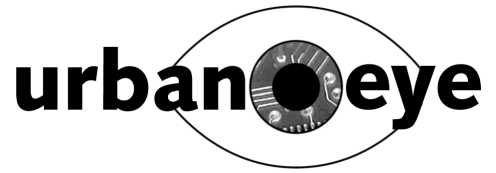


**On the Threshold to Urban Panopticon?
Analysing the Employment of CCTV in European
Cities and Assessing its Social and Political Impacts**



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Restrictive? Permissive? The Contradictory Framing of Video Surveillance in Norway and Denmark

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1 Introduction -- Why Two Countries?

This article is a national report for Norway and Denmark within the international comparative project "UrbanEye – On the Threshold to Urban Panopticon?"¹ This report is from the first empirical phase of the project. It analyses aspects of the national frameworks for local video surveillance practices and effects that will be studied later. Here we study the legal frameworks and public discourses concerning video surveillance in Norway and Denmark. We also take a first look at existing reports on public opinion and on the prevalence and distribution of surveillance systems in the two countries.

Putting together an international comparative study is always a bit of a puzzle, matching up available interested research groups with initial hypotheses as to comparative dimensions the respective countries might represent. In the UrbanEye case, Denmark was not included in the initial proposal. The background document for the proposal did, however, cite a Scientific and Technological Options Assessment report². According to this report³, "The attitude to CCTV camera networks varies greatly in the European Union, from the position in **Denmark where such cameras are banned by law** to the position in the UK, where many hundreds of CCTV networks exist"⁴.

The co-ordinators were sceptical towards this claim about Denmark, since they were unable to confirm it through other sources. Nevertheless, the one source seemed too authoritative to ignore. Thus they included in the project proposal the somewhat more cautious statement that CCTV in Denmark was "highly regulated." On this basis, the panelists evaluating the proposal recommended that the project include Denmark. Since the Danish and Norwegian languages are virtually identical, it was decided that the Norwegian research team would cover a mini-comparative study of the two countries within the larger multinational study.

In this first report, from the national frameworks phase of the study, we have focused our analysis on the hypothesis that was the basis for the inclusion of Denmark. Is CCTV more highly and more restrictively regulated in Denmark than in other countries studied in a European policy context? Here we compare only Denmark and Norway along the dimension of restrictiveness-permissiveness of their legal frameworks, practices, and public discourses. Further comparisons along this dimension may prove relevant when integrating the other five national reports from this phase of the project.

¹ The UrbanEye project is funded by the European Commission. It encompasses contributions from seven countries: [standard reference to countries and research institutions here]

² STOA reports are used as bases for policy discussions in the European Parliament. The report cited in this instance was a published draft report, or "consultation version".

³ Wright (1998)

⁴ Ibid, p. 17, emphasis added

2 Introducing Norway and Denmark

In addition to their nearly, but not entirely identical languages, Norway and Denmark are similar, but not identical, in a number of other traits potentially relevant to video surveillance of urban spaces.

The two countries have similar populations. Norway has a population of approximately 4.5 million. With a total area of 385,155 km², Norway has a very low overall population density – only 11.7 persons per km². Most of this area is, however, uninhabited⁵. In recent decades, Norway has undergone a rapid urbanisation process. As of 1.1.1999, 66% of the population lived in cities or towns with at least 2,000 inhabitants, over half of these (37.3%) in the 10 largest cities. The largest is the capital, Oslo, with a population then of 763,957 in Oslo municipality (not including the commuter catchment area). The tenth largest was also the smallest city over 40,000, with a population of 42,702⁶. Recent statistics⁷ show that 8.8% of Norway's populace live not only in cities, but in the cities' central districts, where population density averages 3,559 persons per km².

Denmark has a somewhat larger population in a much smaller total area – approximately 5.3 million as of 1.1.2000, in a total area of 43 094 km² (not including Greenland or the Faroe Islands), i.e. 123.7 persons per km². In spite of over ten times higher overall population density, the degree of urbanisation is roughly similar to that of Norway. 32.4% live in the Greater Copenhagen capital area plus the 10 next-largest cities. As in Norway, these also comprise all cities over 40,000 in population. About 75% live in cities or towns with over 1000 in population.⁸ There are a number of ways in which population and population density might conceivably affect acceptance of video surveillance. Smaller populations in smaller concentrations are thought to be characterised by closer social controls. Social control at the personal level might make video surveillance irrelevant. On the other hand, living in close quarters might lead people to be more defensive of their (vulnerable) privacy, thus resisting new privacy-invasive forms of social control in densely populated urban areas. However, whatever the effects of population density, we would expect them to be similar in Norway and Denmark.

⁵ Statistics Norway (http://www.ssb.no/english/about_ssb/) reports several total areas for the country. The information packet sent by the project co-ordinators refers to one of the more limited versions. Our calculations here are based on an inclusive version, including uninhabitable spaces such as waterways and glaciers. The estimate is nevertheless realistic since such spaces are much used for recreational, commercial, and transportation purposes. They also serve as simply "empty space" contributing to an overall sense of uncrowdedness.

⁶ Statistics Norway: <http://www.ssb.no/aarbok/tab/t-020110-051.html>

⁷ Statistics Norway: <http://www.ssb.no/vis/arealbruk/art-2001-12-27-02.html>

⁸ Danmarks statistik: <http://www.dst.dk/dst/10>

The two countries also share centuries of political, and legal history. The basis for both Norwegian and Danish modern law was laid before they were nation-states, in the Viking era when the areas now comprising the two states were part of a larger region with shared language and culture and shifting alliances among local chiefs. Justice and law was then governed by regional assemblies, and some of the traditions from this time still count as non-codified legal rights in both countries. After the bubonic plague in the Middle Ages, Norway's population was too decimated to support a government structure. In the 1400's Norway entered into an alliance with Denmark as two separate kingdoms ruled by the same (Danish) king. By the time the first system of codified laws was formed, the two were considered a single kingdom. Thus Norway's first body of written law was the Danish King Christian V's Norwegian Law of 15th April 1687.⁹ Denmark and Norway continued as a single country until Norway was ceded to Sweden in 1814. Norway, hoping for independence, formed its own constitution and elected a Danish prince as king. The ploy was not fully successful, however, and Sweden maintained its claim over Norway until 1905. Nevertheless, legal traditions remained fairly stable and much of the law was still similar between Norway and Denmark throughout the century. After WWII, the Nordic countries (Denmark (including Faroe Islands and Greenland), Iceland, Finland, Norway, and Sweden) have actively sought to co-ordinate their economies and laws. All have furthermore co-ordinated their laws with international accords such as the UN Declaration of Human Rights. Some of these countries have since joined the EU, and though Norway has not joined, it too is associated with the EU and committed to legal co-ordination through the European Economic Association (EEA) and European Free Trade Association (EFTA). Explicit CCTV regulations, being fairly recent, are likely to be quite similar throughout the EU/EEA/EFTA area, including Norway. Older laws with relevance to CCTV, such as basic human rights laws, are likely to be similar between Denmark and Norway due to their long shared legal history. They need not, however, be identical, nor need they be practised identically. Laws, like other texts, must be read and interpreted. Here, culture enters the equation. And, in spite of their common histories, Norway and Denmark are not culturally identical!¹⁰

Since video surveillance is generally legitimated as directed against crime¹¹, it was decided that crime statistics would be another point of background comparison at this

⁹ The entire law is web-published in the original Danish at:
<http://www.hf.uio.no/PNH/chr5web/chr5home.html>

¹⁰ Nor, for that matter, is either nation (or any nation) culturally homogenous. This is not just a matter of ethnic diversity, but also of cultural diversity more generally. Cultures are full of sub-cultures, and even within these, or even at the personal level, cultural values are full of contradictions (See Layne 19xx). Nevertheless, some recognisable national cultural differences, as trends, do exist between Norway and Denmark, including as we shall see below, some that have proven relevant to the interpretation and practice of laws regulating CCTV.

¹¹ Some examples of this from Norwegian newspapers: "Oppklarer ran av bensinstasjon" ("Solves larceny case at gas station" *Aftenposten* 11.04.2001); "Kamera avdekket 184 voldstilfeller" ("Camera reveals

stage of the project. Crime rates and crime statistics would be relevant to CCTV policies if we presume rational actors through several steps of a model. **If** CCTV is effective in identifying crimes as they are perpetrated and/or identifying sought criminals, and **if** criminals are aware of this **and** aware of the presence of surveillance cameras, and **if** criminals seek not to be caught, and **if** criminals are rational actors, **then** CCTV will serve as a crime preventative measure – at least in those places where CCTV is installed. And even if criminals are not rational actors, CCTV might be effective **if** crimes and criminals are identifiable on the recorded videos and thereby convicted and removed, at least temporarily, from the public sphere. Furthermore, **if** policy-makers are convinced of one or both of these connections between CCTV and crime prevention, **then** their tendency to favour installation of CCTV will tend to correlate with crime rates (and with crime statistics **if** these accurately reflect crime rates and/or people's sense of crime risk). That's a lot of ifs, none of which can be presumed true. Nor can we presume that either criminals or CCTV policy makers are rational actors. Their actions may well be affected by non-confirmable assumptions and/or non-rational impulses. Nevertheless, we have decided to include crime statistics, at least to be able to test this model.

In terms of crime rates, Denmark and Norway again show similarities, but also some differences – at least as far as official statistics show (See tables in Appendices I and II below). Both countries have recorded an increase in reported crimes over the past decade. In Norway this increase has apparently been steady throughout the 1990's. In Denmark there are signs of a decrease in the latter half of the 1990's, though not yet enough to compensate the increase in the 1980's and early 1990's. Both countries have similar rates of violent crimes, whereas Denmark seems to have a higher rate of certain crimes for economic gain (house-breaking, forgery, and robbery, but not larceny) and Norway a higher rate of narcotics crimes.

