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## **SURVEILLE**

Surveillance: Ethical Issues, Legal Limitations, and Efficiency

Collaborative Project

**SURVEILLE Deliverable 3.1: Report describing the design of the research apparatus for the European-level study of perceptions.**

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## Executive Summary

This report describes the design of the research apparatus for the European-level study of perceptions. The study will be structured as follows: First, there is the classification of surveillance technologies (cf. Deliverable 2.1) which will underlie and structure further research on a fundamental level: Based on the bow-tie model, the classification distinguishes four phases (prevention, protection, incident response, prosecution) and is an instrument that allows demonstrating that and why perception and acceptance of surveillance technologies will differ in the different phases. Second, we will lay the methodological foundations and show that we will particularly draw on already existing empirical studies in commenting and evaluating them. In doing that, we will refer to a specific normative framework in order to combine perception and ethical issues. Third, we will draw up a comprehensive record of EU-sponsored research projects, which have dealt with questions around the issue of surveillance perception. Our evaluation will include both closed projects and current projects SURVEILLE is cooperating with. Fourth, we will produce a literature survey of surveillance perception focusing on the latest research in the field of surveillance perception. Fifth, we will give an overview of effects and side-effects of surveillance technologies with a particular focus on ethical and social aspects. Finally, we will show that there is a difference between the objective and the perceived effectiveness of surveillance technologies. This phenomenon will be demonstrated on the basis of empirical studies.

## Table of Contents

### **Design of the Research Apparatus of the European-Level Study of Perceptions of Surveillance**

- 1. Classification of Surveillance Technologies**
- 2. Methodological Foundations**
- 3. EU Projects**
  - 3.1 Evaluation of Completed EU Projects
  - 3.2 Consultation with Current EU Projects
- 4. Survey of Perception of Surveillance**
- 5. Effects and Side-Effects of Surveillance**
  - 5.1 Surveillance Technologies being Perceived as Threats themselves
  - 5.2 Chilling Effect
  - 5.3 Security Dilemma
  - 5.4 Function Creep
  - 5.5 Self-Surveillance and Normalization
- 6. Perceived Effectiveness of Surveillance Technologies**
- 7. Select Bibliography**

# Design of the Research Apparatus for the European-Level Study of Perceptions of Surveillance

## 1. Classification of Surveillance Technologies

In SURVEILLE we deal with surveillance technologies used in the field of security. Having worked closely together with technicians we have decided to develop our classification of technologies on the basis of the “bow-tie model”.<sup>1</sup> The bow-tie model is a scientifically validated method that describes a risk system. The original model is a quantitative risk analysis (QRA) method that couples fault trees (FT) and events sequence diagrams (ESD). Today, it is also used as a qualitative model to describe what actions can be taken before a certain risk materializes and what actions can be taken to mitigate the effects of the risk materializing.

