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MEMORANDUM

To: Members of the Subcommittee on National Security, Emerging Threats, and International Relations

From: Christopher Shays
Chairman

Date: March 11, 2004

Subject: Briefing memo for March 16, 2004 Subcommittee hearing.

Attached find the briefing memo required by Committee rules for the hearing on Tuesday, March 16, 2001 entitled, *Homeland Security Advisory System: Threat Codes and Public Responses*. The hearing will convene at 10:00 a.m. in room 2154 Rayburn House Office Building.

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To: Members of the Subcommittee on National Security, Emerging Threats and International Relations

From: Dr. R. Nicholas Palarino, Senior Policy Analyst

Subject: Briefing memorandum for the hearing *Homeland Security Advisory System: Threat Codes and Public Responses.* The hearing will be held on Tuesday, March 16, 2004 at 10:00 a.m., room 2154 Rayburn House Office Building in Washington, D.C.

PURPOSE OF THE HEARING

The hearing will examine the Department of Homeland Security (DHS) Homeland Security Advisory System (HSAS), and the adequacy of information on threats and appropriate protective measures provided to the public.

HEARING ISSUES

1. **To what extent is the current Homeland Security Advisory System an effective means of informing the public regarding the risk and protective measures to be taken in the event of a terrorist attack?**

2. **How could the Homeland Security Advisory System be imporved?**

BACKGROUND

Homeland Security Presidential Directive-3 (HSPD-3) requires dissemination of information regarding the risk of terrorist acts to federal, state and local authorities, and to the American public. **(Attachment 1)** Public Law 107-296 states the Undersecretary for Information Analysis and Infrastructure Protection for the Department of Homeland Security is responsible for administering the Homeland Security Advisory System, and "providing specific warning information, *and advice about appropriate protective measures and countermeasures*, to state and local government agencies and authorities, the private sector, other entities, *and the public*. (emphasis added)" **(Attachment 2)**

On June 6, 2003, in a *Washington Post* interview, Department of Homeland Security Secretary Ridge said he worries about the credibility of the system [HSAS] and wants to continue to refine the alert system because it has caused some anxiety. **(Attachment 3)**

There have been several congressional hearings addressing the HSAS. The hearings have not focused specifically on the issue of public notification and response—what the process is for raising public awareness, how the public is notified, and what actions the public should take when the threat level increases.

The HSAS evolved from the circumstances shortly after September 11, 2001, when the government issued a series of warnings recommending a higher state of vigilance. Those warnings were criticized for alarming the public and confusing local agencies. **(Attachment 4)**

The Federal Register (March 18, 2002, Volume 67, Number 52, Page 12047-

12049) identifies the purpose of the HSAS:

> The purpose of the Homeland Security Advisory System is to provide a comprehensive and effective means to disseminate information regarding the risk of terrorist acts to Federal, State, and local authorities, and to the American people. The HSAS is intended to create a common vocabulary, context, and structure for an ongoing national discussion with Federal, State and local authorities, private sector industries, and the people of the United States about the nature of the threats that confront the homeland and the appropriate measures that should be taken in response. It seeks to inform and facilitate decisions appropriate to different levels of government and to private citizens at home and at work. …. The assignment of a Threat Condition shall prompt the implementation of an appropriate set of Protective Measures. Protective Measures are the specific steps an organization shall take to reduce its vulnerability or increase its ability to respond during a period of heightened alert. **(Web Resource 5)**

Secretary Tom Ridge—then Director of the White House Office of Homeland Security, and now Secretary of the Department of Homeland Security—announced the establishment of the Homeland Security Advisory System on March 12, 2002. Ridge said the HSAS is designed to measure and evaluate terrorist threats and communicate these threats to federal, state, and local governments, the public, and the private sector in a timely manner. **(Attachment 5)**

Threat Level	**Risk of Attack**	**Protective Measures**
GREEN Low	Low	Refine preplanned protective measures. Ensure personnel trained on HSAS and preplanned protective measures. Institutionalize a process for assuring all facilities are assessed for vulnerabilities and

		measures are taken to mitigate these vulnerabilities.
BLUE Guarded	General	Check emergency response communications. Review and update emergency response procedures. Provide information to public that would strengthen its ability to react to an attack.
YELLOW Elevated	Significant	Increase surveillance of critical locations. Coordinate emergency plans with other federal, state, and local facilities. Assess the threat and refine protective measures as necessary.
ORANGE High	High	Implement emergency response plans. Coordinate security efforts with federal, state, and local law enforcement agencies. Take additional protective measures at public events, changing venues, or consider canceling if necessary. Prepare to execute contingency operations. Restrict facility access to essential personnel.
RED Severe	Severe	Increase or redirect personnel to address critical emergency needs. Assign emergency response personnel and mobilize specially trained teams. Monitor, and redirect transportation systems. Close public and government facilities. **(Attachment 1)**

