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## Terror Watch

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## No More Orange, Yellow and Red?

**Some legislators and intelligence analysts believe that the color-coded terror alerts may be having perverse effects on both the American public and Al Qaeda. Plus: A trial for captured 9/11 plotters may be getting closer**

### WEB EXCLUSIVE

Newsweek  
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Jan. 14 - U.S. Homeland Security officials are coming under increasing political pressure to overhaul, if not eliminate, their color-coded terror alerts as concern mounts that the current system has become so dysfunctional that it may actually be increasing the country's vulnerability to attack.

Describing last month's Code Orange alert as a "useless" warning for the public, Rep. Chris Cox, chairman of the House Homeland Security Committee, told NEWSWEEK that he now wants extensive changes in the system that go well beyond the adjustments that are being publicly contemplated by the Bush administration. "The more fundamental question is whether the system can work at all," said Cox, a California Republican, who has raised the matter in recent weeks with top counterterrorism officials.

The concerns expressed by leading members of Congress—including Cox and Rep. Jim Turner, the ranking Democrat on the Homeland Security panel—have been heightened by some intelligence-community analysis suggesting that the color-coded public alerts may have perverse effects opposite to what the government intends. The public ratcheting up of the threat level may actually alert Al Qaeda operatives to measures that law-enforcement and security officials are taking to thwart attacks—and might therefore prompt terrorists to defer attacks that were conceivably in the planning stages, some intelligence analysts say.

By the same token, the public downgrading such as was announced last week—when Homeland Security scrapped the "Orange" alert for the current lower-level Yellow—arguably puts terrorists on notice that defensive measures have been reduced, and thereby might prod them to strike. "We might actually be increasing the threat to American when we reduce the threat level," said Cox.

Although in one sense blindingly obvious, this intelligence analysis is buttressed by a rethinking of the core premises behind the administration's decision-making system on terror alerts. Consider Secretary of Homeland Security Tom Ridge's Dec. 21 announcement of the Code Orange alert.

The move was prompted by two main developments: one was alarming new intelligence, some of it apparently coming from a new overseas human source, that provided information that Al Qaeda might seek to hijack French, Mexican or British airliners over the Christmas holidays. Officials even received information about specific flight numbers, leading the United States and foreign governments to take the extraordinary step of canceling some flights and directing that F-16 jets accompany others over U.S. territory.

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**TERROR WATCH: THE END OF COLOR ALERTS?**  
Some legislators and intelligence analysts believe that the color-coded terror alerts may be having perverse effects on both the American public and Al Qaeda. Plus: A trial for captured 9/11 plotters may be getting closer


- Terror Watch: Should This Man Be Jailed?
- Terror Watch: Behind the Orange Alert

Islamic) and anniversaries of historic events—as moments when terrorists might strike.

But the emerging view of some intelligence analysts is that both of these two central premises may have been wrong. The alarmingly specific intelligence that

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spooked counterterrorism officials on the eve of Ridge's Dec. 21 announcement now appears to have been garbled at best: not only has nothing developed suggesting that there was a plan to hijack any particular airline over the holidays, some intelligence-community officials fear that some of the specific data may have actually been "disinformation" designed to throw U.S. officials off or "test" the nation's defenses.

Equally problematic is the holiday and anniversary fixation of Homeland Security officials. One U.S. intelligence-community official notes that a history of Al Qaeda's major attacks—the Aug. 7, 1998, bombings of two U.S. embassies in Africa; the Oct. 12, 2000, bombing of the USS Cole, and the September 11 attacks—show no correlation to any holiday or historical anniversary. "The fact is Al Qaeda strikes at a time of their own choosing," says the official.

Cox emphasized to NEWSWEEK that the color-coded alert system is sending confusing messages to the public—citing contradictions in Ridge's Dec. 21 press conference announcing the Orange alert. On the one hand, Ridge said that strategic indicators of an upcoming Al Qaeda attack "are perhaps greater now than at any point since September 11." On the other hand, the Homeland Security secretary said members of the public should "continue with your holiday plans" as though nothing were different.