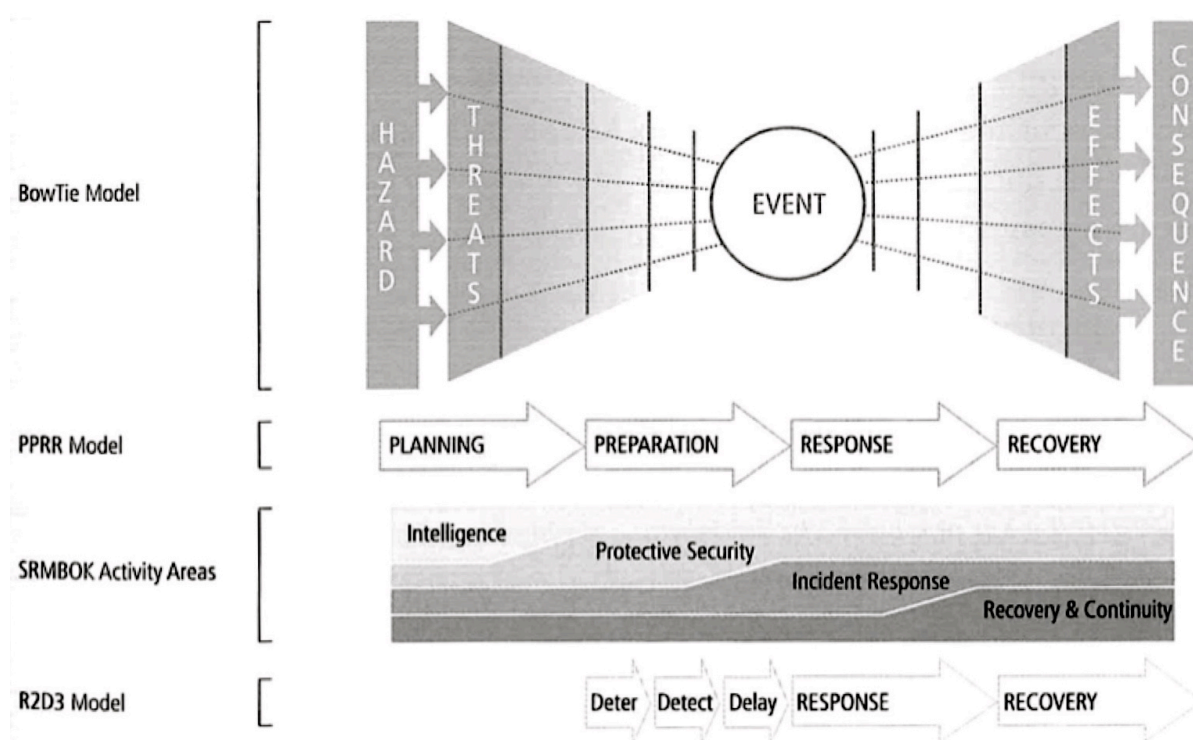


Figure 1: The bow-tie model in relation to other sequencing models (SRMBOK, p. 223)

<sup>1</sup> Talbot, Julian/ Jakeman, Miles: *Security Risk Management – Body of Knowledge (SRMBOK)*, Hoboken 2009, p. 223.

Figure 1 shows the bow-tie model in relation to several other sequencing models in the broad field of security: the “PPRR sequence model”, the “DDDRR model” and a sequence model that is coined “activity areas” by the authors of SRMBOK but is sometimes also referred to as the “intelligence cycle” or the “risk control cycle”. In the center of the bow-tie the “event” is mentioned. This is the moment when a crime is committed.<sup>2</sup> The classification based on the bow-tie model allows the distinction of four phases: “prevention”, “protection”, “incident response” and “prosecution”. Prevention is the protection function to prevent incidents. It is characterized by vigilant observation and extensive checking. Incident response is the immediate and active interference with a crime unfolding. It is characterized by short time frames within which to react, and getting the right information to the right person in the right time. The last step, prosecution, is after a suspect is either in custody or sought, it is characterized by gathering incriminating evidence for a conviction.

It is important to note that the distinction into the four phases is suitable not only from a technical but also from an ethical point of view. The temporal and situational focus enables us to show that the ethical assessment of the use of surveillance technologies is ambiguous. This becomes clear if we consider, for example, the use of drones in order to monitor the neighbourhood of a threatened embassy. In the phase before a potential crime is committed (prevention) the ethical assessment will be different from the assessment of the usage after a major attack (incident response). This is because the ethical assessment differs according to the purpose for which the technology is used. In our example, one time the purpose is long-term security prevention, the other time it is incident response. Furthermore, it is crucial to mention that the distinction into the four phases not only allows to show that the ethical judgement depends on temporal and situational aspects as well as on the purpose for which the technology is used, but it also allows to demonstrate that perception and acceptability of surveillance will differ in the different phases. This classification will be underlying and structuring the research on perception of surveillance.

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<sup>2</sup> In risk literature the centre is often “accident” since its origin is from safety studies rather than security and crime control. Note that concepts are flexible and can be used to describe many risk problems but when it is actually applied it has to be tuned to the risk that you wish to control.

## 2. Methodological Foundations

As far as we can see most of the research projects dealing with surveillance perception have examined issues of perception and attitudes to surveillance by empirical means. In SURVEILLE we will not carry out a quantitative perception study. We will rather undertake the European-level study on perception of surveillance by commenting and evaluating already existing empirical studies, quantitative as well as qualitative ones. This is to say we will systematize and comment the findings of these studies and thus give an overview of how people perceive surveillance in Europe.

Aiming to analyze the empirical studies under a critical approach we will refer to a specific normative framework, thus combining perception and ethical issues. The anthropological considerations of the Canadian social philosopher Charles Taylor will serve us as a basis.