Since inception to January 2004, the HSAS has been raised from YELLOW (Elevated) to ORANGE (High) five times. The process of raising or lowering this threat level involves several steps. The Department of Homeland Security receives threat information from a variety of sources including the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, the

Drug Enforcement Administration, the Department of Defense, and other agencies with intelligence gathering capabilities. **(Attachment 5)**

DHS then conducts an analysis of this information focusing on the following questions:

- To what degree is the threat information credible?
- To what degree is the threat information corroborated?
- To what degree is the threat specific and imminent?
- How grave are the potential consequences of the threat?

Based on the analysis, the DHS Secretary then decides to raise or lower the threat level in consultation with the Homeland Security Council (HSC). The HSC consists of the Secretaries of Homeland Security, Treasury, Defense, Health and Human Services, and Transportation, the Attorney General, the Directors of the Office of Management and Budget, Central Intelligence Agency, and Federal Bureau of Investigation, and the Chiefs of Staff to the President and Vice President. **(Attachment 5)**

Notification is initiated when the decision to change the threat level is made. If circumstances and time permit, the DHS Secretary or his representative makes an advance conference call to alert Governors, state homeland security advisors, and mayors of selected cities that the terrorism threat level has been changed and that electronic notification is about to be sent.

In conjunction with these calls, DHS sends an electronic notification to state homeland security centers, and federal, state and local agencies. This electronic notification is now made using the National Law Enforcement Telecommunications System (NLETS).[1] **(Attachment 5)**

In the future, the Joint Regional Information Exchange System (JRIES) will be used to pass time-critical information. JRIES is a secure, computer-based

[1] The National Law Enforcement Telecommunication System (NLETS) was created by law enforcement agencies of the states nearly 35 years ago. Since the founding, NLETS role has evolved from being primarily an interstate telecommunications service for law enforcement to a more broad-based network servicing the justice community at the local, state, and federal levels. It is now the pre-eminent interstate law enforcement network in the nation for the exchange of law enforcement and related justice information.

communications system which, when fully operational, will deliver real-time information and have connectivity between the DHS Operations Center and all 50 states, five territories, Washington, DC, and 50 major urban areas. This secure system will provide threat information at the Sensitive-but-Unclassified (SBU) level to all users immediately, and provide the platform for future classified SECRET communications to states. **(Attachment 6)**

Following the first conference call and electronic notification, DHS initiates a second conference call to as many state and major law enforcement offices as can be reached. Additionally, DHS initiates a secure call using the Business Roundtable's Critical Emergency Operations Communications Link (CEO COM LINK) to notify chief executive officers of the nation's top businesses and industries.[2] **(Attachment 5)**

The public is made aware of the increased threat level when DHS makes a public announcement at a press conference. **(Attachment 5)**

Once the increased threat level is announced, the question arises what actions should be taken? The DHS provides a set of protective measures for federal agencies. The DHS also has an Internet site (ready.gov) describing consequence management actions the public should take to prepare for the unexpected, such as assembling a supply kit and developing a family communications plan. DHS states these actions are the same for both a natural or man-made emergency. The Fire and Emergency Services Guide for the Homeland Security Advisory System also provides consequence management actions to take in the event of emergency situations. **(Web Resource 2)**

However, DHS does not recommend protective measures for states, localities, the public, or the private sector. Local governments and nongovernmental agencies have developed their own protective measures. For example, some cities have

adopted the following types of protective measures when the HSAS threat condition is raised to Orange (High): **(Attachment 5)**

- Surveillance cameras are activated.
- Law enforcement officers are not granted time off.

[2] CEO COM LINK is a secure telecommunications network that is activated during national crises and threats.

- Port security patrols are increased.
- Law enforcement officers are required to carry biological/chemical protective masks.
- First responders are placed on alert.
- Mass transit authorities broadcast warnings and instructions.
- Mass transit law enforcement officers increase patrols.
- Law enforcement agencies make security checks in sensitive areas, such as bridges, shopping centers, religious establishments, and courthouses.