Cox said that, at a minimum, Homeland Security should scrap the one-size-fits-all color-coded approach and adopt a more nuanced system in which there are individualized warnings for particular geographic regions or economic sectors about which there might actually be hard intelligence. Beyond that, he said, Homeland Security officials should move toward a revamped system in which specific security protocols are spelled out for state and local law-enforcement officials—and alerts to the public are provided only when there was a particular reason for it.

Will Homeland Security take Cox's less-than-subtle hint? In recent interviews, officials acknowledged the current alert system is less than perfect and said they are already considering a more tailored system anyway. But they also defended the overall approach and provided NEWSWEEK with new details about the far-ranging—and costly—security measures that were taken during the higher alert.

At a meeting held in a tightly guarded, bug-free conference room at Homeland Security headquarters last week, the chiefs of the sprawling department's major divisions briefed Ridge on some of the less-publicized measures taken. Biological weapons sensors had been deployed around sites of Christmas and New Year's college football games, including the Rose Bowl and Orange Bowl. "Plume modeling" tests to detect possible chemical weapons were conducted in New York area tunnels. New computer tests were conducted to track potentially suspicious immigrants and visitors to the United States. Investigators, for example, reviewed data on foreign-born graduate students in the Las Vegas area after intelligence (all of it quite vague) came in suggesting that city might be a target. (Those who were pursuing certain "technical" areas of study received extra scrutiny.)

But it is still far from clear whether any of these measures made any difference at all. No evidence of any chemical or biological weapons turned up; the only "hit" from all the radiation detectors came when technicians traced the source of the radiation to a homeless man's storage locker. (The radiation source turned out to come from a harmless radioactive metal commonly used in medical treatments.) There was initially some concern that a passenger whose name appeared on a U.S. government watch list did not show up for an Air France flight mentioned in intelligence reports as a possible hijack target. But U.S. intelligence ultimately concluded the man did not pose a serious threat—and no actual attack was averted.

In short, Homeland Security officials acknowledge that hard evidence may never turn up to prove that the Orange alert stopped a terror attack. Ridge said it may take months to get a handle on the quality of the intelligence that spooked the country. For his part, FBI Director Robert Mueller told reporters today the bureau was also still reviewing the reliability of the intelligence that prompted the higher Orange alert. As for the decision to move to Code Orange, Mueller said, "there is substantial reason to believe that heightened security deters attacks." But he also made it clear that the danger is far from over. "Al Qaeda is known to be fluid in setting the timing of attacks," he said, adding that there was still "substantial concern" that the terrorist group may yet launch a strike.

#### IS A 9/11 TRIAL IN THE OFFING?

For more than a year, nothing has been heard from the Bush administration about a matter that has long puzzled counterterrorism officials. Given that the United States has captured most of the key perpetrators of the September 11 plot, starting with the attacks' architect, Khalid Shaikh Mohammed, will they ever be put to trial?

But today, Mueller, in his briefing for reporters, offered the first glimpse that one might actually occur—and that if it did, it is likely to be before a military tribunal rather than in a U.S. courtroom. Asked by NEWSWEEK today if he would like to see such September 11 players as Mohammed and Ramzi bin al-Shibh (another key plotter who was captured more than a year and a half ago in Pakistan) ever put on trial, Mueller at first sought to beg off—and then responded: "Yes ... I would expect there will be some tribunals at some point." Mueller also said that the bureau has taken steps to "assemble the evidence" that might be used at such a trial.

The real question seems to be one of timing. Until now, administration officials have repeatedly brushed aside such questions, saying their only priority was milking such Al Qaeda suspects as Mohammed and bin al-Shibh for all the intelligence they are worth. But at some point, the interrogations reach a point of diminishing returns. Although Mueller gave no hint about when tribunal trials of the September 11 plotters might occur, his comments may inevitably raise speculation that such a time may be getting closer—maybe even in time for this fall's third anniversary of the attacks. That would surely not be an unwelcome development for White House politicians always on the lookout for ways to highlight the Bush administration's successes in the war on terrorism.

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