Of course, direct comparison of national crime statistics is iffy at best. Not only are the tables (including the categories) constructed differently, and not only may rates of reporting crimes be different, but the laws themselves may be different. For instance, if Norway's drug laws are more restrictive than Denmark's (which we believe they are), acts that are lawful in Denmark may well be considered crimes in Norway. Thus the same pattern of behaviour might yield a higher rate of crime in the more restrictive country. To use crime statistics as a means of comparing actual behaviour patterns, one would have to also compare criminal law and compare the means by which the statistics were gathered. That might not be necessary, however, for our purposes here. It is not unreasonable to assume that widespread attitudes towards certain behaviours are reflected in a country's laws as well as in its citizens' tendency to report such acts as crimes. Returning to the model discussed above, **if** citizens and policy-makers are aware

184 cases of violence", Aftenposten 14.06.2001), "Kameraene fanger sexovergrepere på Oslo S" ("Cameras catch sex violators at Oslo S" Aftenposten 07.07.2001).

of their national crime statistics, **if** those statistics do indirectly represent their attitudes towards certain behaviours, and **if** they believe that CCTV might help them counteract undesirable behaviours – then we might expect Norway and Denmark to show a similar acceptance of CCTV. They might, however, direct CCTV implementation towards different places and acts in the respective countries. Norway might for instance target drug crimes more actively than Denmark, while Denmark might be more likely to target housebreaking and robbery.

Considering legal histories and crime statistics together, we now have a second hypothesis for comparison between the two countries:

1. Is Denmark more restrictive towards CCTV than Norway?
2. Are Denmark and Norway similarly restrictive/permissive in their regulations and discourses regarding CCTV, but different as to where and why they implement CCTV?

Both hypotheses will be addressed below.

2.1 CCTV in Norway and Denmark

In this chapter we will try to give a short summary about the market of video surveillance in both countries. We attempted to collect information about both the history and the recent figures of CCTV in Norway and Denmark. Therefore we looked for written sources, newspaper articles, statistics¹², surveys and so on including information regarding the history and extension of CCTV. Furthermore we included questions addressing these aspects in our 10 interviews with experts in the field. In connection with the interviews we were actively looking for experts within the “CCTV market”, i.e. security firms, branch organisation and so on.

What are our findings then? First of all we have to say that nearly all of our interviewees confirmed our impression that information about the current CCTV market is difficult to get. We found newspaper articles mentioning concrete numbers of cameras. For instance, in the Norwegian capital there are supposed to be 25.000 cameras¹³. However, journalists are reluctant to identify sources, including those for these figures. Very often these estimates are based on one or two interviews, that means short telephone polls with representatives from the security business. The same sector, the security industry, has without doubt information about the market, for instance from their own sales statistics. But, as the publisher of a Norwegian security magazine stated in one of our interviews: Ironically, the industry that is very much interested in an overview about the

¹² including a public record from the Norwegian Data Directorate (See from page 11 and forward in this report)

¹³ Aftenposten morning edition 07.02.99 and Aftenposten evening edition 29.03.01, quoted from Winge 2001, pp 9-10

market that at the same time is very much concerned about competition and therefore not willing to reveal concrete figures.

Some years ago I had an interview with [firm] and asked them about their market figures. They wouldn't give me information that might be used by their competitors. On the other hand, they themselves were very interested in getting a market overview.¹⁴

The general interest in exact figures and the difficulties in obtaining them were confirmed in our interviews with representatives from the biggest suppliers of CCTV both in Norway and Denmark. The representative from a leading Danish CCTV supplier stated that overall information about the CCTV market is missing in Denmark. Even if the *Sikkerhetsbransjen* (Security branch association) has established its own statistics group, the reported figures are very dubious and not at all complete:

What we do in the branch association is that we've started a statistics group. (...) Members in the branch association report those figures. So we get this information. But it's difficult, very difficult. (...) The numbers for the past two years are burdened with lots of inaccuracies, as we can see.¹⁵

Nevertheless, we collected some information about the structural, quantitative and historical pattern of video surveillance in the two countries. The starting point in Norway was the financial sector.

This started up in the 70's. I'm not sure if it was driven by market pull or by technicians influencing the market. What's clear is that banks at that time installed photo-boxes, maybe a camera with film for 180 still pictures, i.e. with a limited "life span." Then video came in gradually. (...) What's always been a critical issue with video has been image quality. If you think back to the old photo boxes, there were possible better images than with even good video systems today. But the trend has been that the cameras are steadily improving.¹⁶

This informant links the further spread of CCTV to other types of businesses with the effect CCTV has had in moving crime away from banks and over to other sources of "easy money":

If you look at criminality ... It's not so easy to rob a bank because they protect themselves so well. In that sense, gas stations, kiosks, drug stores, cash dispensers, etc. ...¹⁷

CCTV history as told in Denmark was not drawn back to still cameras in banks¹⁸. What we were told there was that prior to 1990 it was only banks and museums that had video surveillance. The reason for this was the high prices and the technical limits of

¹⁴ Interview with the publisher of a Norwegian security magazine, 25.10.01

¹⁵ Interview with representative from Security branch association, Denmark, 05.12.01

¹⁶ Interview with representative from [CCTV supplier firm], Norway, 01.11.01

¹⁷ Ibid.

¹⁸ the following findings are based on an interview with a representative from the Crime Prevention Council, 03.12.01

available systems. After 1990 when systems became cheaper and improved technically, other places began to use them too. According to our informant, the main reason for the increased extension of CCTV was their growing popularity as evidence/documentation in law cases.

Many places there was a tendency to install it, because we saw it on TV (...) they wanted these documentation images. It actually started with pubs. That is, restaurants where they wanted CCTV surveillance because there were things they wanted to see. It might be fights, fraud, thefts. The debate started because back then there were some "bouncers" who were supposed to control who comes and goes. There were fairly frequent episodes of violence. They wanted this on tape so that if it came to court they could prove what had actually happened. That's what happened. In criminal cases, tapes can be an excellent form of evidence. It's a major advantage that you have a video record of the actual episode. That's why the courts also like video records.¹⁹

It was the same wish to document events, this time mainly vandalism that was one of the reasons behind the introduction of CCTV at Danish local train stations. Another reason was the attempt to increase the travellers' sense of security.²⁰ The same year the first major CCTV system was installed in a big department store in Copenhagen. As the Head of the Security Department in this department store stated in an interview with us, there was no other department store or shopping mall that had a CCTV system with control room prior to 1999.

One idea to get a more exact image of the amount of video surveillance was to use sales figures from the security industry. The representative from one of the leading suppliers of CCTV in Norway gave us these figures:

From camera importers in Norway, there are sales of over 100 million kroner, which are then baked into systems. So that can be 200 millions when it reaches the customers. Maybe 200-300 million kroner in Norway now, when it comes to what end users pay. But if you want to divide this down to numbers of installations again, then it's difficult. It's typically the larger cities -- Oslo, Bergen, Stavanger. (...) We have an annual growth rate of about 15-20% currently.²¹

In Denmark the development seems to be even more dynamic. But the rapid growth of the Danish market might be seen against the background of a relatively low level of surveillance in the beginning. Here we got the following description from the Crime Prevention Council:

I don't know how many cameras there are in Denmark. I don't think anyone has counted them. But I know that the security branch that sells equipment has calculated that the market has more than doubled every year since 1997.²²

¹⁹ Ibid

²⁰ Ibid and interview with a representative from the Danish DSB S-tog departement, 14.03.02

²¹ Interview with representative from [CCTV supplier firm], Norway, 01.11.01

²² Interview with representative from the Crime Prevention Council, 03.12.01

To get more detailed figures we got the advice - especially within our Norwegian interviews - to contact the different end user branch organisations. On the background of this sector information about coverage/percentage of cameras in banks, at petrol stations and so on we could then establish our own estimate of the overall number of cameras. Another suggestion we got was to conduct our own survey among firms within the security industry. In Norway, CCTV systems are distributed by three different types of firms:

Our systems are sold via dealerships. Then you have security firms who install TV-surveillance along with alarm systems, access control systems, and anti-theft goods tracking systems. This is what's typical on the Norwegian market. The latest thing we've seen is that specialist firms are popping up that only approach chain stores to sell systems. That's the trend now.²³

We plan to follow the advice and contact relevant branch organisations and the major actors in the security business in connection with the next work package when we will describe the locations and actors in the two capitals.

2.2 Open Street Systems and the Role of the Police

In Norway, we found one open street system under the auspices of the police. Since November 1999 Oslo police have been watching streets and squares around the main railway station, Oslo S, with the help of six video cameras. The publicly declared purpose of the surveillance of this area is to make Oslo safer and to reduce crime, i.e. to strengthen the police's work in the field of both crime prevention and detection, maintain law and order, prevent molestation, increase the general public sense of security, and identify traffic problems.²⁴ This pilot project was in the beginning meant to last for only one year. After an evaluation it would then be decided whether the video surveillance should be used on a permanent basis. Although the main purpose, the prevention of crime could not be proven within the evaluation report²⁵, the cameras were deemed to have had a number of positive effects and it was decided to continue their operation. We hope that it will be possible to include this system as case study in our project. In any case, we will come back with more information about it within our report about locations and actors in Oslo at the end of the next work package.

As far as we know on the background of inquiries at the police and the Ministry of Justice, there is no open street system in Denmark. The police use CCTV in connection with specific surveillance tasks (as approved by courts on a case-by-case basis, in light of other evidence), but not on a permanent basis to cover whole areas. They also conduct

²³ Interview with representative from [CCTV supplier firm], Norway, 01.11.01

²⁴ As stated in the application from the police send to the Ministry of Justice, see Winge 2001, 9.

²⁵ Winge 2001

some traffic surveillance. We will return to this topic, hopefully with more exact figures in our next report.

But the information we have so far does seem to confirm that the market is more restricted in Denmark. And yet, surprisingly given the overall more restrictive impression, there is surveillance in Denmark in some spaces where other countries might not allow it. For instance, a municipal official wrote us as follows:

I can, however, inform you that we have video surveillance of our public toilets with supervision, including those at the City Hall Square, amongst them the handicap toilets at street level. In addition, there is video surveillance at the public toilets on Old Town Square, where there used to be supervision. However, that toilet will be closed down within the year and replaced with automatic toilets operated privately and financed with advertising space. The video surveillance will cease with the installation of the new toilets.²⁶

²⁶ E-mail from Copenhagen municipality, 13.03.02

3 Legal framework

A number of factors serve as a framework around video surveillance practices. These factors form barriers towards some forms of practice and encouragements towards others. The first such factor we will deal with is the law. It is first of all in this chapter of our report that we will address our first hypothesis, that CCTV is banned in Denmark -- or perhaps, less drastically, that it is "more highly regulated." Four main questions shall be studied in regard to the legal regulation of CCTV:

- What surveillance practices are legal in the respective countries?
- What requirements have to be met in order to implement surveillance legally?
- What practices are illegal (which is not to say they are impossible or do not occur²⁷)?
- And how and by what agencies are these laws enforced?