In his anthropological considerations on the construction of modern identity, Taylor shows that any self, in the sense of an existential apriority, is always already located and always moves in a moral space. According to Taylor, this moral space is structured by so-called moral maps. These moral maps may be described as a supra-individual horizon of values which may take a different forms depending on time and culture. For instance, the notion of equality and the related normative concept of universal respect is something that only evolved in the Modern Era (French Revolution); ancient thinkers such as Plato and Aristotle did not know these notions and stood for an exclusive conception of equality that excluded women, children and slaves. Moreover, different values and hierarchies of values can be found in different cultural contexts. This finding is important for our research that aims at developing a research methodology for surveillance perception in Europe. In assessing surveillance technologies European people will do this against the background of the moral topography of Europe. Consequently, we have to pay attention to this moral topography in our analysis.

According to Taylor, a fundamental task of being human, of one's self-understanding and understanding of one's lifeworld is to position oneself in the moral space. In this space we encounter different values and – having the ability to make “strong evaluations” – we must decide “what is right or wrong, better or worse higher or lower”<sup>3</sup>. The moral space is described by Taylor as “a framework [which] incorporates a crucial set of qualitative

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<sup>3</sup> Taylor, Charles: *Sources of the Self*, Cambridge 1989, 4.

distinctions. To think, feel, judge within such a framework is to function with the sense that some action, or mode of life, or mode of feeling is incomparably higher than the others [...].”<sup>4</sup> This does not mean that we make moral judgements always in a reflected and rational way, in fact, our moral reactions seem to be “like instincts, comparable to our love of sweet things, or nauseous substances, or our fear of falling”<sup>5</sup>. However, Taylor clarifies that “we are dealing here with moral intuitions which are uncommonly deep, powerful, and universal. They are so deep that we are tempted to think of them as rooted in instinct.”<sup>6</sup> Although our moral judgments seem like instincts they are subject to rational analysis and assessment. Just as Taylor seeks to reveal the moral sources and the moral horizon of modern identity in his work “Sources of the Self – The Making of New Identity”, we will try to identify those moral concepts in the moral topography of Europe that take effect when people perceive surveillance. The starting point for our ethical considerations with regard to surveillance thus will be Taylor’s finding that we live in “inescapable [moral] frameworks”<sup>7</sup> we refer to any time we make moral judgements. Since our research concerns the moral context of Europe, consequently, this will be the one we will focus on. We wish to highlight that the moral topography of Europe is multi-faceted. One document that is legally binding on 27 European countries is the EU Charter of Fundamental Rights. We will undertake to interpret the provisions of this document, which reflect an important part of the moral topography of the EU. This approach seems justified since legal provisions are substantially informed by morals and ethics (otherwise, such law would not gain acceptance in a democratic society). Having said this, the preamble of the Charter refers to a moral standard based on a common horizon of values to be maintained and protected: “The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values. Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law.”

In our analysis we assume that an infringement of the given values by the usage of surveillance technologies will have negative effects on the perception of these technologies. Consequently, we will have to consider those values that are at risk of being violated by the

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<sup>4</sup> Ibid. 19.

<sup>5</sup> Taylor 5.

<sup>6</sup> Taylor 4.

<sup>7</sup> Cf. Chapter 1 of Taylor’s „Sources of the Self“: „Inescapable frameworks“.



use of surveillance technologies. Thereby, we will refer to those provisions of the Charter that reflect the values being at stake in the context of surveillance:

- Article 1: Human dignity
- Article 3: Right to the integrity of the person
- Article 6: Right to liberty and security
- Article 7: Respect for private and family life
- Article 8: Protection of personal data
- Article 10: Freedom of thought, conscience and religion
- Article 12: Freedom of assembly and of association
- Article 20: Equality before the law
- Article 21: Non-discrimination
- Article 48: Presumption of innocence and right to defence

Considering these fundamental values will serve us as an ethical framework for analyzing and commenting the findings of the empirical studies.

### **3. EU Projects**

In this chapter we will summarize the results of all EU-sponsored research projects on surveillance perception already completed or cooperating with SURVEILLE. In doing this, we will concentrate on projects which, just like SURVEILLE, had or have a particular focus on studying people's perception of being under surveillance or on assessing the ethical impact of surveillance technologies.

#### **3. 1. Evaluation of Completed EU Projects**

There are five already completed projects relevant in the SURVEILLE research context: PRISE, CPSI, HIDE, DETECTER and RISE.

