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# CAS Newsletter

## CAS Director Testifies on Modernizing FISA

On July 19<sup>th</sup>, Mr. Kim Taipale, executive director of the Center for Advanced Studies, testified before the U.S. House Permanent Select Committee on Intelligence (HPSCI) at an open hearing on modernizing the Foreign Intelligence Surveillance Act (FISA).

Taipale testified that FISA was no longer adequate to address certain foreign intelligence needs and recent technology developments, in particular, the transition from circuit-based to packet-based communications; the globalization of the communications infrastructure; and the development of automated monitoring techniques, including data mining and traffic analysis.

“One thing is clear in the current debate over whether the President has the

inherent power to authorize the National Security Agency to monitor international communications with suspected terrorists – even the most strident opponents concede the need to identify and monitor the communications of terrorists and stop them before they can act,” said Taipale, “unfortunately, FISA currently makes it impossible to use advanced information technologies to help do just that.”

“In the debate over *who* should have the authority to authorize and oversight these intelligence gathering programs, we cannot lose sight of the fact that *someone* must, and the existing mechanisms – including FISA – are inadequate.”

***Continued on page 2.***

## Is Net Neutrality Bad for National Preparedness?

CAS executive director Kim Taipale recently presented a policy brief asking “*Is Net Neutrality Bad for National Preparedness?*” Published in conjunction with a World Policy Institute Global Information Society Project forum in New York, the research brief explains how “net neutrality” regulations could result in “skewed incentives and no capability to prioritize critical services in times of national emergency.”

“Regardless of which side of this debate one takes,” said Mr. Taipale at the forum, “the simple fact is that as more bandwidth-intensive applications come online and demand for such services increases, bandwidth constraints will emerge and network congestion will become a significant issue for everybody.”

“By some estimates, more than eighty percent of email traffic today is spam. It won’t be long before high bandwidth consuming video spam will be competing for available network capacity with mission-critical or life-saving data. For example, doctors are experimenting with using remote video feeds and robotic surgical tools to operate at a distance - why prohibit telemedicine application providers from purchasing priority in the network over the latest video Viagra pitch?”

**Research brief available at:**  
**<http://cas-research-brief-0614.info/>**

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IN SCI. & TECH. POLICY

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## Information Operations and the War of Ideas

In "Seeking Symmetry in Fourth Generation Warfare: Information Operations in the War of Ideas," to be published in Challenges in the Struggle Against Violent Extremism: Winning the War of Ideas, (Proceedings, Bantle-INSCT, Syracuse University, 2005) Mr. Taipale examines the information component of fourth generation warfare.

"Fourth generation warfare is political war," writes Taipale, "a superior political will, when properly employed can defeat greater economic and military power."

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"What is needed," Taipale testified, "is the electronic surveillance equivalent of a Terry stop — the Constitutionally permissible procedure under which a police officer can briefly detain someone for questioning and conduct a limited pat-down search if they have "reasonable suspicion" to believe that the person may be involved in a crime. In the case of electronic surveillance, this would permit an authorized period for follow up monitoring or investigation of initial

### About the Center for Advanced Studies

The Center is an independent, non-partisan research and advisory organization focused on information, technology, and national security policy and related issues.

The Center seeks to inform and influence national and international policy- and decision-makers in both the public and

"In fourth generation warfare, nonmilitary instruments of power, in particular, information, can trump military solutions," he argues, "information can constrain the use of kinetic power, but kinetic power cannot constrain information power in a networked global information environment. How many divisions do you need to counter one picture of Abu Ghraib?"

This paper examines information operations as warfare.

**More:** <http://seeking-symmetry.info/>

suspicion derived from automated monitoring (or otherwise developed collateral to a legitimate foreign intelligence intercept). If on follow-up there is probable cause to suspect that the target is actively engaged in terrorism or is an agent of a foreign terrorist group, then a regular FISA warrant can be sought to target that US person or source."

**More:** <http://fisa-testimony.info/>

private sectors by providing sound, objective analysis, insight, and advice; in particular by identifying and articulating issues that lie at the intersection of technologically enabled change and existing practice in public policy, law, and industry

**More:** [www.advancedstudies.org](http://www.advancedstudies.org)

"Net neutrality regulation could result in skewed incentives and no capability to prioritize critical services in times of national emergency." — Kim Taipale