We have explored these questions by studying the texts of relevant laws for each of the countries and interviewing key actors. We identified these actors through a "snowball" method. We began with those we thought likely to be most relevant in Norway – the Data Inspectorate, and a criminology professor known to be an activist in human rights and criminal rights movements. Near the end of each interview, we asked our respondent to recommend further actors we should contact about the subject. In Norway the snowball became self-referential already after five interviews – i.e. new actors proposed had already been interviewed. Norwegian actors also gave us our first contact points for a Danish snowball. This too became self-referential after five interviews.

While carrying out the interviews with five different experts in Copenhagen none of them - neither the consultants from the Danish Data Inspectorate nor one of the leading Danish experts on the field of legal information systems and data protection (privacy) at the University of Copenhagen - could answer our question as to why Denmark should be considered especially restrictive in a European surveillance context. They did, however, confirm our thought about the importance of one particular Danish law. It is with a short description of this Danish Law about the ban TV-surveillance we are going to start the discussion of the legal framework in Denmark and Norway. After a presentation of other important laws in the two countries we will try to identify the central actors that are enforcing the legal framework and stand behind the very introduction of it.²⁸

²⁷ A Norwegian professor of law put it this way: "With these modern tools (...) it's so easy to get around the regulations. The new law is an improvement to some extent, but my answer is short: This is an area that in general is not susceptible to legal regulation, unfortunately." He gave the following example: "Say a shop wants to have a video camera for surveillance, they'll just do it. If the owner doesn't want to follow the regulations, then he can just go ahead and set up surveillance cameras. They're supposed to register, but what are the controls and the control possibilities? There are so many shops in Oslo, not to mention all of Norway." Interview with Professor of Law, Faculty of law, University of Oslo, 29.10.01.

²⁸ Expert interviews suggest that the mentioned laws in the following chapter cover about 99% of all video surveillance of public places. Other laws are of less importance within our survey. About the legal

3.1 Legal structures and texts

The starting point of our legal presentation builds therefore on the Danish **Law on the ban against TV-surveillance**²⁹. Originally this law had the title *Law about the ban against private TV-surveillance*. The latter went into force already on 1 July 1982. The background for the legal regulation of private video surveillance was the attempt of private shopkeepers in a small Danish town to start private video surveillance of a pedestrian area because of vandalism and criminal damage.³⁰ This law opens with the statement "Private enterprises may not engage in TV-surveillance of streets, roads, public squares or the like that are used for public traffic." Nevertheless, right from the beginning in 1982 the general prohibition of private video surveillance in the first section of the Law was weakened by a huge number of exceptions. The very next paragraph, section 2, lists the following exceptions and allows private video surveillance at "petrol stations, industrial areas, covered shopping centres and similar areas with economic activity as long as the surveillance is carried out by the legal owner of the area." Note especially the scope potentially opened up by the word "similar."

Furthermore, the ban is explicitly directed towards private parties. Experts in the field conclude for example by stating that the literal prohibition of *private* surveillance means conversely that public video surveillance of those places is not prohibited – at any rate not by this law.³¹ However, the Danish Ministry of Justice points out that other laws nevertheless restrict public agencies' rights to conduct surveillance. For instance § 264 a of the Penal Code also applies to public officials. According to this paragraph, unauthorised photography of persons in publicly accessible spaces can be punished with fines or up to 6 months imprisonment. Authorisation of public officials to photograph people is then further regulated by rules of public management, which demand that authority be conducted on a rational basis, according to principles of proportionality (for instance between burdens and benefits). According to the ministry, the police can therefore only conduct video surveillance when:

1. Such surveillance is deemed to be of significant importance to an ongoing investigation, and

protection of privacy in Norway, see EPIC 2001, pp 229-234 and Bygrave 2001, pp. 333–346; for an overview about the legal framework in Denmark, see EPIC 2001, pp 137-141.

²⁹ Lov om forbud mod tv-overvågning mv., jf. lov nr. 278 af 9. juni 1982 med de ændringer, der følger af lov nr. 1016 af 23. december 1998 og lov nr. 939 af 20. december 1999 [Law on the ban against TV-surveillance etc., see also law nr. 278 of 9 June 1982 with those changes that follow due to law nr. 1016 of 23 December 1998 and law nr. 939 av 20 December 1999] (http://www.retsinfo.dk/_GETDOC_/ACCN/A20000007629-REGL)

³⁰ Interview with Professor of Law, Faculty of law, University of Copenhagen, 04.12.01.

³¹ Blume 2001, p 145. Rules in connection with video surveillance by public authorities

2. The crime under investigation can carry a penalty of 18 months or more imprisonment.³²

Returning now to the Law on the ban against video surveillance, the most recent modification of the law came in 1999 when it was broadened and the term "private" was removed from its title. The renaming indicates that the law is not only directed towards private operators of video surveillance systems. Its new section 3a states explicitly that "public authorities undertaking TV-surveillance of places or localities with general access or of working places" have the same duty to give adequate warning about their surveillance, e.g. through use of public signs, as private enterprises have. This revision may be seen as making the law even more restrictive in that it now includes (at least some limitations on) surveillance by public authorities as well. But, that said, the basis for such a restrictive reading of the Danish legal framework is, as mentioned above, somewhat dubious in light of paragraph 2. We would stress at this point that the Norwegian research team has limited experience and knowledge to carry out analyses in the field of jurisprudence. We have not found any indications that the mentioning of public authorities reflects a broader use of CCTV by public authorities. As shown above, there is no evidence for open street surveillance in Denmark and the police are not a major actor in this field. More generally, the law can be described as a framework law that is not very precise and contains only a few general instructions.³³ A Danish law professor puts this even more strongly:

One can't exactly claim that there's an overregulation situation. Some say that the Danish TV-surveillance law isn't worth the paper it's written on. The ban against private surveillance of streets is fine enough, but the rest is nothing. The only requirement you have to fill is to put up a sign that says "TV-surveillance," and nobody sees those anyway. We don't have the right to know where the cameras are or precisely what areas they cover.³⁴

Nevertheless, the law seems to have some consequences in Danish everyday life. While the exceptions in section 2 open up for private video surveillance at a series of different places, private banks are according to the existing law not allowed to operate video surveillance of street-side cash dispensers. Having said this, video surveillance of cash dispensers is one issue in the current debate about CCTV in Denmark. Even if we couldn't really identify cash dispensers as a hot issue on the background of the one article that we found within our newspaper analysis, the topic was mentioned in the expert interviews. However, the field has been changing as we write. During work package 3 we continually met informants -- or even just chance cab drivers -- who spontaneously mentioned this issue. February 27, 2002 the Ministry of Justice presented

³² Email from Danish Ministry of Justice, 11.03.02.

³³ Interview with legal advisers in the Data Protection Agency, 03.12.01

³⁴ Interview with Professor of Law at The Faculty of law at the University of Copenhagen, 04.12.01

a proposal to the Parliament that the law be changed to allow TV-surveillance of cash machines³⁵.

Together with the Law on the ban against video surveillance, it is the **Act on Processing of Personal Data** of 31 May 2000 that mainly creates the legal framework for video surveillance in Denmark.³⁶ Just as other EU members that are part of this comparative analysis, Denmark is obliged to implement certain European legislation into national law. In terms of video surveillance it is the European Data Protection Directive 95/46 of 24 October 1995 that sets the frame for the Danish Personal Data Act (PDA). This Act replaces the Private Registers Act of 1978 and the Public Authorities' Registers Act of 1978 that governed the private and public sectors respectively.³⁷

According to the definitions in chapter 2 of the PDA, personal data can be "any information relating to an identified or identifiable natural person" and its processing might be "any operation (...) which is performed upon personal data, whether or not by automatic means." Although the Act does not include specific rules about CCTV, this definition opens for the inclusion of video surveillance.³⁸ In a document presented to the Danish Parliament³⁹, a Professor of Law states that this is not merely an option, but a requirement:

It should be emphasised that it is only permission to conduct surveillance that is regulated by this law [Law on the ban against TV-surveillance], whereas the use of information acquired through surveillance must under normal circumstances be judged according to the rules of the Law on Personal Data.⁴⁰

The administration of the Personal Data Act in Denmark lies in the hands of the Data Protection Agency. We will get back to their practice of this law in the next section.

The corresponding law in Norway, the **Personal Data Act** of 14. April 2000⁴¹ appears to be the most important law regarding the regulation of video surveillance in Norway. The country is not a EU member state, but having signed the 1992 Agreement on the European Economic Area (EEA) Norway is generally obliged to update Norwegian rules

³⁵ See Jyllands-Posten 22.11.01, *Bank indgang med video* [bank entrance with video], see <http://www.jm.dk/wimpdoc.asp?page=document&objno=61776>

³⁶ Act No. 429 of 31 May 2000. See also <http://www.datatilsynet.dk/eng/index.html>

³⁷ EPIC 2001, p 137 (with quoted sources). About the Scandinavian Data protection reform, see Bygrave (1998).

³⁸ Interview with two legal advisers in the Data Protection Agency, 03.12.01 and with a Professor of Law at The Faculty of law at the University of Copenhagen, 04.12.01

³⁹ On 24 October 2001 the Danish Technology Council held a hearing for the Danish Parliament on the subject of surveillance. The edited texts of the presentations in this hearing are published in Teknologirådet: Overvågning [Surveillance], Copenhagen: Teknologirådet, 2001.

⁴⁰ Ibid, p. 154

⁴¹ Act of 14. April 2000 No. 31 relating to the processing of personal data. See also <http://www.datatilsynet.no>.

to comply with EU directives⁴². That means that just as in Denmark, the background for the Norwegian Personal Data Act is the above-mentioned EU directive 95/46 of 24. October 1995. By implementing this directive into Norwegian law the Personal Data Act replaced the former Personal Data Registers Act of 1978. Having the same EU directive as a starting point there are a lot of similarities between the Danish and the Norwegian rules, e.g. the central definitions of terms like personal data and data processing. The general purpose of this Act -to protect natural persons from violation of their right to privacy through the processing of personal data and to ensure that personal data are processed in accordance with fundamental respect for the right to privacy, including the need to protect personal integrity and private life and ensure that personal data are of adequate quality⁴³ - stands in accordance with both the EU directive and the Danish Data Act.