PRISE<sup>8</sup> aimed at developing “acceptable and accepted principles for European Security Industries and Policies”<sup>9</sup>. PRISE is particularly interesting for the research in SURVEILLE insofar as the analysis of people’s perception of security technologies played an important role in PRISE and one of the project’s purposes was to „establish a combined quantitative and qualitative insight into public perceptions“<sup>10</sup>. Inter alia, the questionnaire<sup>11</sup> will be a fruitful source for SURVEILLE, as questions such as “Where can you accept CCTV surveillance?”<sup>12</sup>; or “Does surveillance make you feel more secure?”<sup>13</sup> will be inspiring for our analysis of perception. Furthermore, the scenarios developed in PRISE showing how surveillance may be used in everyday situations in the near future, will serve as a basis for the phenomenological analysis of the perception of surveillance. Likewise, the synthesis report of interview meetings will add to our research as it provides empirical data in terms of an overview of the participants’ attitudes towards new security technology and privacy issues.<sup>14</sup>

The goal of CPSI<sup>15</sup> was “to provide governments and related organizations with a methodology to increase insight into the determinants of actual and perceived security and into which interventions are effective for increasing security.”<sup>16</sup> Since we want to grasp and explain the meaning of objective and subjective security, the “conceptual model of actual and perceived security and their determinants” developed in CPSI will be extremely useful to us. Besides, the morphological analysis conducted in the course of CPSI will add to our understanding of the parameters of perceived security.<sup>17</sup> Finally, the deliverables of CPSI “represent practical and ready-to-use tools, which can be employed by policy makers and other end-users to formulate policy regarding security”. This relates directly to SURVEILLE

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<sup>8</sup> PRISE: Privacy and Security. For details see the project’s website: <http://www.prise.oeaw.ac.at/>.

<sup>9</sup> Ibid.

<sup>10</sup> Cf. <http://www.prise.oeaw.ac.at/publications.htm>.

<sup>11</sup> PRISE, D 5. 1, Questionnaire and Interview Guidelines,. Available at: [http://www.prise.oeaw.ac.at/docs/PRISE\\_D5.1\\_Questionnaire\\_and\\_Interview\\_Guidelines.pdf](http://www.prise.oeaw.ac.at/docs/PRISE_D5.1_Questionnaire_and_Interview_Guidelines.pdf).

<sup>12</sup> PRISE, D 5. 1, Questionnaire and Interview Guidelines, p. 17.

<sup>13</sup> Ibid.

<sup>14</sup> Cf. D 5. 8 Synthesis Report - Interview Meetings on Security Technology and Privacy. Available at: [www.prise.oeaw.ac.at/docs/PRISE\\_D\\_5.8\\_Synthesis\\_report.pdf](http://www.prise.oeaw.ac.at/docs/PRISE_D_5.8_Synthesis_report.pdf).

<sup>15</sup> CPSI: Changing Perceptions of Security and Interventions. For details see the project’s website: [www.cpsi-fp7.eu](http://www.cpsi-fp7.eu).

<sup>16</sup> Ibid.

<sup>17</sup> Cf. E-Lecture „The Parameters of Perceived Security“. Available at: [www.esci.at/paper\\_room\\_2010/ritchey.mp4](http://www.esci.at/paper_room_2010/ritchey.mp4).

which, while employing a decidedly ethical approach, has a pragmatic thrust to security-related issues.

The aim of HIDE<sup>18</sup> was to “establish a platform devoted to monitoring the ethical and privacy implications of biometrics and personal detection technologies.”<sup>19</sup> With regard to the nature of surveillance and the ethical implications of surveillance technologies, particularly two documents of the HIDE project may be interesting for SURVEILLE: First, the “Ethical Brief on Technology Convergence”<sup>20</sup> depicting different forms of surveillance in their context of use, and second, the “Ethical Brief on System Interoperability”<sup>21</sup> in which the tension between individual rights and both privacy and security/safety plays an important role for the assessment of surveillance technologies from an ethical perspective.

Another relevant project is DETECTER<sup>22</sup> whose experience and results SURVEILLE is meant to build on.<sup>23</sup> There are a number of research results of DETECTER that SURVEILLE may benefit from. Determining the ethical norms of counter-terrorism, DETECTER has convincingly pointed out that a modified Kantian theory provides a suitable framework to evaluate issues of privacy. With regard to privacy issues in the context of the use of surveillance technologies, this philosophical approach may be developed further in SURVEILLE.<sup>24</sup> Concerning the issue of privacy-invading technologies, SURVEILLE may also employ the approach developed in DETECTER according to which surveillance technologies must be distinguished “by the zones of privacy they penetrate and the relative importance of the zones”<sup>25</sup>. Apart from the privacy context, the determination of other moral risks such as “intrusion, error leading to miscarriages of justice, abuse of suspects and detainees, and the erosion of trust in the authorities and chill of associational activity” may serve SURVEILLE as

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<sup>18</sup> HIDE: Homeland Security, Biometric Identification & Personal Detection Ethics. <http://www.hideproject.org/>.

