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NSA uses ECHELON against US citizens

By [Thomas C Greene in Washington](#)

Published Friday 16th December 2005 22:36 GMT

Washington Roundup Who would have believed that twitchy paranoiacs are actually onto something? Incredibly, they are: the *New York Times* has revealed that the US National Security Agency (NSA) has been spying on American citizens.

Previously, the Agency had shown itself [to be scrupulous](#) (http://www.theregister.co.uk/2000/06/28/nsa_memos_suggest_echelon_exists/) about avoiding this sort of activity. But according to numerous un-named sources paraphrased in the *Times*, the President signed a secret order authorizing him to intercept phone calls and emails from US persons in communication with persons outside the US, and all without the slightest bit of judicial oversight.

The White House claims that a September, 2001 Congressional resolution authorizing the so-called war on terror gives the President authority to conduct domestic surveillance without a warrant, even though it is forbidden by federal law. Interestingly, the *Times* says that the spy program was curtailed when it became clear to the Administration that the story was about to come out, which implies something a bit shy of full confidence

that the order really was legal.

The US Senate on Friday declined to re-authorize the 16 sunset provisions of the so-called "Patriot" Act, and promptly packed its bags for the holidays. Senate Republicans fell short of the 60 votes needed to halt a Democrat filibuster, and the Act's 16 sunset provisions are therefore bound to expire at the end of the year. A large minority of Members believe that the re-authorization [conference report](#) (http://www.theregister.co.uk/2005/11/17/pat_act_getting_worse/) lacks adequate provisions for judicial oversight.

Senate majority leader Bill Frist (Republican, Tennessee) has threatened to keep the Senate in session until the Act is re-authorized, presumably very briefly, say, until Congress comes back to work next year. But Frist is on the record saying that a temporary re-authorization is unacceptable, and the White House has echoed this as well. It does not seem likely that Frist would get more than a temporary agreement, so keeping the Senate in session hardly seems worth the bother.

Meanwhile, the House last week rolled over on the Pat Act and approved the conference report, but it did something uncharacteristically brave as well. It defied the White House on torture as a method of fighting the so-called war on terror. The Administration has been extremely keen on stopping an anti-torture bill sponsored by past torture victim and current US Senator John McCain (Republican, Arizona), notwithstanding the fact that the President, the Secretary of State, and the Attorney General have all insisted publicly that the USA does not torture anyone, or condone torture at the hands of its allies. So why the Administration should be so adamantly opposed to a bill which outlaws something it never does sure is a puzzler.

Although the House passed a resolution, rather than the actual bill, it sent a clear signal to the White House that the veto it had threatened can easily be overridden. And this had the

very pleasant effect of persuading the President to praise McCain and his bill during a press conference.

Updating our recent item [It's official: Diebold election bugware can't be trusted](http://www.theregister.co.uk/2005/11/30/diebold_hides_source/) (http://www.theregister.co.uk/2005/11/30/diebold_hides_source/), we find that the North Carolina Board of Elections has certified Diebold systems (and two competitors' systems) without obtaining all of the source code as required by state law. Now, it's quite possible that there's not much of a story here, as it's unclear if Diebold is being given a pass, quite understandably, because it simply hasn't got the source code to some of the software it uses (physical impossibility is a mighty good defence), or if it's being given special permission to flout the law.

We will know more soon, as the EFF is suing the state elections board. "The Board of Elections has simply ignored its mandatory obligations under North Carolina election law," EFF spokesman Matt Zimmerman explains. We'll soon see if it really is that simple.

It is also worth noting that company CEO Walden O'Dell resigned unexpectedly last week, to the delight of investors and critics alike. O'Dell had the rather poor judgment to express publicly his dedication to seeing "Ohio deliver its electoral votes to the President." The company has failed to shake off the suspicions raised by such a partisan statement from a fellow in charge of a company that makes notoriously buggy election terminals.

In entertainment news, Washington's most popular lobbying outfit, the Motion Picture Ass. of America (MPAA), has given the kiss of death, otherwise known as an NC-17 rating, to a documentary movie critical of - you guessed it, the MPAA. The movie, entitled *This Film Is Not Yet Rated*, will premiere at the Sundance Film Festival and will be aired on the Independent Film Channel. MPAA says that it axed the movie due to

"some graphic sexual content". Quite a few movie theaters and video rental outfits refuse to carry NC-17 movies, so only a very small number of people will be perverted by its erotic naughtiness, or its skepticism. ®

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