



Written by [Veronika Kyrylenko](#) on January 13, 2025

## Tulsi Gabbard Flips on FISA to Secure DNI Nomination

Tulsi Gabbard, nominated by President-elect Donald Trump to serve as director of national intelligence (DNI), has shifted her position on Section 702 of the Foreign Intelligence Surveillance Act (FISA). This marks a significant departure from her past opposition to the intelligence-gathering program, as reported by [Punchbowl News](#). The reversal comes in an apparent attempt to quell GOP skepticism over her confirmation.



AP Images  
Tulsi Gabbard

### The Reversal

According to the outlet, Gabbard, who used to be a principled opponent of the domestic surveillance, now sees the program as “crucial.” Punchbowl writes,

In her first public comments since being nominated, Gabbard told us in an exclusive statement that she now supports [Section 702](#), saying the program is “crucial” and “must be safeguarded to protect our nation while ensuring the civil liberties of Americans.”

Gabbard further clarified that as chief spy, she’d strike the balance between safeguarding Americans’ privacy rights and keeping those “vital” domestic spying tools alive and well:

“If confirmed as DNI, I will uphold Americans’ Fourth Amendment rights while maintaining vital national security tools like Section 702 to ensure the safety and freedom of the American people,” Gabbard said.

One can only wonder how she plans to achieve this miraculous feat, given the [track record](#) (see also [here](#) and [here](#)) of the government’s overreach made possible thanks to this legal menace.

### Gabbard’s Previous Stance

During her eight years in Congress, Gabbard was an outspoken critic of Section 702, citing privacy violations and misuse by intelligence agencies. In 2020, she introduced the bill dubbed the “[Protect Brave Whistleblowers Act](#)” to repeal Section 702. Back then, she called the provision “an insanity” and “a direct threat to Americans’ civil liberties.” At that time, Gabbard introduced two additional resolutions, [H. Res. 1162](#) and [H. Res. 1175](#), in support of [Edward Snowden](#) and [Julian Assange](#), respectively, who exposed government overreach and mass surveillance programs that sparked global debates about privacy, accountability, and the limits of state power. Gabbard’s [voting record](#) consistently aligned with these views, opposing reauthorization efforts.

As recalled by *The Wall Street Journal*, in a 2018 House floor speech, Gabbard said,

The surveillance powers granted under Section 702 have been abused, infringing on the



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constitutional rights of American citizens. This program must either be reformed to ensure accountability or eliminated altogether.

This record of opposition has apparently raised alarms among Senate Republicans, particularly national security hawks, during her confirmation process.

### **FISA Reforms?**

In an exclusive statement to Punchbowl, Gabbard defended her reversal on Section 702 by citing what she described as recent FISA reforms:

My prior concerns about FISA were based on insufficient protections for civil liberties, particularly regarding the FBI's misuse of warrantless search powers on American citizens. Significant FISA reforms have been enacted since my time in Congress to address these issues.

The "significant FISA reforms" Gabbard referenced likely pertain to operational and policy changes [introduced](#) in 2020, rather than comprehensive legislative overhauls.

Among these measures were stricter internal guidelines within the FBI, requiring higher-level approval for queries involving U.S. citizens. The agency also implemented enhanced training programs and accountability measures, such as auditing protocols, to prevent unauthorized searches of Section 702 data. Additionally, intelligence agencies tried to look more transparent by publishing more detailed reports on the use of surveillance powers, including the frequency of searches involving Americans.

While these operational changes [reportedly](#) resulted in a measurable decline in warrantless searches of Americans' communications, critics argued that they were insufficient. Without legislative action to enshrine clear statutory protections, concerns about systemic misuse of Section 702 persist.

Indeed, warrantless surveillance under FISA remained widespread. As Rep. Barry Moore (R-Ala.) emphasized last February, the FBI invoked the act nearly 300,000 times in 2021 to surveil American citizens. That included, most notably, [then-President Trump](#) (FISA was also used to spy on Trump's [2016 campaign](#)).

In 2021 alone, the FBI used FISA, the "Foreign Intelligence Surveillance Act," nearly 300,000 times to spy on AMERICAN CITIZENS, including President Trump, without a warrant.

We must reform FISA and require the FBI to get a warrant to protect Americans.  
[pic.twitter.com/M2ZX3Zt0vb](https://pic.twitter.com/M2ZX3Zt0vb)

— Rep. Barry Moore (@RepBarryMoore) [February 13, 2024](#)

In April 2024, President Trump, as a political target of such surveillance, expressed strong opposition to FISA's reauthorization, particularly Section 702. "KILL FISA," he [posted](#) on his social-media platform, Truth Social.

### **Republicans and FISA**

Strikingly, Gabbard's reversal comes as an apparent effort to appease Republican senators reluctant to



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confirm her. One of them is Senate Intelligence Committee Chair Tom Cotton (R-Ark.). Following Gabbard's flip, he expressed cautious optimism about her position. According to the Punchbowl report,

“Tulsi Gabbard has assured me in our conversations that she supports Section 702 as recently amended and that she will follow the law and support its reauthorization as DNI,” Cotton said.

Cotton's assertion that Gabbard supports Section 702 “as recently amended” is a masterpiece of gaslighting, as it glosses over the fact that no legislative amendments to the section have been made [since 2018](#).

Another Republican on the Senate Intelligence Committee, Sen. James Lankford (R-Okla.), suggested that Gabbard would no longer say that she opposes Section 702 in order to secure her confirmation. He told *The Wall Street Journal* last Tuesday:

If she comes out and says, “No, I want to oppose all 702 authority,” that literally shuts down all of our national defense gathering.

Despite long-standing conservative critiques of domestic spying, a large faction of Republicans, led by House Speaker [Mike Johnson](#) (who, much like Gabbard, once vehemently opposed FISA), voted to reauthorize Section 702 in 2023, citing its importance for counterterrorism efforts. This decision drew backlash from constitutional conservatives, who argued that FISA undermines the Fourth Amendment.

Here's the speech I gave on the floor today, encouraging folks to vote for the resolution to bring the warrant requirement amendment to the floor today, and to vote against FISA if that amendment did not pass. The resolution to allow this did not pass. [pic.twitter.com/xX4S3v2wZ5](https://pic.twitter.com/xX4S3v2wZ5)

— Thomas Massie (@RepThomasMassie) [April 11, 2024](#)

### **What Are FISA and Section 702?**

The Foreign Intelligence Surveillance Act, enacted in 1978, regulates the surveillance of foreign entities and individuals suspected of espionage or terrorism. In 2008, Section 702 was added to authorize warrantless surveillance of non-U.S. citizens located abroad. However, this provision has been highly controversial due to its incidental collection of Americans' communications, raising concerns about violations of Fourth Amendment protections.

That happened because Section 702 [removed](#) prior provisions that required the government to obtain a warrant from the specialized FISA court before intercepting communications between Americans and foreign entities. Although agencies still need to seek approval from the FISA court for surveillance activities, the court has faced criticism for routinely approving requests without sufficiently scrutinizing specific targets.



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