lowered when practicable and consistent with the available threat information. The Secretary should consider various “forcing mechanisms” to encourage default to a guarded status following periods of elevated concern.

- A trigger mechanism
- A sunset provision
- A requirement that elevated status be positively explained to be continued

#10 More generally, the Secretary should consider a practice of “debriefs” explaining recent threats and what has become of them.

III. Recommendations Specific to the General Public

#11 The Task Force recommends the Homeland Security Advisory System retain some form of targeted risk communication to the public should a “terrorist alert” be announced. There was no consensus over whether this should be a graduated, easily-recognized code system that can convey, in an instant, a change in the level of concern or a simpler, more-flexible system of targeted warnings that easily would be understandable, credible, and actionable by the public. Some Task Forces members felt strongly that the public alerts be consistent with, but bifurcated from, preparedness, readiness alerts for institutions. While the Task Force did not think terrorist alerts should be integrated with natural disasters, some task forces members did believe that the form of terrorist alert should mirror the kinds of alerts and warnings issued for natural disasters and public safety concerns. Several examples were discussed, yet the Task Force was deadlocked on whether to retain colors going forward.

#12 Recognizing the new baseline for the United States is “guarded,” the Task Force recommends the alert system be reduced to three levels. This simplification is intended to enhance, even if in reasonably modest measure, public confidence in the credibility of the system.

#13 The graduated alert status is not a substitute for the fuller disclosure of information recommended above. If anything, it should be the lesser part of the Secretary’s communication to the nation.

#14 Since 9/11, a revolution has upended media and communications; the Homeland Security Advisory System should stay current with the communications revolution and adopt an “all tools” approach in reaching the general public. In addition to conventional media, this approach should encompass:

- New media generally (i.e. Twitter, Facebook, MySpace, Wikis, etc.)
- Bloggers
- Social media
- Delivery through PDAs
- Public sign up for online/PDA alerts

IV. Recommendations Specific to Institutional Players

**Federal Agencies
State and Local Governments
Tribal Authorities
First Responders
Private Industry**

#15 More acutely than the general public, institutional players incur a cost, often substantial, when the nation's - or a region or sector's - alert status is elevated. The problem of "over alert" suggests the Secretary should:

- Target as precisely as possible, consistent with public security, the location and sector at any elevated level of risk.
- Revisit - and explain - the merits of retaining an elevated threat status no less frequently than every 15 days.

#16 The threat levels communicated to institutional players (the levels themselves) need not be the same as those communicated to the general public as a whole. That said, for purposes of clarity and transparency, the same graduated *system* must convey the same meaning and should be deployed for both public and institutional alerts.

#17 There should be greater maturity of the existing communications plan. The Task Force recommends that the Secretary put in place the plan, protocol and detail for reaching institutional players during future alerts.

#18 Communications with many institutional players, notably private industry, involve sophisticated and technical discussions; the Secretary should review her department's technical capacity to conduct such high-level conversations in the event of serious threats.

#19 The nation's 72 fusion centers and 150+ Joint Terrorism Task Forces are an asset in evaluating the threat of terrorism to specific regions and sectors. At present, there is no protocol, no hardwired system, for deploying fusion centers and Joint Terrorism Task Forces (JTTF's) in communicating with institutional players (or the public) across the country. The Secretary should fold in these regional assets to the Homeland Security Advisory System plan and make them a Point of Contact for state information. DHS should work closely with the fusion centers and JTTF's to develop a "bottom up" state impact analysis. DHS needs to continue to improve on delivering timely, unclassified, updated frequently Homeland Security information that is based on state, local, and tribal specific requirements.

V. Infrastructure for the Future

#20 The alert system should be strengthened by instituting formal protocols, procedures and practices, dedicated staffing, and infrastructure to manage related communications. With this in mind, the Secretary should establish the necessary protocols, practices, procedures, and staffing, which ensure:

- Criteria for deciding when an alert should be made or a change in threat status announced.
- A protocol for applying the criteria to new threat information.
- A protocol for consultation with the White House.
- A protocol for communicating alerts and new alert status information.
- A protocol for the supporting information to be provided with alerts.
- Individuals designated to manage the resulting communications

Appendix A

Homeland Security Advisory Council Homeland Security Alert System Task Force Membership