<sup>19</sup> Cf. The HIDE Brochure which gives an overview of the project:  
[http://www.hideproject.org/downloads/HIDE\\_Brochure.pdf](http://www.hideproject.org/downloads/HIDE_Brochure.pdf).

<sup>20</sup> Cf.  
[http://www.hideproject.org/downloads/deliverables/D3.1aEthical\\_Brief\\_on\\_Technology\\_Convergence.pdf](http://www.hideproject.org/downloads/deliverables/D3.1aEthical_Brief_on_Technology_Convergence.pdf).

<sup>21</sup> Cf. [http://www.hideproject.org/downloads/deliverables/D3.2aEthical\\_Brief\\_on\\_System\\_Interoperability.pdf](http://www.hideproject.org/downloads/deliverables/D3.2aEthical_Brief_on_System_Interoperability.pdf).

<sup>22</sup> DETECTER: Detection Technologies, Terrorism, Ethics, and Human Rights. For details see the project’s website: <http://www.detecter.eu/>.

<sup>23</sup> Cf. the interview with Martin Scheinin, coordinator of DETECTER and SURVEILLE. Available at:  
<http://www.youtube.com/watch?v=84wV7PcSxcc>.

<sup>24</sup> Cf. <http://www.detecter.bham.ac.uk/pdfs/D05.1MoralRisksofPreventivePolicingv2.pdf>, p. 10-17.

<sup>25</sup> [http://www.detecter.bham.ac.uk/pdfs/D05.2.The\\_Relative\\_Moral\\_Risks\\_of\\_Detection\\_Technology.doc](http://www.detecter.bham.ac.uk/pdfs/D05.2.The_Relative_Moral_Risks_of_Detection_Technology.doc), p. 2.

a basis for revealing moral risks of surveillance technologies.<sup>26</sup> Last but not least, the survey of technologies in combination with the “taxonomy of dangers” provides a good orientation of how different surveillance technologies may be categorized in SURVEILLE.<sup>27</sup>

Finally, SURVEILLE may benefit from the research conducted in RISE<sup>28</sup>. In particular, the conference report on “Ethical, Social and Privacy Implications of Biometrics and Security Technology” may add to our research.<sup>29</sup>

### **3.2 Consultation with Current EU Projects**

Altogether there are five current EU projects which are thematically related to SURVEILLE: SurPRISE, PRISMS, IRISS, SAPIENT and RESPECT.

When dealing with perception and ethical implications of surveillance, the relationship between security and liberty plays an important role. With regard to this, it may be interesting to discuss the approach of Surprise<sup>30</sup>, questioning “the validity of the security-privacy-trade-off”<sup>31</sup>. Furthermore, concerning the question of the acceptance and acceptability of surveillance technologies, the “large-scale participatory assessment of criteria and factors determining acceptability and acceptance of security technologies in Europe”<sup>32</sup> may also be of interest to SURVEILLE.

PRISMS<sup>33</sup>, on the basis of empirical data, aims at understanding citizens’ attitudes to privacy and security, and seeks to determine the relationship between these two concepts. At the

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<sup>26</sup> Ibid.

<sup>27</sup> Instead of all ten documents, cf. Quaterly Update N°1:

[http://www.detector.bham.ac.uk/pdfs/Technology\\_Reports/D12.2.1.QuarterlyUpdateonTechnology1.doc](http://www.detector.bham.ac.uk/pdfs/Technology_Reports/D12.2.1.QuarterlyUpdateonTechnology1.doc)

<sup>28</sup> RISE: Rising Pan European & International Awareness of Biometrics & Security Ethics. For details see the project’s website: <http://www.riseproject.eu/>.

<sup>29</sup> Cf. [http://www.riseproject.eu/\\_fileupload/Deliverables/D2\\_2%20HK%20Conference%20Report.pdf](http://www.riseproject.eu/_fileupload/Deliverables/D2_2%20HK%20Conference%20Report.pdf); The conference proceeding is also published in: Kumar, Ajay (Hg.): Ethics and Policy of Biometrics, Berlin/Heidelberg 2010.

<sup>30</sup> SurPRISE: Surveillance, Privacy and Security. For details see the project’s website: [www.surprise-project.eu/](http://www.surprise-project.eu/).

