

IF GEORGE BUSH CAN CLOSE NSA'S BACK DOOR LOOPHOLE, WHY CAN'T BARACK OBAMA?

As per usual, there was a tidbit of news in Ron Wyden's questions at yesterday's hearing on the USA Freedom Act.

He revealed that the back door loophole was closed during the Bush Administration.

Let me start by talking about the fact that the House bill does not ban warrantless searches for Americans' emails. And here, particularly, I want to get into this with you, Mr. Ledgett if I might. We're talking of course about the backdoor search loophole, section 702 of the FISA statute. This allows NSA in effect to look through this giant pile of communications that are collected under 702 and deliberately conduct warrantless searches for the communications of individual Americans.

This loophole was closed during the Bush Administration, but it was reopened in 2011, and a few months ago the Director of National Intelligence acknowledged in a letter to me that the searches are ongoing today. [my emphasis]

I'm not sure precisely what he's talking about, though I assume either the transition from the illegal program to Protect America Act, or the transition from PAA to FISA Amendments Act, removed NSA's ability to conduct back door searches. Reading between the redactions in John Bates' October 3, 2011 opinion, FBI apparently has had the authority to do back door searches on both traditional FISA and warrantless collection from 2008, so from the beginning of

FAA.

But from what Wyden said, the NSA had the ability to do back door searches, lost it, and now has it again.

I'd sure like to know more about what happened to lead people to believe NSA should have that authority taken away from it.