Frances Fragos Townsend (Chair), Partner, Baker Botts, LLP
William Webster (Chair), Retired Partner, Milbank, Tweed, Hadley & McCloy, LLP
Michael Assante, Chief Security Officer, North American Electric Reliability Corporation
Randy Beardsworth, Principal, Catalyst Partners
Richard Ben-Veniste, Partner at Mayer Brown, LLP, and 9/11 Commission member
Alfred Berkeley, III, Chairman and CEO of Pipeline Trading Systems, LLC
Matt Bettenhausen, Homeland Security Advisor, State of California
David Bradley, Owner, Atlantic Media Company
James Carafano, Senior Member, The Heritage Foundation
Manny Diaz, Mayor, City of Miami
Clark Kent Ervin, Director, Homeland Security Program, The Aspen Institute
Mary Fetchet, Founding Director, VOICES of September 11th
Shirley Franklin, Mayor, City of Atlanta
Joseph Ricardo “Rick” Fuentes, Superintendent, New Jersey State Police
George Gascon, Chief of Police, City of San Francisco
Christine Gregoire, Governor, State of Washington
Michael Rounds, Governor, State of South Dakota
Joe Shirley, President, Navajo Nation
Edward Skyler, Deputy Mayor for Operations, City of New York

We’d like to thank the following for their contributions towards the task force’s efforts:

Alan Bock, Director of Homeland Security, South Dakota
Luz Borrero, Deputy Chief Operating Officer, City of Atlanta
Michael Butowsky, Partner, Mayer Brown
Major General Timothy Lowenberg, Homeland Security Advisor to the Governor of Washington
Mark Rupp, Director, Washington, D.C. Office State of Washington

Appendix B

Homeland Security Advisory System Task Force Subject Matter Experts:

The Honorable Michael Chertoff, Chairman, The Chertoff Group

The Honorable Tom Ridge, President and CEO, Ridge Global

Shawn Reese, Congressional Research Service

Peter Roggero, Counselor, Australian Embassy

Sean Smith, Assistant Secretary, Office of Public Affairs, Department of Homeland Security

Mark Williams, First Secretary, Justice and Home Affairs, British Embassy

Appendix C

History of Homeland Security Advisory System (HSAS)

- The Homeland Security Advisory System (HSAS) was introduced on March 12, 2002.
- The national threat level has changed 17 times.
- It has consistently remained at Yellow (Elevated) or Orange (High) and was elevated to Red (Severe) once on Aug. 10, 2006.
- HSAS has never been lowered to Green (Low) or Blue (Guarded).
- In August 2004, DHS began identifying specific sectors to possible terrorist threats—including aviation, financial services and mass transit.

2002

March 12, 2002 – Introduction of Homeland Security Advisory System at Yellow

As part of a series of initiatives to improve coordination and communication among all levels of government and the American public, President George W. Bush signed Homeland Security Presidential Directive 3, creating the Homeland Security Advisory System (HSAS).

Sept. 10, 2002 – Raised from Yellow to Orange

The U.S. intelligence community received information, based on debriefings of a senior al Qaeda operative, of possible terrorists attacks timed to coincide with the anniversary of the Sept. 11, 2001, attacks on the United States. Information indicated that al-Qaeda cells were established in several South Asian countries in order to conduct car-bomb and other attacks on U.S. facilities. These cells had been accumulating explosives since approximately January 2002 in preparation for attacks.

Sept. 24, 2002 – Lowered from Orange to Yellow

Based on a review of intelligence and an assessment of threats by the intelligence community, as well as the passing of the anniversary of the September 11th terrorist attacks and the disruption of potential terrorist operations in the United States and abroad, the Attorney General in consultation with the Homeland Security Council returned the threat level to an elevated risk of terrorist attack, or yellow.

2003

Feb. 7, 2003 – Raised from Yellow to Orange

Intelligence reports suggested that Al Qaida leaders emphasized planning for attacks on apartment buildings, hotels, and other soft or lightly secured targets in the United States.

Feb. 27, 2003 – Lowered from Orange to Yellow

Threat level lowered based on a careful review of how specific intelligence evolved, as well as counter-terrorism actions taken to address specific aspects of the threat situation.

March 17, 2003 – Raised from Yellow to Orange

The intelligence community believed that terrorists would attempt multiple attacks against U.S. and Coalition targets worldwide in the event of a U.S led military campaign against Saddam Hussein.

April 16, 2003 – Lowered from Orange to Yellow

Following a review of intelligence and an assessment of threats by the intelligence community, DHS, in consultation with the Homeland Security Council lowered the threat advisory level to an elevated risk of terrorist attack.