Nevertheless, we found some interesting differences regarding the legal regulation of video surveillance and most of all their enforcement. Given the fact that there is no separate law about CCTV (as there is in Denmark) the Personal Data Act in Norway has a more central role within the regulation of video surveillance than the Danish equivalent has in Denmark. When the Act went into effect on 1. January 2001 it actually included a new set of specific rules about video surveillance. The Norwegian lawmakers went further than both the Danish and the European legislators by including those specific provisions in chapter VII. The Data Act is a fairly new law and this report cannot present a juridical analysis as none is yet published by juridical experts themselves.⁴⁴ But we will try to present the main provisions in a short overview:

By defining video surveillance as "the continuous or regularly repeated surveillance of persons by means of a remote-controlled or automatically operated video camera, camera or similar device"⁴⁵, the specific rules include provisions for all video surveillance regardless of whether there is recording or not. It might be correct that "video surveillance that does not create actual files falls under weaker protection than regular personal data registers"⁴⁶. But when image recordings from video surveillance are stored in a way that makes it possible to retrieve data relating to a specific person, all the provisions of the Personal Data Act apply⁴⁷, including the provisions about the obligation to give notification, and theoretically even the obligation to obtain a licence (see chapter 2.2. about practical aspects of the PDA).

⁴² There are some provisions for an EEA member state to refrain from incorporating a given directive into national law, but Norway has not availed itself of these provisions, at least not in this case.

⁴³ Personal Data Act, section 1.

⁴⁴ Interview Professor of Law, Faculty of law, University of Oslo, 06.11.01. See Bygrave (forthcoming): *Data Protection Law: Approaching its Rationale, Logic and Limits*.

⁴⁵ Personal Data Act, section 36 *Definition*

⁴⁶ EPIC 2001, p 230

⁴⁷ See provisions in chapter VII, Personal Data Act

In addition to the general requirement that video surveillance be “used only for explicitly stated purposes that are objectively justified by the activities of the controller”⁴⁸. Surveillance of locations “regularly frequented by a limited group of people”, e.g. workplaces, requires a “special need”. This is generally accepted as existing when there is a need to prevent dangerous situations or because of the security of employees or others.⁴⁹

At public places or those frequented by a limited group of people under surveillance adequate warning “by means of a sign or in some other way” is required. According to this one has to be informed about the fact that the place is under surveillance and about the identity of the controller.⁵⁰ Last not but least, for all kinds of video surveillance the Data Act’s provision in section 31 is in force. That means that “the data controller shall notify the Data Inspectorate before processing personal data by automatic means.” In the instance that video surveillance covers sensitive information “a license from the Data Inspectorate is required”⁵¹. As a consequence the Data Inspectorate has initiated registration of all video surveillance in Norway. This brings us to the next chapter where we present the main actors when it comes to the regulation of and discourses on CCTV in Denmark and Norway.

3.2 Interpreting the Rules: Key Actors’ Narratives about Practices

Of course, rules and realities may be two different things. An important aspect of the effectiveness of a rules framework in shaping reality is the provisions made for enforcement of the rules and the interpretation and enactment of those provisions by the agencies mandated to carry them out.

Given the importance of the Norwegian Personal Data Act for video surveillance in Norway, it is interesting to have a look at the agency responsible for the enforcement of this law, the Norwegian Data Inspectorate (Datatilsynet). The Data Inspectorate is an independent administrative body. Its functions are defined explicitly in section 42 in the Personal Data Act. According to this section, the Data Inspectorate is required to:

- 1) keep a systematic, public record of all processing that is reported pursuant to section 31 or for which a licence has been granted pursuant to section 33, with information such as is mentioned in section 18, first paragraph, cf. section 23,
- 2) deal with applications for licences, receive notifications and assess whether orders shall be made in cases where this is authorised by law,

⁴⁸ See Personal data Act, section 11 about *basis requirements for the processing of personal data*

⁴⁹ Interview in the Data Inspectorate; see also sources in Johansen et al. 2001, p 267

⁵⁰ See Personal Data Act, section 11 about *Notification*

⁵¹ See Personal Data Act, section 37 *Scope*, section 31 about *Obligation to give notification and section 32 about Obligation to obtain licence*.

- 3) verify that statutes and regulations which apply to the processing of personal data are complied with, and that errors or deficiencies are rectified,
- 4) keep itself informed of and provide information on general national and international developments in the processing of personal data and on the problems related to such processing,
- 5) identify risks to protection of privacy, and provide advice on ways of avoiding or limiting such risks,
- 6) provide advice and guidance in matters relating to protection of privacy and the protection of personal data to persons who are planning to process personal data or develop systems for such processing, including assistance in drawing up codes of conduct for various sectors,
- 7) on request or on its own initiative give its opinion on matters relating to the processing of personal data, and
- 8) submit an annual report on its activities to the King.⁵²

One overall impression from this list is that the Inspectorate is not merely authorised, but even required to be quite active, taking its own initiatives vis á vis political bodies on the one hand and surveillance operators on the other. Of practical importance for us is the requirement that they “keep a systematic, public record of all processing that is reported... or for which a licence has been granted.” As mentioned above, since 1. January 2001 would-be surveillance operators have been required to notify the Inspectorate of all video surveillance of public places not later than 30 days prior to the commencement of processing. As a transitional provision, already existing surveillance systems were required to have registered with the Inspectorate by 31. December 2001. These registrations are, furthermore, a matter of public record. Thus, in theory, the Inspectorate should have been able to provide us with a complete overview of video surveillance installations as of 1 January 2002.

However, several words of caution must be applied regarding this public record. The notification requirement is part of the new set of rules that was introduced only in the past year. Even if the information department of the Data Inspectorate has done a terrific job, it is likely that the number of installations not yet registered is huge. Both the efforts of the information department and the assumption about a huge number of surveillance systems still outside the public record have been confirmed in interviews with representatives of the Inspectorate.

In addition it is very important to note the precise nature of the information collected in the systematic record. It is not the number of cameras, nor even the number of surveillance systems that is registered. Let’s have a closer look at one concrete example,

⁵² Personal data Act, section 42 *Organisation and functions of the Data Inspectorate*

the video surveillance of customers and/or employees in a supermarket, to explain what it means that data processors are obliged to send notification for each data processing. Each notification shall provide information regarding to the controller/processor, the person with the day-to-day responsibility for fulfilling the obligations of the controller (name and address), the starting date and the purpose of the processing, an overview of the categories of personal data that are to be processed, the sources of the personal data, the legal basis for collecting the data, the persons to whom the personal data will be disclosed (including recipients in other countries), and the security measures relating to the processing.⁵³ That means that a supermarket surveillance system directed at customers *and* employees fulfils two purposes and requires therefore two separate notifications. The definition of "data controller" also affects the number of notifications. A data controller is the "legal person" (individual or organisation) responsible for the video surveillance in question. Suppose *one* such legal person is responsible for video surveillance at a number of different places, but each with the same purpose. As long as it is the same data controller and the installations have the same purpose, the law requires just one notification, regardless of how many mechanically separate systems or geographically separate places the video surveillance covers. The obligation to give notification to the Inspectorate applies to data processing underdone by one legal entity. Thus the number of notifications depends on the internal structure of the enterprise itself. Returning to our supermarket example: Norway has a number of supermarket chains. In one chain (Rema) each shopkeeper is a shop-owner. Thus each shop where video surveillance is installed must have its own notification to the public record. Another chain (Rimi), while virtually indistinguishable from a customer point of view, has a franchise structure. Each shopkeeper is a manager, hired by the regional branch of the chain. For the many hundreds of Rimi markets, only a handful of notifications are required – one for each regional branch of the firm. Thus the public record will not give us an accurate overview of the numbers and distribution of cameras, or even of multi-camera systems installed around the country. Although, with considerable extra work, one could create such an overview on the basis of the record. The Data Inspectorate does have plans to do so.

Not only the size of the systems, but also their technological features and management are difficult to investigate. A simple system such as one camera and a black/white-monitor rarely watched will be registered only slightly differently from a sophisticated system with perhaps hundreds of cameras covering large areas. On the notification form the data processors can choose between "TV surveillance" and "image recording." The Data Inspectorate confirmed that intend the first term to stand for CCTV without, the second for CCTV with recording. Apparently this is not obvious to those sending in notification forms, so that a large proportion have crossed off both "TV surveillance" *and*

⁵³ See Personal Data Act, section 32 about *Content of the notification*

“image recording.” It seems that a considerable number of enterprises have misunderstood the form on this point⁵⁴. Finally, the contents presented in the public record differ somewhat from the original information given in the notification forms.⁵⁵

Keeping all these cautions in mind, what kind of information does the Data Inspectorate have about video surveillance in Norway as of the end of 2001? Having mentioned that the Law is new, it is not surprising that the routines and tools for searching and collating the record are not all in place. Thus, as of the end of 2001 the Inspectorate had no tools to carry out a statistical analysis of the registered notifications regarding video surveillance, or even for sorting them into a separate list. Therefore we had to check the notifications manually to identify those which were relevant for our survey. Doing this we analysed the first 1700 of about 2400 notification that had been registered in the Inspectorate’s public record as of 31.12.01 and found 410 notifications (24,12%) dealing with CCTV.

Tables 3.1 and 3.2 give an idea about registered, and thereby legal video surveillance in Norway. The greater proportion of video surveillance is carried out by private enterprises within the *Industry and commerce* sector (62,9%). Having said this, it doesn’t come as a surprise that the cameras primarily target *Customer, client, users* (57,1%). According to the data, it seems that about two thirds of all systems directed towards randomly chosen persons (10,24%) are located in the *Industry and commerce* sector. In all likelihood these target randomly chosen customers and clients. The percentage of systems registering customers and so on might therefore be closer to 65% rather than 57%. Compared with this, the amount of surveillance among staff members seems small (9,3%).

⁵⁴ We believe that a lot of notifications regarding image recording refer to still photography. Certainly within the sectors *Health, social affairs, child welfare authorities and social security/national insurance* and *Education, research and culture* those notifications constitute the vast majority of cases (71% and 81,7% respectively). Another indication is that 95% of all video surveillance of patients is carried out with image recording. That means that a number of cases in this overview that might be counted as video surveillance actually deal with something different. The supervision activity of the Inspectorate will hopefully provide answers to such questions.

