



## “Obama Administration” PRIVACY REPORT CARD

**EPIC**  
**October 19, 2010**  
**Washington, DC**

### BACKGROUND

In 2009, EPIC released a Privacy Report Card for the Obama Administration. The 2010 Privacy Report Card reflects developments during the past year.

### ABOUT EPIC

The Electronic Privacy Information Center (EPIC) is the nation’s leading privacy research and advocacy organization. EPIC focuses on emerging privacy and civil liberties issues. [www.epic.org](http://www.epic.org).

### SUMMARY GRADES

TOPIC	2010 Privacy Grade	2009 Privacy Grade
Consumer Privacy	C	INC
Medical Privacy	B	A-
Civil Liberties	D	C+
Cyber Security	B	B

### CONSUMER PRIVACY

**EPIC Grade: INC**

We gave the Obama administration an INC (“Incomplete”) last year as there were posts to fill at the Federal Trade Commission, pending investigations, and it was still early in the legislative cycle.

A year later, the results are not impressive. The FTC has been unable or unwilling to pursue any significant privacy investigations. The agency has become a black hole for privacy complaints that earlier Commissions routinely pursued. The White House offers little support for privacy efforts in Congress. Meanwhile, public concerns about identity theft, security breaches, and online profiling are on the rise.

It’s time for the White House to hit the books and read the polls. The public wants better online privacy and it expects the government to do more than it has.

## **MEDICAL PRIVACY**

### **EPIC Grade: B**

Last year we gave the administration full credit for creating important privacy safeguards in the HI-TECH Act, one of the best privacy laws in years.

In 2010, the record is less clear. The White House was prepared to endorse a weak data breach notification rule but backed off. Secretary Sibelius has expressed support for stronger patient control. Still, implementation of the privacy provisions in the 2009 law have slowed. Privacy experts are underrepresented on key committees and the willingness of the White House to press for strong safeguards for patients remains unclear.

With millions of patient records moving online, we think the White House needs to show more effort. This has been a strong subject for the Administration in the past. It can be so again.

## **CIVIL LIBERTIES**

### **EPIC Grade: D**

Last year we acknowledged that the Obama Administration inherited many troubling programs from the Bush years: the Patriot Act, Fusion Centers, No Fly Lists, E-Verify, and REAL ID. There was, as we said, little change in the early months with the new Administration. But we remained optimistic that things would change.

A year later, there is no reason to make excuses. The Obama administration has aggressively asserted the “state

secrets” doctrine, expanded Fusion Centers and watch lists, and subjected all American air travelers to unconstitutional body searches in airports. Incredibly, the White House allowed the President’s Civil Liberties and Privacy Oversight Board to languish. Even the Bush administration made this a priority.

We wish we could give higher marks to the former law school professor now in the White House. But it doesn’t take a legal scholar to conclude that little has changed.

## **CYBERSECURITY**

### **EPIC Grade: B**

One of the most difficult subjects for any administration is preserving the openness of the Internet while protecting the country against genuine cyber threats. We gave the Administration good marks in 2009 for the cybersecurity review and noted the President’s commitment that the government would not monitor private networks. We also acknowledged the outreach by the White House cyber security czar to civil society organizations.

For 2010, we see a continued effort by the Administration to safeguard privacy rights for Internet users, but we also note the growing influence of the NSA. The NSA Director was named head of Cyber Command and has recently signed an Agreement with the Department of Homeland Security that transfers new powers to the intelligence agency.

We believe the White House could raise its grade in this area by being more transparent about the role of the NSA in cybersecurity. Releasing key documents about the NSA’s cyber security authority would be a good start.