May 20, 2003 – Raised from Yellow to Orange

In the wake of terrorist bombings in Saudi Arabia and Morocco, intelligence reports indicated that terrorists might attempt attacks against targets in the United States.

May 30, 2003 – Lowered from Orange to Yellow

Following a review of intelligence and an assessment of threats by the intelligence community, DHS, in consultation with the Homeland Security Council lowered the threat advisory level to an elevated risk of terrorist attack.

Dec. 21, 2003 – Raised from Yellow to Orange

The U.S. intelligence community received a substantial increase in the volume of threat-related intelligence reports.

2004

Jan. 9, 2004 – Lowered from Orange to Yellow

Following a review of intelligence and an assessment of threats by the intelligence community, DHS, in consultation with the Homeland Security Council lowered the threat advisory level to an elevated risk of terrorist attack.

Aug. 1, 2004 – Raised from Yellow to Orange, specifically for the financial services sectors in New York City, Northern New Jersey, and Washington, D.C.

Raised the threat level for the financial services sector in New York City, Northern New Jersey and Washington, D.C. as a result of new and unusually specific information about where al-Qaeda would like to attack.

Nov. 10, 2004 – Lowered from Orange to Yellow, for the financial services sectors in New York City, Northern New Jersey, and Washington, D.C.

State and local leaders as well as the private sector strengthened security in and around specific buildings and locations as well as throughout the financial services sector after the threat level was raised on Aug. 1, 2004. Permanent protective measures were put in place that did not exist before this date.

2005

July 7, 2005 – Raised from Yellow to Orange for mass transit

In light of the attacks in London, the United States government raised the threat level in the mass transit portion of the transportation sector, including regional and inner city passenger rail, subways, and metropolitan bus systems.

Aug. 12, 2005 – Lowered from Orange to Yellow for mass transit

Since raising the threat level for mass transit systems on July 7, DHS worked with federal, state and local partners to develop and implement sustainable mass transit security measures tailored to the unique design of each region's transit system. In light of these increased long-term measures, the Department lowered the national threat level for the mass transit portion of the transportation sector.

2006

Aug. 10, 2006 – Raised from Yellow to Red for flights originating in the United Kingdom bound for the United States; raised to Orange for all commercial aviation operating in or destined for the United States.

The U.S. government raised the nation's threat level to the highest level for commercial flights originating in the United Kingdom and bound for the United States and raised the threat level for general aviation to High to include all in-bound international flights, other than flights from Great Britain, and all flights within the United States.

Aug. 13, 2006 – Lowered from Red to Orange for flights originating in the United Kingdom bound for the United States; remains at Orange for all domestic and international flights.

DHS lowered the aviation threat level from red to orange for flights from the United Kingdom to the United States. The U.S. threat level remains at orange for all domestic and international flights. The ban on liquids and gels in carry on baggage remains in full effect.

Appendix D

A Relevant Consideration

9/11 Legislation Requires the Secretary to:

1. Establish criteria for the issuance and revocation of HSAS advisories or warnings.
2. Develop a methodology, relying on above criteria, for issuance and revocation of advisories and warnings.
3. Provide in each advisory or warning specific information and advice on protective measures at maximum level of detail practical.
4. When possible, limit the scope of each advisory or warning to a specific region, locality or economic sector.
5. Not use color designations as exclusive means of specifying homeland security threat conditions.

(Source: H.R. 1, Became Public Law: August 3rd, 2007; 6 U.S.C. § 124)

Appendix E

Tasking

This report, requested by Homeland Security Secretary Janet Napolitano was produced by the Homeland Security Advisory Council's (HSAC) Homeland Security Advisory System Task Force. Consistent with the tasking, the report endeavors to provide specific and implementable recommendations to have the most effective advisory system in place to inform the American people about threats to our country.

Process

The Task Force met in person and by teleconference between August and September 2009. Task Force members shared their own knowledge and experience with the current alert system and provided specific and actionable recommendations to improve upon it. The Task Force members also engaged public, private sector, and international subject matter experts involved with homeland security alert systems. The following recommendations incorporate the knowledge and expertise of the Task Force members and subject matter experts.

Appendix F

Examples of Possible Definitions Each Advisory Level Could Look Like

Guarded or Yellow - A constant state of vigilance to protect against a terrorist attack.

Elevated or Orange - Increased protective measures based on specific threat information regarding a known or suspected terrorist plot.

High Alert or Red - Maximum protective measures to protect against an imminent or ongoing terrorist attack.