Additionally, the American Red Cross recommends protective measures for individuals, families, neighborhoods, schools and businesses at each of the HSAS threat levels. The list of individual protective measures includes: **(Attachment 7)**

RED (Severe)—*Complete recommended actions at lower levels.*

- Listen to radio/TV for current information/instructions
- Be alert to suspicious activity and report it to proper authorities
- Contact business to determine status of workday.
- Adhere to any travel restrictions announced by local governmental.
- Be prepared to shelter in place or evacuate if instructed.
- Provide volunteer services only as requested.

ORANGE (High)—*Complete recommended actions at lower levels.*

- Be alert to suspicious activity and report it to proper authorities.
- Review your personal disaster plan.
- Exercise caution when traveling.
- Have shelter in place materials on hand and review.
- If a need is announced, donate blood at designated blood collection center.
- Prior to volunteering, contact agency to determine needs.

YELLOW (Elevated)—*Complete recommended actions at lower levels.*

- Be alert to suspicious activity and report it to proper authorities.
- Ensure disaster supplies kit is stocked and ready.

- Check telephone numbers and e-mail addresses and update as necessary.

- Develop alternate routes to/from work/school and practice them.
- Continue to provide volunteer services.

BLUE (Guarded)—*Complete recommended actions at lower levels.*

- Be alert to suspicious activity and report it to proper authorities.
- Review stored disaster supplies and replace items that are outdated.
- Develop emergency communication plan with family/neighbors/friends.
- Provide volunteer services and take advantage of additional training.

GREEN (Low)

- Obtain copy of *Terrorism: Preparing for the Unexpected* brochure.
- Develop a personal disaster plan and disaster supplies kit.
- Examine volunteer opportunities in you community, and choose an agency.
- Take a Red Cross first aid courses.

The State of Maryland has adopted these American Red Cross protective measures. **(Attachment 5)**

DISCUSSION OF HEARING ISSUES

1. To what extent is the current Homeland Security Advisory System an effective means of informing the public regarding the risk and protective measures to be taken in the event of a terrorist attack?

According to the Federal Register, "The HSAS is intended to create a common vocabulary, context, and structure for an ongoing national discussion with Federal, State and local authorities, private sector industries, and the people of the United States about the nature of the threats that confront the homeland and the appropriate measures that should be taken in response." **(Web Resource 5)**

While the system provides an adequate means of notify federal agencies about the nature of threats and the appropriate protective measures agencies should take, the system is not an effective means of notifying the public, or explaining what actions

the public should take when threat levels are increased. The latest increase in the alert level is an example of the problem.

After Secretary Tom Ridge's press conference on December 21, 2003, the *Chicago Tribune* reported on the increased alert level.

> "Secretary Ridge urged government officials and the public to be vigilant. He said the intercepted messages from suspected terrorists suggested large attacks might be planned.
>
> "Information indicates that extremists abroad are anticipating near-term attacks that they believe will rival—or exceed—the scope and impact of those we experienced in New York, at the Pentagon and in Pennsylvania [more than] two years ago," Ridge said.
>
> Ridge said Al Qaeda terrorists remain interested in using aircraft in their attacks—a particularly troubling warning during the holiday season, when millions of Americans fly. Officials warned the increased security might cause delays at airports.
>
> A senior US official, speaking on condition of anonymity, said Sunday night that New York, Washington and Los Angeles remain priority targets for the terrorist network.
>
> The official said the decision to increase the threat level came Sunday morning after a series of high-level discussions involving Ridge's office, the Justice Department, the FBI and the White House.
>
> The official said communication's chatter in extremist circles had spiked in the roughly 48 hours leading up to Ridge's announcement. Reports have led the intelligence community to believe the next two weeks [beginning on December 21, 2004] are
>
> the time of maximum peril, the official said. The official said international flights into the US remain a top concern, as well as cargo flights." **(Attachment 8)**

This latest increase in the alert level raises several concerns that are substantiated by responses to a questionnaire sent to state and local governments about the HSAS.[3] There is a perception, whether correct or not, the warning system is based on crude intelligence (for example the official cites the level of chatter in extremist circles). Additionally, although New York, Washington and Los Angeles are mentioned and there is a focus on international flights, there is a lack of threat and risk specificity.