<sup>31</sup> [www.surprise-project.eu/](http://www.surprise-project.eu/).

<sup>32</sup> Ibid.

<sup>33</sup> PRISMS: The PRIVacy and Security MirrorS: Towards a European framework for integrated decision making.

center of the project lies a European-level study with 27.000 participating citizens on how people assess the use of security technologies and its impact on their fundamental rights.<sup>34</sup> The results of this study will be of particular interest to SURVEILLE as their evaluation may give us a more precise idea of how people perceive surveillance technologies.

Another relevant project is IRISS<sup>35</sup>. Consultation with IRISS may be beneficial for two reasons: First, IRISS aims at highlighting the relationship between democracy and surveillance and seeks to produce a „comprehensive account of resilience options“<sup>36</sup> with regard to threats against open democratic societies. Against the background of the research profile of the Centre of Security and Society in Freiburg in which the concept of resilience plays a central role, consultation with the project members of IRISS would certainly add to the research in SURVEILLE. Second, IRISS examines „how people respond to the issues of surveillance and control in everyday settings“ and aims to „clarify the range and distribution of societal values shaping citizens’ attitudes towards surveillance“. <sup>37</sup> Since the analysis of people’s perception of surveillance includes an analysis of people’s reactions and attitudes towards surveillance, consultation with IRISS in this regard would certainly be worthwhile, too.

The SAPIENT<sup>38</sup> project may also be relevant to SURVEILLE. Some of SAPIENT’s research results have already been published and may therefore be employed in SURVEILLE.<sup>39</sup> In particular, SURVEILLE may benefit from SAPIENT’s research in two ways: First, from a literature review in which a survey of “the recent history of and contemporary trends in surveillance in Europe”<sup>40</sup> is provided. Second, from a study on people’s perception of surveillance, in particular from the approach to consider “not only [...] findings from various studies exploring privacy, data protection and security issues, but [to explore] also [...] the

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<sup>34</sup> Cf. <http://www.isi.fraunhofer.de/isi-de/t/projekte/fri-prisms.php>.

<sup>35</sup> IRISS: Increasing Resilience in Surveillance Societies. For details see the project’s website: <http://irissproject.eu/>.

<sup>36</sup> [http://irissproject.eu/?page\\_id=9](http://irissproject.eu/?page_id=9), Cf. Work package 6 – Resilience Options.

<sup>37</sup> [http://irissproject.eu/?page\\_id=9](http://irissproject.eu/?page_id=9), Cf. Work package 4 – Citizens and their attitudes towards surveillance.

<sup>38</sup> SAPIENT: **Supporting fundamental rights, Privacy and Ethics in Surveillance Technologies**. For details see the project’s website: <http://www.sapientproject.eu/>.

<sup>39</sup> Available in the document „Smart Surveillance State of the Art“: <http://www.sapientproject.eu/docs/D1.1-State-of-the-Art-submitted-21-January-2012.pdf>.

<sup>40</sup> <http://www.sapientproject.eu/docs/D1.1-State-of-the-Art-submitted-21-January-2012.pdf>, p. 2.

difficulties, bias, methodological challenges and drivers of these studies.”<sup>41</sup> In developing a methodology through which the phenomenon of perception shall be adequately described, the methodological considerations and possible difficulties highlighted in SAPIENT may provide useful impulses to SURVEILLE.

Finally, the RESPECT<sup>42</sup> project is of interest for the research in SURVEILLE for two reasons: As one of SURVEILLE’s purposes is to compare actual and perceived effectiveness of surveillance technologies, the research in RESPECT which gives an overview of the actual effectiveness of surveillance systems<sup>43</sup> may serve as a benchmark in order to compare and verify the research results of SURVEILLE. Second, RESPECT aims at analyzing European citizen’s awareness and acceptance of surveillance systems with regard to attitudes to efficiency, economic and social cost<sup>44</sup>, an issue also touched upon in SURVEILLE.

To sum up, evaluating the results of already completed EU-sponsored projects and consulting with current projects serves the purpose of determining what is state of the art in the research of surveillance perception at the European level.

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<sup>41</sup> <http://www.sapientproject.eu/docs/D1.1-State-of-the-Art-submitted-21-January-2012.pdf>, p. 3.

<sup>42</sup> RESPECT: Rules, Expectations & Security through Privacy-Enhanced Convenient Technologies.  
<http://respectproject.eu/>.

