



Section 702 Expiration: Myth vs. Fact

Intelligence agencies have turned FISA Section 702, which expires on December 31, 2023, into a go-to domestic spying tool, [conducting](#) more than 200,000 warrantless “backdoor” searches for Americans’ private communications each year. They also regularly abuse the law, including baseless backdoor searches for [politicians](#), [protesters](#), and [journalists](#).

While members of Congress are working hard to [enact legislation](#) that would prevent the worst surveillance abuses *and* empower the government to safeguard national security, administration officials are attempting to create a false sense of urgency by inaccurately [claiming](#) that Section 702 surveillance will stop on January 1 if the law expires.

Myth: Section 702 surveillance will stop January 1, 2024 if the statute expires.

Fact: Section 702 surveillance continues after December 31, 2023, because the law explicitly says existing annual orders, last issued April 11, 2023, stay in effect.

The statute is clear:

- [Section 404](#) of the FISA Amendments Act of 2008 says:
“[A]ny order, authorization, or directive issued or made under title VII of the Foreign Intelligence Surveillance Act of 1978, as amended . . . **shall continue in effect until the date of the expiration of such order, authorization, or directive.**”
- The government [received](#) its most recent certifications from the FISA Court on April 11, 2023, meaning that **the certifications remain in effect — and the government will continue to perform Section 702 surveillance — even if Section 702 expires on December 31. This means there is ample time for Congress to vote on reforms.**
- **Reporting from [The New York Times](#), [Reuters](#), and [Wired](#) have all confirmed this.**

There is no such thing as a “short-term” reauthorization because the FISA Court orders are annual. **A Congressional extension of any length therefore threatens to turn into a full year of additional Section 702 surveillance, delaying this debate as late as 2025.**

Congress can help prevent future spying abuses by enacting the bipartisan [Government Surveillance Reform Act of 2023](#).

If you have any questions about Section 702 or the need for comprehensive surveillance reform, please contact Sean Vitka w/ Demand Progress (sean@demandprogress.org) or Jason Pye w/ FreedomWorks (jpye@freedomworks.org).