Secretary Ridge asks the public to be vigilant, but the system does not provide advice to the public or to state or local emergency response agencies as to what actions should be considered when a threat is raised or lowered. The result is that some of the general public largely ignore the advisories, while public safety agencies incur stepped up levels of surveillance at great cost.

Finally, it appears the United States only has two alert levels—yellow and orange—and the advice to the public is the same for both—remain vigilant. **(Web Resource 3)**

2. How could the Homeland Security Advisory System be improved?

One of the recommendations made is to eliminate the colors or alert levels and, instead, issue advisories based upon available information. Most of the general public relate to traffic signals—red, yellow and green. The colors—orange and blue—confuse the public. **(Web resource 3)**

Additionally, state and local officials and the general public believe there should be more specificity in the alerts. For example, specific advisories are issued by the State Department for travel to foreign countries. Even if the information available to Department of Homeland Security for a specific situation is vague, it would be more beneficial to say there is an indication of a nonspecific threat, or there is an indication of a threat involving transportation, or there is an indication of a threat involving a major port. **(Web Resource 3)**

[3] Partnership for Public Warning, *Public Comments on the Homeland Security Advisory System*.

Finally, the DHS should consider developing standardized protective measures for state and local governments and the general public. Standardized protective measures such as those developed by some cities and the American Red Cross could be adopted by DHS and recommended as general guides for state and local officials, and the public. The issue of terrorism is an international and a national issue. It is a confusing issue for state and local governments, and the general public. They do not know what to do or how to react. They require guidance and look to the federal government for such guidance. **(Attachment 5)**

Finally, information should be provided in a manner encouraging public confidence. If there is credible information indicating a specific terrorist act may occur, such information could be given to the public even if it would have a negative economic impact.

WITNESS TESTIMONY

Witnesses (except the American Red Cross[4]) are expected to focus their testimony on the following questions:

- What process is used to determine the Homeland Security Advisory System threat level?

- What are the specific means of communication used to disseminate threat level information to federal agencies, state and local authorities, private industry and the general public,

- What types of information are passed to federal agencies, state and local governments, private industry and the general public?

- What actions should federal agencies, state and local governments, private industry and the general public take once a threat level has increased from yellow (elevated) to orange (high)?

[4] The Red Cross was asked to answer the following questions. What are the specific means of communication used to disseminate threat level information to the general public? What types of information are passed to the general public? What actions should the general public take once a threat level has increased from yellow (elevated) to orange (high) How would you recommend the current Homeland Security Advisory System be refined?

- How would you recommend the current Homeland Security Advisory System be refined? **(Attachment 3)**

Attachments

1. White House Press Release, *Homeland Security Presidential Directive-3*, March 2003.

2. Public Law 107-296, *Homeland Security Act of 2002*.

3. John Mintz, "Ridge Seeking Fewer Changes In Terror Alerts," *Washington Post*, June 6, 2003.

4. Anya Sostek, "Orange Crush," *Governing*, August 2003.

5. Shawn Reese, "Homeland Security Advisory System: Possible Issues for Congressional Oversight," *Congressional Research Service,* RL32023, March 9, 2004.

6. US Department of Homeland Security Press Release, *Homeland Security Launches Expansion of Information Exchange System to States and Major Cities*, February 24, 2004.

7. American Red Cross Press Room*, Nation's Terror Threat Level at Yellow/Elevated; Continued Diligence, Preparation Encouraged*.

8. Frank James, "US Raises Terror Alert," *Chicago Tribune*, December 22, 2003.

Web Resources

1. Government Printing Office Access, Federal Register, found at http://www.gpoacess.gov//fr//indes.

2. US Department of Homeland Security, Ready.Gov, found at http://www.ready.gov.

3. Partnership for Public Warning, Public Comments on the Homeland Security Advisory System, found at http://ppw.us//ppw.

Witnesses

Panel I

Representative
from
Department of Homeland Security
(invited)

Mr. Randall Yim
Managing Director
Homeland Security and Justice Team
General Accounting Office

Mr. Shawn Reese
Analyst in American National Government
Congressional Research Service

Panel II

Representative
from
American Red Cross
(invited)

Mr. Michael Wermuth
Senior Policy Analyst
RAND Corporation

Dr. James Jay Carafano
Senior Research Fellow
Defense and Homeland Security
Heritage Foundation