<sup>43</sup> Cf. [http://respectproject.eu/index.php?option=com\\_content&view=article&id=46&Itemid=73](http://respectproject.eu/index.php?option=com_content&view=article&id=46&Itemid=73).

<sup>44</sup> Ibid.

#### **4. Literature Survey: Perception of Surveillance**

The literature survey will systematize the actual research literature on perception with regard to surveillance. The analysis of empirical studies will be at the center of the survey. We will refer to empirical studies such as the Eurobarometer surveys sponsored by the European Commission which show public opinions and attitudes towards major topics concerning European citizenship in the EU member states.<sup>45</sup> The relevant literature and the empirical studies will be systematized by means of crucial questions, such as:

How are surveillance technologies perceived? To what extent does the usage of surveillance technology influence individual perceptions (e.g. generate a new awareness of threats)? Does the surveillance technology for example make people feel safer or, in contrast, does it evoke uncertainty or fear? Under what circumstances are surveillance technologies perceived as effective and why? What are common moral judgements people make when they assess surveillance? Are surveillance technologies infringing the privacy of a person automatically perceived as negative? Does surveillance have an effect on the behavior of people, i.e. when people are aware of being observed, to what extent does this have an impact on their behaviour? Do people in different EU member states perceive surveillance technologies the same way? If not, what are the differences in perception and why?

Note that in answering these questions we will depend on whether the studies to be examined contain adequate and sufficient data or whether they do not.

#### **5. Overview of Effects and Side-Effects of Surveillance**

Surveillance is an ambiguous practice, creating not only positive, but also negative effects. If we want to obtain a concise understanding of the nature of surveillance, we must consider both intended and unintended effects resulting from the usage of surveillance technologies. Thus, we will systematize different types of effects and side effects of surveillance against the actual research background. As to date, we will be considering the following points:

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<sup>45</sup> Cf.: [http://ec.europa.eu/public\\_opinion/index\\_en.htm](http://ec.europa.eu/public_opinion/index_en.htm).

## **5.1 Surveillance Technologies being Perceived as Threats themselves**

As we have seen, the original purpose of surveillance in an open and democratic society is to head off harm and to protect and secure the population as well as to protect the functioning of the state, the public infrastructure and the economy. However, the very technologies that are used to provide for the protection and security of a society may also be perceived as a threat by the public and may therefore create anxiety or fear. This is because surveillance technologies may interfere with various aspects of people's lives and may infringe personal rights, especially people's privacy and freedom (of movement). Determining the conditions under which surveillance technologies are not perceived as protective instruments (anymore) but as threats themselves will be one of the major tasks of our research, which aims to determine how this negative side effect may be avoided in the future.

## **5.2 Chilling Effect**

With regard to ethical and societal concerns it is important to investigate the „chilling effect“. Daniel Solove points out that surveillance can potentially create “chilling effects on free speech, free association, and other [...] rights essential for democracy.”<sup>46</sup> Furthermore, he draws attention to the fact that “even surveillance of legal activities can inhibit people from engaging in them” and warns that “the value of protecting against chilling effects is not measured simply by focusing on the particular individuals who are deterred from exercising their rights. Chilling effects harm society because, among other things, they reduce the range of viewpoints expressed and the degree of freedom with which to engage in political activity.”<sup>47</sup> Furthermore, a form of the chilling effect could be that people no longer feel responsible for their fellow citizens as soon as surveillance technologies are installed. In other words: The fact that people tend to rely absolutely on surveillance technologies may lead to a decline in mutual responsibility and a lack of moral courage which may have serious consequences for the way people live together in a society. Nils Zurawski, a

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<sup>46</sup> Solove, Daniel: *I've got nothing to hide and other misunderstandings of privacy*, in: [San Diego Law Review](#), Vol. 44, p. 745, 2007, 765.

<sup>47</sup> Ibid.



sociologist who has conducted a considerable number of empirical studies of people's perception of surveillance, describes this phenomenon in an interview: It happens, "that people abdicate from their responsibility as soon as a camera is recording. Interviews, for example, have shown that some people are afraid of doing wrong when helping someone. Thus, they preferred not to help when under surveillance."<sup>48</sup> In our further research we will spell out the different forms immanent to the chilling effect.