⁵⁵ Johansen et al. 2001, p 284-285. See also Personal Data Act, section 18 and 23 about *Right of access and Exceptions to the right to information*

Table 3.1: Who is targeted, where, by whom and how? Data from the public record of data processing, including video surveillance, in Norway⁵⁶

Data Controller/Enterprise	Number of notifications	percentage of CCTV notifications	percentage of all notifications
Industry and commerce	258	62.93	15.18
Transport and communication	22	5.37	1.29
Finance, insurance and accounting	14	3.41	0.82
Working life/employment	2	0.49	0.12
Organisations	11	2.68	0.65
Health, social affairs, child welfare authorities and social security/national insurance	31	7.56	1.82
Justice	9	2.20	0.53
Planning	1	0.24	0.06
Churches and faith communities	2	0.49	0.12
Defence	0	0.00	0.00
Education, research and culture	60	14.63	3.53
<i>Sum</i>	<i>410</i>	<i>100.00</i>	<i>24.12</i>
Registered object/person			
Employees/staff	38	9.27	2.24
Access control	29	7.07	1.71
Pupils, student, kindergarten children	29	7.07	1.71
Members	3	0.73	0.18
Patients	21	5.12	1.24
Customer, client, users	234	57.07	13.76
Random sample	42	10.24	2.47
Selective sample	14	3.41	0.82
<i>Sum</i>	<i>410</i>	<i>100.00</i>	<i>24.12</i>
Method/Equipment			
TV surveillance (Observation)	132	32.20	7.76
Image Recording	115	28.05	6.76
Observation and recording	163	39.76	9.59
<i>Sum</i>	<i>410</i>	<i>100.00</i>	<i>24.12</i>

The geographical distribution of video surveillance gives a clear indication that most of surveillance is undertaken in cities, mainly the capital. While Oslo stands for about 10% of the country's population, about one third of all video surveillance is carried out there.

⁵⁶ Source: Sample from the public record of data processing, including all video surveillance in Norway, see www.datatilsynet.no

A similar tendency can be identified in other Norwegian regions with larger cities, e.g. Rogaland (Stavanger) and Sør-Trøndelag (Trondheim).

Interviews with consultants in the Data Inspectorate in Oslo confirmed that it might take some years before the public record gives realistic figures about the distribution and covering of video surveillance in Norway. On the background of the former remarks, the results below give just an idea about what the database of the Inspectorate might be used for in the future. The Inspectorate itself will be able to get more detailed information e.g. about the number of systems and cameras on the basis of inspection visits and incoming notifications that shape this record. Within our project we will try to follow up the development of the public record as well as the Inspectorate's possibilities to analyse the data, so that we might use the record in the next work package as a starting point for describing the locations of CCTV in the Norwegian capital.⁵⁷

⁵⁷ The public record of the Data Inspectorate listed about 410 among the first 1700 notifications. Given the same percentage (about 25%), one can suppose that there are about 600 notifications of enterprises using CCTV systems within the 2400 notifications that have been registered as of 31.12.2001. We had contact with representatives of the safety industry in both countries, and we found a few newspaper articles mentioning figures, for instance about the number of cameras/systems installed in Oslo. When contacting those journalists they had difficulties giving more precise information or sources. In general it was very difficult to get concrete figures about the market. We plan to work with this issue within the next work package, for instance by contacting the different trade organisations and by using the updated public record from the Data Inspectorate as a starting point both for an estimation of the number and the location of the systems/cameras.

Table 3.2: Geographical distribution of video surveillance systems in Norway⁵⁸

Region	Notifications (absolute)	Percentage of CCTV	Population (absolute)	Percentage of population
Oslo	126	30.73	507,467	11.33
Akershus	38	9.27	467,052	10.43
Østfold	16	3.90	248,217	5.54
Hedmark	10	2.44	187,103	4.18
Oppland	10	2.44	182,701	4.08
Buskerud	12	2.93	236,811	5.29
Vestfold	12	2.93	212,775	4.75
Telemark	13	3.17	165,038	3.69
Aust-Agder	3	0.73	102,178	2.28
Vest-Agder	10	2.44	155,691	3.48
Rogaland	42	10.24	373,210	8.33
Hordaland	31	7.56	435,219	9.72
Sogn og Fjordane	6	1.46	107,589	2.40
Møre og Romsdal	10	2.44	243,158	5.43
Sør-Trøndelag	31	7.56	262,852	5.87
Nord-Trøndelag	7	1.71	127,108	2.84
Nordland	13	3.17	239,109	5.34
Troms	14	3.41	151,160	3.38
Finmark	6	1.46	74,059	1.65
Total	410	100.00	4,478,497	100.00

The Danish Data Protection Agency in Copenhagen (Datatilsynet) is the corresponding administrative body to the Norwegian Data Inspectorate in Oslo. As mentioned above it is the responsibility of this Agency to enforce the Personal Data Act in Denmark. The Agency supervises “all processing operations covered by this Act” and ensures that the conditions for registration, disclosure and storage of data on individuals are complied with.⁵⁹ As far as video surveillance is concerned, it was confirmed in our interviews that the Data Protection Agency “mainly deals with specific cases on the basis of inquiries from public authorities or private individuals”.⁶⁰ As our little survey showed, the Norwegian colleagues have over 400 enterprises with video surveillance registered in

⁵⁸ Source: Sample from the public record of data processing, including all video surveillance in Norway from www.datatilsynet.no and numbers of population pr 010100 from www.ssb.no/emner/02/aktuell_befolkning/200010/T-1.html

⁵⁹ See Personal Data Act, part 16 about *Data Protection Agency*

⁶⁰ EPIC 2001, p 137

their public record. While the Inspectorate in Oslo can choose between a number of potential inspection sites all over the country, the Danish Agency has a much more difficult starting point for following up their responsibilities. For instance, the Norwegian Inspectorate had an inspection of a private enterprise with CCTV on the same day when we had our first interview there. In contrast, the Danish Agency has never had any supervision in connection with video surveillance. Hardly anyone has contacted them, so "there are no cases." And with few exceptions, the Danish Agency has not yet taken up cases on its own initiative⁶¹.

Another indication is the answers we got to the opening questions we used in all interviews within this first work package. "How do I start with video surveillance in Norway or Denmark? What do I have to do before installing CCTV?" was in Norway frequently answered with, "Contact with the Data Inspectorate to check whether it is legal to carry out surveillance at the place in question." In Denmark, the Data Protection Agency was never mentioned. And while the Norwegian Inspectorate gets a huge number of telephone calls from the public, often employees, the Danish colleagues couldn't refer to one single event where they were asked about the legal framework concerning video surveillance.

What is the reason for these differences between the authorities enforcing the Personal Data Acts in the two Scandinavian countries. More specifically, why does the Danish Data Protection Agency have a less important role in connection with video surveillance than the Norwegian Data Inspectorate has. The consultants from the Data Protection Agency that we have been in contact with supposed that the missing inquiries from the public have to do with the predominant acceptance for the existing surveillance among the Danish population:

Theoretically we too have controls regarding video surveillance in certain situations, but we haven't had anyone contact us about that. So I think it's because people to a large extent accept that there's so much surveillance. That has to be it."⁶²

Similarly, their colleagues in Oslo supposed that the large number of inquiries expresses has to do with scepticism among the Norwegians:

There's no doubt that citizens, or most people, think that video surveillance feels invasive and offensive. The Data Inspectorate gets that impression from the many inquiries we get from the public. This is especially concerning workplaces, but also for public spaces where we have this debate about whether for instance the struggle against criminality demands that we give up some of our rights to privacy. There's no doubt that video surveillance

⁶¹ In response to an earlier draft of this paper, the Danish Data Protection Agency mentioned one such exception: an analysis of personal integrity issues raised by the Roads Department's surveillance of streets with the aim of improving traffic safety.

⁶² Interview with legal advisers in the Data Protection Agency, 03.12.01

violates individuals' privacy to a greater or lesser degree. That's why we've felt that we have to go in and regulate this area especially⁶³.

Our own impression is that the Danish Personal Data Act, and thereby also the administrative body enforcing it, is shadowed by the existence of the other Danish law, the Law on the ban against TV-surveillance. And it is against that background we turn to another very central actor regarding CCTV in Denmark, the Danish Crime Prevention Council (*Det Kriminalpræventive Råd*). The council was founded in 1971 and is one of a number of operational units in the Danish Police Service which provide assistance to the police districts. According to the organisational structure of the National Commissioner's Office the Council formally belongs to the A department of the Commissioner's Office.⁶⁴ It aims within the given framework to further crime prevention by carrying out security promoting initiatives, dissemination of information and so on. Within the field of (situational or objective) crime prevention the Council tries to reduce the risk that people or material values are exposed to criminal activities and thereby reduce objective and subjective insecurity among citizens.⁶⁵ When it comes to video surveillance, however, the Council has a broader understanding of the subject than simply as a tool for situational crime prevention. In its brochure *"TV-surveillance. Between prevention and violation. A debate brochure from the Crime Prevention Council on attitudes towards and experiences with TV-surveillance"* the Council outlines its views on video surveillance by giving five recommendations to the interested public⁶⁶:

- 1) Conduct surveillance of things and places – not persons. The use of video surveillance is recommended in cases where it has a crime preventing or crime detection effect and gives improved security.
- 2) Clear guidelines for use, storage, transfer of information to third parties, and deletion of information – already when equipment is installed.
- 3) Assess CCTV on the basis of four central aspects: the preventative effect, the crime detection effect, the safety aspect, and the violation aspect.
- 4) Differentiate between four fields of surveillance: businesses, workplaces, private spaces, and public spaces.
- 5) Maintain good sense, be reflective about access to the use of TV-surveillance.

⁶³ Interview with legal advisers in the Data Inspectorate, 26.10.01

⁶⁴ just as the Forensic Technical Department and Interpol Copenhagen do. See the information in English on the homepage of the National Commissioner of Police:
<http://www.politi.dk/Indholdpaaengelsk/oversigtUK.htm>

⁶⁵ See the Councils homepage <http://www.crimprev.dk>

⁶⁶ The Danish Crime Prevention Council 2001, pp 6-9

The Crime Prevention Council has been more proactive than the Data Protection Agency, but mainly in terms of initiatives towards debate, rather than engaging in registration and inspection as has the Norwegian Data Inspectorate.

