

Other Presidential Documents

Memorandum of April 21, 2005

Assignment of Reporting Functions under the Intelligence Reform and Terrorism Prevention Act of 2004

Memorandum for the Secretary of State[,] the Secretary of Defense[,] the Director of National Intelligence[,] the Attorney General[, and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code:

1. The reporting functions of the President under sections 4026(a)(4)(A), 4026(c)(2), 7104(e)(4)(A), 7202(d), 7204(c)(1)–(2), and 7119(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458, 118 Stat. 3638) (the “Act”) are hereby assigned to the Secretary of State.

The reporting function under section 7202(d) of the Act on the Human Smuggling and Trafficking Center shall be coordinated with the Attorney General and the Secretary of Homeland Security.

Heads of departments and agencies shall, to the extent permitted by law, furnish to the Secretary of State information the Secretary requests to perform such functions, in the format and on the schedule specified by the Secretary.

2. The reporting function of the President under section 7104(i) of the Act is hereby assigned to the Secretary of Defense.

Heads of departments and agencies shall, to the extent permitted by law, furnish to the Secretary of Defense information the Secretary requests to perform such functions, in the format and on the schedule specified by the Secretary.

3. The reporting functions under sections 1022 and 1094 of the Act are hereby assigned to the Director of National Intelligence.

Heads of departments and agencies shall, to the extent permitted by law, furnish to the Director of National Intelligence information the Director requests to perform such functions, in the format and on the schedule specified by the Director.

The Secretaries of State and Defense, and the Director of National Intelligence shall perform such functions in a manner consistent with the President’s constitutional authority to withhold information the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive’s constitutional duties.

Any reference in this memorandum to the provision of any Act shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

Title 3—The President

The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register**.

GEORGE W. BUSH

THE WHITE HOUSE,
Washington, April 21, 2005.

Memorandum of April 21, 2005

Effective Dates of Provisions in Title I of the Intelligence Reform and Terrorism Prevention Act of 2004

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Attorney General[,] the Secretary of Energy[,] the Secretary of Homeland Security[,] the Director of the Office of Management and Budget[,] and] the Director of National Intelligence

Subsection 1097(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458, December 17, 2004)(the Act) provides:

(a) IN GENERAL- Except as otherwise expressly provided in this Act, this title and the amendments made by this title shall take effect not later than 6 months after the date of the enactment of this Act.

Subsection 1097(a) clearly contemplates that one or more of the provisions in Title I of the Act may take effect earlier than the date that is 6 months after the date of enactment of the Act, but does not state explicitly the mechanism for determining when such earlier effect shall occur, leaving it to the President in the execution of the Act. Moreover, given that section 1097(a) evinces a legislative intent to afford the President flexibility, and such flexibility is constitutionally appropriate with respect to intelligence matters (see *United States v. Curtiss-Wright Export Corporation*, 299 U.S. 304 (1936)), the executive branch shall construe section 1097(a) to authorize the President to select different effective dates that precede the 6-month deadline for different provisions in Title I.

Therefore, pursuant to the Constitution and the laws of the United States of America, including subsection 1097(a) of the Act, I hereby determine and direct:

1. Sections 1097(a) and 1103 of the Act, relating respectively to effective dates of provisions and to severability, shall take effect immediately upon the signing of this memorandum to any extent that they have not already taken effect.

2. Provisions in Title I of the Act other than those addressed in numbered paragraph 1 of this memorandum shall take effect immediately upon the signing of this memorandum, except:

(a) any provision in Title I of the Act for which the Act expressly provides the date on which the provision shall take effect; and

(b) sections 1021 and 1092 of the Act, relating to the National Counterterrorism Center.