### **5.3 Security Dilemma**

By means of different strategies, the usage of surveillance technologies aims to increase security in society and the citizen's feeling of security. However, the usage of surveillance technologies according to the said security strategies may have the effect of (over-)sensitizing people to the perception of threats and just making them feel unsafe: "The more these security strategies take effect, the greater the sensitivity to the continuing lack of security, the remaining risks and to the fact that threats have not disappeared by far."<sup>49</sup> In the end, therefore, surveillance technologies may not decrease but increase a sense of insecurity, notwithstanding their actual purpose. Scholars refer to this phenomenon as the "security dilemma" or the "paradox of security and the sense of insecurity" which will be examined further in SURVEILLE as one of the side effects of the use surveillance technologies.

### **5.4 Self-Surveillance/Normalization**

Another effect of surveillance can be described as self-surveillance in reference to Michel Foucault. In his analysis of surveillance, Foucault has shown that "by always being visible, by constantly living under the reality that one could be observed at any time, people assimilate

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<sup>48</sup> Zurawski, Nils: Kameras lösen keine Probleme, ZEITonline, Available at: <http://www.zeit.de/gesellschaft/schule/2011-11/schule-kamera-zurawski>; Es kommt vor, "dass Menschen die Verantwortung abgeben, sobald eine Kamera alles aufzeichnet. In Befragungen kam zum Beispiel heraus, dass manche Leute Angst haben, dass sie etwas falsch machen, wenn sie Hilfe leisten. Deshalb wollten sie lieber gar nicht helfen, wenn überwacht wird."

<sup>49</sup> Own translation of Münkler, Herfried/Bohlender, Matthias/Meurer, Sabine (eds.): *Sicherheit und Risiko. Über den Umgang mit Gefahr im 21. Jahrhundert*, Bielefeld 2010, 12/13: „Je besser diese Strategien der Sicherung greifen, desto stärker wird die Sensibilität für die fortbestehende Unsicherheit, für immer noch vorhandene und noch längst nicht verschwundene Bedrohungen.“

the effects of surveillance into themselves. They obey not because they are monitored but because of their fear that they could be watched. This fear alone is sufficient to achieve control.”<sup>50</sup> Moreover, Foucault has pointed out that the internalization of the social norms is combined with a self-censorship of one’s behavior and may lead to a normalization of behavior: “The mere knowledge that one’s behavior is being monitored and recorded certainly can lead to self-censorship and inhibition. Foucault’s analysis of surveillance points to a more subtle yet more pervasive effect: surveillance changes the entire landscape in which people act, leading toward an internalization of social norms that soon is not even perceived as repressive. This view of the effects of surveillance raises important questions regarding the amount of normalization that is desirable in society. While our instincts may be to view all normalization as an insidious force, most theories of the good depend upon a significant degree of normalization to hold society together.”<sup>51</sup> This effect of self-surveillance/normalization we will be examined in our research in more detail.

## **5.5 Function Creep**

Another negative side effect of surveillance is a specific kind of misuse of the technology, that is, when a technology is designed for one purpose or context, but in fact used for another. For instance, drones having been developed for military operations are now also being used in a civilian context (observation of public assemblies/demonstrations or other public events). This phenomenon is known as “function creep” and may imply an infringement of privacy. “Function creep” may be defined as “the gradual widening of the use of a technology or system beyond the purpose for which it was originally intended, esp. when this leads to potential invasion of privacy”<sup>52</sup>. Note that this phenomenon is sometimes given another name. Daniel Solove, for example, uses the concept of “secondary use” in his essay “I’ve got nothing to hide and other misunderstandings of privacy”: “Secondary use is the use of data obtained for one purpose for a different unrelated purpose without the

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<sup>50</sup> Solove, Daniel J.: *The Digital Person. Technology and Privacy in the Information Age*, New York 2004, 31.

<sup>51</sup> Ibid 35.

<sup>52</sup> <http://dictionary.reference.com/browse/function+creep>.

person's consent.”<sup>53</sup> In our research we will examine different forms of function creep, considering in particular its ethical implications.

## **6. Overview of Perceived Effectiveness of Surveillance Technologies**

Note that there is a difference between objective and perceived effectiveness of surveillance technologies. This phenomenon will be demonstrated on the basis of the evaluation of empirical studies as well as of relevant literature or by resorting to other sources. To show the difference between objective and perceived effectiveness, we will work closely together with technicians, helping us to better understand what they mean by objective effectiveness (Part of this is already discussed in Deliverable 2.1). So we can compare adequately the objective data with the subjective factors determining perception.

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<sup>53</sup> Solove, Daniel J.: I've got nothing to hide and other misunderstandings of privacy, in: [\*San Diego Law Review\*, Vol. 44, 745, 2007](#), 767.

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