A third actor in terms of regulating video surveillance could, at least in theory, be the Courts. In both countries there are laws regulating access to conducting video surveillance, and court cases could play a role in defining how those laws are to be interpreted. Interviews in Denmark claimed that there have been no cases about CCTV at Danish courts on the background of the Personal Data Act. We did not manage to get this confirmed by the Ministry of Justice, the ministry responsible for the general judicial system, including among others the police and the prosecution service, the courts of law and the data protection law.⁶⁷ However, in our media analysis we came across one Danish article actually mentioning a case about illegal video surveillance at a workplace. In this article the Danish National Police are quoted as stating that there have not been other decisions from Danish courts in connection with the Law about the ban against TV-surveillance⁶⁸.

In contrast to the situation in Denmark, case law has an important function within the Norwegian legal framework when it comes to the protection of personality, including the area of video surveillance. In Norway there exists a general protection of personality by case law independent of statute law. It is mainly the Norwegian Supreme Court that constitutes by its decisions the normative underpinnings of the written law. "Privacy is protected in Norway not only by specific constitutional and statutory legislation but also by non-statutory means derived from decisions in specific reported cases... There are only a handful of decisions in which this non-statutory protection of personality has been applied. Nevertheless, it is clear from these decisions that a major dimension of such protection is the safeguarding of a person's interest in privacy."⁶⁹ The important function of Norwegian case law in connection with questions of data protection including video surveillance was confirmed in our interviews, but in the media analysis we found only one article about the lawfulness and use of surreptitious video recordings as evidence in court.⁷⁰

It is difficult to explain the above-mentioned differences within the regulation of video surveillance in the two countries. Why is the Danish Crime Prevention Council so actively

⁶⁷ See homepage of the Danish Ministry of Justice (www.jm.dk/wimpdoc.asp?page=dept&objno=59213)

⁶⁸ See Danish newspaper article *Kasino-ansatte oprørte over skult overvåking* [Casino employees enraged about hidden surveillance], *Vejle Amts Folkeblad* 08.02.01.

⁶⁹ Bygrave 2001, p. 333

⁷⁰ Interview with Professor of Law, Faculty of law, University of Oslo, 06.11.01; See also Jon Bing (forthcoming): *Det ulovfestede personvern relatert til en kommunikasjonsmodell* [Non-statutory law on privacy in relation to a communication model], and newspaper article *Høyesterett om bruk av skjult kamera overfor ansatte. Hemmelig videooptak ikke bevis* [Supreme Court on use of hidden cameras against employees. Secret video tapes not evidence], *Aftenposten* 12.06.01.

engaged in the topic of video surveillance regarding both crime prevention and data protection? Why are their Norwegian colleagues not noticeably involved in the discussion of video surveillance within situational crime prevention?⁷¹ Why is the opposite the case for the Norwegian Data Inspectorate and the Danish Data Protection Agency respectively? Is this a consequence of the structures of the respective national laws? Is it a consequence of cultural differences? Or is it merely due to chance, to certain individuals having been in certain positions and taken certain initiatives at turning points in the history of video surveillance? We can only raise these possibilities as hypotheses. We cannot choose among them on the basis of our data. Rather, we can see some confirmation for each of them there. For instance, a Danish politician writes in a union White Paper about video surveillance that *"It's exciting to get an overview. But the most decisive factor is that we use our democracy and ongoing debate about this issue."*⁷² In other words, debate is preferable to registration. Or, confirming the prominence of individuals, a Norwegian newspaper article decrying the cultural effects of reality-TV, calls out for the well-known head of the Data Inspectorate to intervene: *"Where is Georg Apenes when we need him?"*⁷³ Here we see that the Data Inspectorate's role and its chief as a nationally renowned politician can be used even as a figure of speech in cultural discourses.

Descriptively, however, our data are clear: In Norway, the Data Inspectorate is the major actor for video surveillance regulation. Their activities in this field are concentrated on registration, inspection, and interactions with policy-makers. In Denmark, it is the Crime Prevention Council that is the major actor, dealing with video surveillance not only as a crime prevention tool but also as a potential violation of privacy rights. The Council has actively taken up the discussion CCTV and data protection. They have published a brochure, organised conferences and a public opinion poll about CCTV. Thus their activities have focused on initiatives towards public debate. This brings us logically to the next chapter, where we present the public discourses within the two countries.

⁷¹ Norway too has a Crime Prevention Council, but they have no involvement with video surveillance. See www.krad.dep.no/

⁷² NK/Handel 2001, p. 40

⁷³ *Aftenposten* evening edition 22.02.01.

4 Public Discourses

Public discourse constitutes another “wall” of the framework surrounding video surveillance practices. As with the legal framework, public discourse can form a (porous) barrier to some forms of practice and an inviting doorway to others. So far we have studied three indicators of public discourses in Norway and Denmark. We have come across a few published opinion polls. We have studied reports from two Danish consensus conferences on video surveillance, which we will discuss below as “discourse initiatives” along with publications on the subject by Scandinavian academics. And we have gathered newspaper articles on video surveillance from four Danish and four Norwegian newspapers from a 12-month period.

4.1 Opinion Polls

In our review of the newspaper articles, we stumbled across mentions of several opinion polls. One conducted in 1998 by Norwegian Gallup for a TV channel is reported in *Dagbladet*⁷⁴ as having found that “more than half the population want the police to conduct video surveillance of public places.” According to *Dagbladet*, the Gallup poll shows that “66% of the respondents are in favour of allowing the police to conduct video surveillance, 25% are opposed, while 9% are unsure.” We have requested a copy of the study from Norwegian Gallup, but have not yet had a response. The other study was conducted in 1997 by Statistics Norway. From within a representative sample of 2600 persons, the following results are based on the attitudes of the approx. 1500 respondents towards video surveillance at a number of specific locations: railway station, post office, backseat in a taxi, garage in a building society complex. In general 68% of respondents claimed to feel “very little discomfort” about being in a video surveillance area, a further 26% claimed “fairly little discomfort”, and only six percent claimed that they found it “very uncomfortable” (one percent) or “somewhat uncomfortable” (five percent). In fact, in spite of signs posted at all entrances, most were not aware that they were under video surveillance.

In September 1999 a poll was conducted in Denmark by the Crime Prevention Council [Det Kriminalpræventive Råd] and Danish Gallup. The poll included both qualitative interviews and a telephone survey questionnaire with 514 randomly selected respondents. The questionnaire results indicate that an overwhelming majority are positive to video surveillance of public spaces where one is already “publicly visible” and where surveillance is experienced as making one feel more secure. This included banks (93% positive), petrol stations (90% positive), railway stations (88% positive) and shops (78% positive). Whether the surveillance cameras were monitored automatically or by

⁷⁴ *Dagbladet* 24.06.98

people made little difference. Attitudes reversed to negative for places seen as private, e.g. changing rooms (81% negative), at work (66% negative), public toilets (also 66% negative), at home or on the road or in the apartment building stairwell (61% negative). In such spaces, respondents also did not seem to feel that video surveillance would make them safer. Responses did not vary significantly according to age, sex, education, income level, or place of residence. However responses did vary according to what concept was used in the question. "Electronic surveillance" elicited more negative responses than "TV-surveillance", the former being associated more often with invasiveness and the latter with protectiveness. Some caution is also expressed in that 68% wanted the use of electronic and/or video surveillance to be regulated by public authorities. The responses here varied with whether the respondent identified him-/herself with "the watched" or "the watchers." Those who felt themselves to be among "the watched" saw regulation as a safeguard of their juridical rights, whereas those who saw themselves as "watchers" viewed regulations as a limitation on their business flexibility.

The qualitative interviews explain some of the thinking underlying these opinions. The broad acceptance of video surveillance is often somewhat grudging. It is seen as a necessary ... well, evil would be an overstatement, but burden. It is not in itself desirable, but an inescapable consequence of a negative trend in society – namely increased criminality. Nevertheless, it is not something Danes say they worry about on a daily basis. Most say they don't even notice when signs are posted and few could name places where they knew video surveillance to be in place. Respondents also pointed to the many cases of sexual abuse of children as a background for accepting video surveillance in day care centres.

These are not simultaneous parallel studies from the two countries. Furthermore, we have not yet read one of the Norwegian ones in any detail. Nevertheless, the results appear so similar, and so massively accepting of CCTV, that we do not think it likely that they will reveal a restrictive/permissive dimension differentiating the two countries.

4.2 Discourse Initiatives

As described above, one major actor regarding CCTV in Denmark, the Crime Prevention Council, has focused their activities on initiatives towards debate. Already the title of their CCTV brochure – *"TV-surveillance. Between prevention and violation. A debate brochure (...)* – points to the possibilities as well as the dangers and limits of this technology and is explicitly aimed at triggering debate. The Crime Prevention Council is an active participant in debate and discourses on video surveillance in Denmark, with contacts both towards the commercial CCTV market and the political system⁷⁵. September 1998 the Council organised an internal conference with title the "Surveillance

⁷⁵ Interview in the Crime Prevention Council, 05.12.01

society". The background for this conference was the perceived imbalance between restrictive legislation and the real world with its increasing number of video surveillance cameras and increasing number offences against that legislation. The law in question here was the first version of the Law on the ban against TV-surveillance. The number of violations was seen as an indication that the law was "entirely out of step with the times."⁷⁶ One of the conclusions of this conference was that one had to set clear limits in order to preserve human freedom. The Crime Prevention Council set about to participate in a debate process by emphasising four aspects – preventative effect, crime detection effect, safety aspect, and (privacy) violation aspect – which they published as cautionary recommendations within their brochure.⁷⁷

We need to hold on to human contact as the most important safety factor, but we have to accept that such contact is becoming less frequent. Therefore human contact may need to be supplemented by the use of information technologies. However, we need to set bounds for the implementation of such equipment. The four aspects: prevention, crime detection, security, and violation can serve as guides in the discussion.⁷⁸

The council's internal conference was actually the first of a number of other conferences in Denmark. There have been conferences focusing on specific aspects of video surveillance (e.g. surveillance of employees at workplaces⁷⁹) as well as those discussing video surveillance in the wider context of electronic surveillance. In the following we will take a closer look at two events in recent years, and by doing this we present another major actor in the discourse of CCTV in Denmark, The Technology Council.

The Technology Council is an independent body established by the Danish Parliament (*Folketing*) in 1995 in order to develop and disseminate knowledge about technology, its possibilities, and its effects on people, on society and on the environment. The Board is mandated to promote ongoing discussions about technology, to evaluate technology, and to advise the Parliament and other governmental bodies in matters pertaining to technology. To fulfil its tasks the Technology Council emphasises on a wide variety of methods, including perspective workshops, future search conferences, policy exercises/role playing, interdisciplinary work groups, hearings for parliament, and consensus conferences. In the context of electronic surveillance it is the later two, one consensus conference and one hearing for parliament, that have been used so far.

⁷⁶ See The Danish Crime Prevention Council 1999, p 2

⁷⁷ See The Danish Crime Prevention Council 2001, pp 6-9

⁷⁸ See The Danish Crime Prevention Council 1999, p 14

⁷⁹ The labour union HK Handel (www.hkhandel.dk) organised a conference titled "Overvågning. Frygt, tryghed eller blåøjet naivitet" [Surveillance. Fear, safety, or blue-eyed naivety] in June 2001, see NK/Handel (2001). There is also a Danish thesis about video surveillance focusing on video surveillance at work places (Rode 2000) and the topic was mentioned as a hot issue in our interviews in Denmark.

Before describing the background and results of the *Consensus Conference on Electronic Surveillance in November 2000*⁸⁰ and the Open Hearing for the Parliament about Surveillance in November 2001⁸¹, let's take a brief look at the methodology used, thus, indirectly describing important aspects of the public discourse of video surveillance in Denmark.

In general, consensus conferences make it possible to include the public and their experiences in the technology assessment. By giving ordinary people the opportunity to make up their minds about possibilities and consequences of a certain technological development, these conferences bridge the gap between the public, experts and politicians. The topics of consensus conferences are characterised by a current social relevance and unsettled attitudinal issues. The consensus conference is open to the public and conducted as a dialogue between experts and lay people. Experts offer testimony and answer questions and challenges from the lay panel. The lay panel then seeks to reach consensus on a number of policy questions. The final document of the lay panel together with the written contributions of the experts is presented at a press conference and passed on to the members of Parliament.⁸²

The other method that was used by The Technology Council, a Hearing for Parliament, characterises the Boards close co-operation with the Danish Parliament. Here it is politicians who initiate the process and constitute its very focus. The starting point for a hearing is an application from one or more parliamentary committees, often based on a current technological debate, which requires a political clarification. While the Board's duty is to identify the various aspects of the problem, both politically and publicly, the politicians themselves choose the experts and it is they who interrogate those experts during the hearing. Finally, the hearing is documented in a report which is sent to the members of all relevant parliamentary committees for use within the further political treatment of the topic.

But what are the results of the mentioned conference and the Hearing for the Parliament? The consensus conference about electronic surveillance of November 2000 discusses electronic surveillance as a complex issue consisting of many different aspects such as video-surveillance of public spaces, surveillance of workplaces, registration of Email and Internet usage, and so forth. The rapid expansion of electronic surveillance generates an increasing need for an overall evaluation of the possibilities and consequences of surveillance technologies for the individual citizen and for society as a

⁸⁰ The Technology Council (Teknologirådet) (2000), report 2000/9. See also (www.tekno.dk/subpage.php3?article=354&language=dk&category=7&toppic=kategori7)

⁸¹ The Technology Council (Teknologirådet) (2001), report 2001/8 (www.tekno.dk)

⁸² Several countries organise consensus conferences, not always in precisely this form. Danish consensus conferences emphasise lay perspectives far more than many other countries'. See Sætnan 1995 and *European Newsletter on Quality Assurance*, Vol 2, No. 2, 1985

whole. The conference addressed such questions as: What problems can surveillance technologies solve and what are the causes of those problems? How far are we as a society prepared to go in the use of surveillance technologies? What developments can we expect in the future and where will they lead us?

Given that central questions could not be answered by experts or politicians alone, the Technology Council asked the advice of a lay panel. When do citizens experience electronic surveillance as improving their sense of security, and when does it violate personal boundaries creating insecurity instead? To answer those questions the panel divided this broad topic into six "working themes". These were human (personal) consequences of electronic surveillance, consequences for society, future developments, civil rights regarding electronic surveillance, registration and use of personal data, and surveillance of workplaces.

The final report of the conference gives a detailed description of the panel's work and their findings/conclusions. The panel started by identifying central questions and concluded with a number of specific recommendations on the background of a more or less extensive evaluation of the several themes. Within our report we can only give a brief summary of the recommendations regarding the use and regulation of different forms of electronic surveillance, thereby describing the frame of the wider public discourse of video surveillance in Denmark. We quote from the conference conclusions (our translation):

1) Human (personal) consequences of electronic surveillance⁸³

- Initiatives should be taken for a debate that will generate consciousness regarding the fact that video surveillance in itself does not guarantee security and that surveillance cannot replace social control.
- We recommend that research be conducted to shed light on the psychological effects of electronic surveillance, especially for children's identity development.

2) Consequences of surveillance for society⁸⁴

- It is important to maintain an ongoing ethics debate as to what sort of society we wish to have. This debate should in particular focus on society's basic value system. The values debate can serve as a guide to guard against developments where the boundaries for what surveillance we are prepared to accept are incrementally and invisibly moved.
- We recommend that in all areas of society care and education be prioritised ahead of control and surveillance.

⁸³ The Technology Council (Teknologirådet) 2000, p. 10

⁸⁴ Ibid, p.13

- We recommend better information to citizens.
- 3) Legal controls and civil rights regarding registration and use of personal data as well as electronic surveillance.⁸⁵
- The Personal Data Act and other laws regarding surveillance should be regularly updated.
 - Regarding the concept of “rational need” (*saglighed*) in connection with the Personal Data Act, it is important to maintain transparency and debate about the Data Protection Agencies rulings as to what needs are rational.
 - We recommend that firms and authorities operating under the responsibility of the Personal Data Act be kept better informed as to the contents of the law.
 - The installation of surveillance equipment can result in the violation of individuals’ rights to privacy. One must assess whether the benefits gained from the installation outweigh the violations towards individuals. We call for more debate in this area.

Note again, throughout these excerpts, the emphasis on discourse – not only as a means of reaching decisions, but also as among the decisions reached.⁸⁶

Discourse was also an important aspect in the discussion of surveillance within the other method used by the Technology Council, the Open Parliamentary Hearing of October 2001. Similar to the working methods used in the consensus conference the broad topic of (electronic) surveillance was divided into and analysed within a number of different areas. Thus, the program of the Hearing contained five different sections: After a general discussion of the term and phenomenon of surveillance, the hearing focused on the specific aspects of crime prevention/detection, surveillance in connection with the intelligence service, and workplace surveillance. Finally the practical consequences for the Parliament, i.e. the challenges regarding the regulation of surveillance were discussed. And here the dilemma of the legislator became quite obvious. In this context it is very interesting to remember the remarks of the Danish politician cited above about the (im-)possibility of regulating the area of (video) surveillance. On the one hand, the rapid technological development creates a need for extremely close follow-up of the legislation and in terms of legal protection. For instance, the need to update the provisions within Personal Data Act was explicitly mentioned in the hearing. On the other hand, the very

⁸⁵ Ibid, p.16

⁸⁶ A later interview further confirmed this impression, calling discourse towards consensus among parties “the Danish model”: This is the overall picture of how we like to solve problems here in Denmark. We call it the Danish model.(...) [In the final report from the hearing] it says about video surveillance at the workplace that the parties [i.e. unions and management] should come to an agreement. They should work out how to handle things, because that’s the best model. If they don’t work things out, then there should be legal regulations. This “if not” and the call for legal regulations, it will come because there have been conflicts. But the basic idea is that if they reach agreement, then all parties will be satisfied. (Interview with representative from the Technology Council, 13.03.02)

speed of the technological developments sets practical limits for any regulation by law. As one of the hearing participants pointed out:

The technology is speeding ahead so fast that laws are obsolete by the time they are implemented, so one has to find an interaction between basic standards in the law and something more on the level of contractual agreements.⁸⁷ (...)There is a need for quality in the formation of the law and to avoid fast solutions. Any legal initiatives should also be taken on the basis of a broad public debate. And the laws one eventually arrives at should be widely accepted by those towards whom they are directed. If not, then they become meaningless.⁸⁸

Another participant seconds the opinion that the development of new laws needs to be taken slowly in order to insure quality. He is paraphrased in the report as having recommended slowing down the tempo a bit and bringing in experts to get an overview that seemed lacking among lawmakers.⁸⁹

With so much emphasis on debate, we were somewhat surprised that our snowball technique failed to turn up any NGOs involved in the issue. Later on, in the media materials, we came across one NGO in the Danish context, namely the Copenhagen-based organisation Digital Rights⁹⁰. Founded in April 2000 this non-profit civil organisation tries to raise awareness of rights in the digital world. Digital Rights is engaged in a wide range of topics from workplace surveillance to the increased law enforcement surveillance capabilities due to the legislation combating terror newly proposed by the Danish government. Within our media analysis we found one article that described Digital Rights as an active participant in the debate about surveillance of the employees use of Internet and email at workplaces⁹¹, but there is no indication that this NGO is primarily concerned with video surveillance and none of our interview contacts mentioned the organisation.

Within our interviews in Norway the absence of resistance groups was even more striking. The only NGO mentioned was the Norwegian Association for Criminal Reform⁹². This organisation has on different occasions engaged in the field of surveillance issues, but it is mainly concerned about the development of appropriate policies on prisons and the use of imprisonment. However, the organisation that appeared to us not only as most present in the debate about video surveillance in Norway, but also as quite critical towards the increasing use of video surveillance was actually the Norwegian Data Inspectorate.

⁸⁷ Technology Council 2001, p 17

⁸⁸ Ibid, p 18

⁸⁹ Ibid

⁹⁰ www.digitalrights.dk

⁹¹ See Jyllands-Posten 20.12.00

⁹² Interview with Professor of Law, University of Oslo, 29.10.01; see the NGO's Norwegian homepage at www.krom.no

So far we have again seen that authorities in the forefront of the Danish legal framework regarding video surveillance have emphasised discourse initiatives, whereas the emphasis in Norway has been on registration and regulation. It is difficult to classify these differences along a restrictive/permissive dimension, nor did that dimension appear in the few public opinion polls we found. But what about the mass media?

4.3 Mass Media Discourse Overview

We have used newspaper articles as an indicator for mass media discourses. Newspapers are a convenient choice amongst various mass media types, since they often have electronically searchable archives allowing us to reconstruct a fairly accurate picture of how they have dealt with a given topic over time. They are an even more apt choice in the case of Norway. Norway is perhaps the most newspaper-reading country in the world. The Norwegian Newspaper Publishers' Association (NAL) offers statistics showing that Norwegians purchase a total of 588 daily newspapers per 1000 inhabitants⁹³. A typical household reads a national, regional, and local newspaper on a daily basis, in addition to political, religious or other organisationally affiliated papers issued less frequently. In comparison, the NAL statistics show that Austria has a daily circulation figure of 402 newspapers per 1000 inhabitants, Great Britain 317, Germany 303, Denmark 300, and Hungary 167 – just to mention the countries in our project listed in the NAL statistics.

At this point in the project, the mass media overview consists of newspaper articles gathered from a 12-month period. Our underlying understanding is that mass media publications enter into an iterative process, both reflecting and (re-)shaping public opinion and experience. This speaks for a diachronical analysis over a longer period of time. Preferably we would have had resources to follow media discourses on video surveillance for at least as many years as it has been a media topic. Unfortunately, that was not possible. One of the newspapers studied (*Aftenposten*) has an electronically searchable archive going back to 1984, when it already contained 32 articles about or mentioning CCTV. The other newspapers' electronic archives are more recent. We plan at a later date to look for changes through time in *Aftenposten's* presentations regarding video surveillance. But for now we will analyse one year's presentations from several newspapers, regarding them as a "snapshot" of a long-term process. Some of the dynamics of this process may be visible within the snapshot, e.g. triggering effects of specific events. Others, such as long-term shifts in cultural trends, are not likely to appear. Primarily we will be looking at the short-term state of an on-going discourse.

⁹³ Norske Avisers Landsforening: "Fakta om norsk dagspresse 2000/2001" [facts about Norwegian daily press], brochure.

As agreed amongst the project participants, we selected four newspapers for each of the countries assigned to us. Each newspaper had to have an electronically searchable archive to which we had access. Among those available, we sought to have one serious national newspaper, one local, capital city paper, one boulevard (tabloid or “yellow press”) paper, and one regional paper. For Norway we were able to fill all these criteria. Norway’s largest serious national newspaper, both in terms of page number and circulation, is the conservative paper *Aftenposten*. We have taken *Aftenposten* morning edition to represent the serious national newspaper. *Aftenposten* evening edition is its local, capital city edition. *Bergens Tidende* is a regional newspaper for Western Norway, based in Norway’s second-largest city. Of Norway’s two main boulevard papers, *Dagbladet*’s electronic archives were available to us. Its competitor, *VG*, has a larger circulation and is more typically “yellow” in style. *Dagbladet* has a history as a serious, liberal, national newspaper and is still highly respected for its cultural and political commentary, although it has changed format and taken on a “yellow” approach to the news in competition with *VG*. For Denmark we could not find search access to a local capital city newspaper. Instead we chose to include two serious national newspapers: the nation’s largest newspaper, *Jyllands-Posten*, and *Politiken*. The two also represent some political breadth, with *Jyllands-Posten* editorially conservative and *Politiken* the mainstream newspaper of choice for the political left, also for many in Norway. *Vejle Amts Folkeblad* is a regional paper, and *Ekstra Bladet* a national boulevard paper.⁹⁴

We were able to experiment at some length with the Norwegian archive system and found that the search terms *videoverv**, *tv-overv**, *kamera-overv**, *fjernsynsoverv.** [video surv*, tv-surv*, camera-surv*, televisionsurv* -- all allowing for spelling variations] turned up pretty much all the relevant articles. Although some other variations on these terms occur in the articles found, applying those variations as search terms did not add new articles to the search results. In Denmark we only had a few days’ access to the archive. A quick test indicated that the same search terms as in Norway, with minor spelling changes to Danish, seemed equally effective. All in all we found 179 articles in the four Danish newspapers and 114 in the Norwegian ones, in both cases covering the period 01.11.00 through 30.10.01.

⁹⁴ *Aftenposten* has a total circulation of about 451 thousand copies (276 429 morning edition, 175 783 evening edition), *Dagbladet* 192 555 and *VG* 375 983 – all according to the Norwegian Newspaper Publishers’s Association (NAL) (<http://www.nal.no/nalstart.htm>). The Danish Newspaper Publishers’ Association reports circulation figures for our Danish examples as 179 962 for *Jyllands-Posten* (morning edition), 142 852 for *Politiken*, 126 573 for *Ekstra Bladet* and 22 108 for *Vejle Amts Folkeblad* (<http://www.pressenshus.dk/usr/pressenshus/ddfnet.nsf/WD/4224187C809BB6404125692A003E54C6>).

Table 4.1: Articles' dominant voice re CCTV surveillance by country of origin

	Norway	Denmark	Total
pro	53 46.9%	25 14.2%	78 27.0%
neutral	41 36.3%	120 68.2%	161 55.7%
contra	19 16.8%	31 17.6%	50 17.3%
Total	113 100%	176 100%	289 100%

System missing for voice: 4

Sign. of $\chi^2 < .0005$

Our study of the legal frameworks in the two countries did not confirm a clear restrictive/permissive dimension differentiating between them. Our analysis of the newspaper articles, however, does lend credibility to the hypothesis of a restrictive/permissive dimension and to the hypothesis that this may be due to cultural differences in the valuation of safety versus privacy or in perceptions of different places as public or private in character. Comparing the dominant voice of the two countries' articles, i.e. whether the overall tendency of each article takes a pro-, neutral- or contra-stand on the installation of video surveillance, we find that the Norwegian articles far more often favour video surveillance than do the Danish (see table 4.1).

This could be due to happenstance. It could be a result of the views of a small handful of journalists and editors. That does not seem likely, however, since the result is consistent across all the newspapers even though they represent different political leanings and journalistic styles (see table 4.2). At the same time, table 4.2 indicates that journalistic style may have an effect in both countries. It seems that the "yellow press" is less concerned with CCTV issues than the national and local serious press (as evidenced by fewer articles), and also somewhat more sceptical towards CCTV. In Norway, the latter effect leads to a smaller proportion of pro-CCTV articles and more neutral ones. In Denmark, the effect is relative to a more sceptical attitude overall and thus leads to a larger proportion of contra-CCTV articles. However, there are too few articles from the "yellow" papers to test this apparent effect for statistical significance.

Table 4.2:
Articles' dominant voice re CCTV surveillance by country of origin and type of newspaper

		national	regional	local	tabloid	Total
Norway	pro	20	14	14	5	53
Sign. of $\chi^2 = .159$						
Norway		55.6%	43.8%	51.9%	27.8%	46.9%
	neutral	12	12	6	11	41
		33.3%	37.5%	22.2%	61.1%	36.3%
	contra	4	6	7	2	19
		11.1%	18.8%	25.9%	11.1%	16.8%
		36	32	27	18	113
Sign. of $\chi^2 = .161$						
Denmark	pro	14	9		2	25
		11.8%	23.1%		11.1%	14.2%
	neutral	85	25		10	120
		71.4%	64.1%		55.6%	68.2%
	contra	20	5		6	31
		16.8%	12.8%		33.3%	17.6%
		119	39		18	176
Sign. of $\chi^2 = .161$						

The national differences are also consistent across the types of articles we coded for in this study – opinion pieces (editorials, commentary columns, letters to the editor) and information (news reporting) articles. And the national differences remain also when we differentiate between articles where CCTV is the main topic and articles where it is merely mentioned (see table 4.3). At the same time, we see that opinion pieces are less frequent than news items about CCTV or where CCTV is mentioned, and that they are less often neutral, more often negative to CCTV than news pieces in both countries. We also see that articles where CCTV is the main topic are more likely to state an explicit opinion about CCTV than articles where CCTV is merely mentioned.

We have approached the media with the assumption that they both reflect and help create public opinion. Suppose our snapshot shows a reflection of differences in public opinion in Norway and Denmark regarding CCTV, i.e. that the media are not running far ahead of public opinion on this issue at this time. And suppose those differences relate to cultural differences regarding, say, the value of safety versus privacy or the spaces where one might be valued above the other. Then we might also expect to see differences in the issues raised in the media in connection with CCTV. We might expect different issues to be associated with pro- or contra-positions on CCTV in one country than in the other.

We might expect different types of places to be associated with pro- or contra-positions on CCTV in the one country than in the other.

Table 4.3:
Articles' dominant voice re CCTV surveillance by country of origin and type of article or role of CCTV as topic of article

		Informing/ reporting	opinion	CCTV as main topic	CCTV mentioned	Total
Norway	pro	47	6	25	28	53
		50.5%	30.0%	45.5%	48.3%	46.9%
	neutral	39	2	14	27	41
		41.9%	10.0%	25.5%	46.6%	36.3%
	contra	7	12	16	3	19
	7.5%	60.0%	29.1%	5.2%	16.8%	
	Total	93	20	55	58	113
		Sign. of $\chi^2 < .0005$			Sign. of $\chi^2 = .001$	
Denmark	pro	23	2	16	9	25
		14.8%	9.5%	30.8%	7.3%	14.2%
	neutral	112	8	18	102	120
		72.3%	38.1%	34.6%	82.3%	68.2%
	contra	20	11	18	13	31
	12.9%	52.4%	34.6%	10.5%	17.6%	
	Total	155	21	52	124	176
		Sign. of $\chi^2 < .0005$			Sign. of $\chi^2 < .0005$	

In both countries we find that ethics and cultural issues are raised more rarely than safety issues in connection with CCTV. This is especially true of the Norway material. We also find that articles taking a negative standpoint on CCTV are more likely to have raised ethical and/or cultural issues (see table 4.4). This gives some support to the idea that Danish and Norwegian culture may have somewhat different value priorities. This may also reflect earlier iterations of the media discourse/public opinion interaction process. It may, for instance, be a result of Denmark having held two consensus conferences on video surveillance, which in turn may have sensitised journalists and the general public to these issues. The consensus conferences might also have triggered greater breadth in the issues raised in the Danish material as a whole than in the Norwegian. Other research has shown that consensus conferences can serve as an occasion for in-depth discussions in mass media (Sætnan 1995). However, only a few of the articles actually mention either consensus conference, and our research is not designed to test for effects of the consensus conferences in this instance. And then too, the results here may be merely an artefact of the coding process. Almost all articles mention public safety issues. Public

safety is, in itself, also an ethical issue. But it was easier to code an article as having raised ethical issues if it raised ethical issues other than those of public safety, which was more readily visible to us as readers when they were raised as arguments against CCTV. And the visibility of such arguments for us as readers may also have affected how we viewed the opinion tendency of the article as a whole. However, both of these are variables where we frequently double-checked the coding. Thus we doubt that the results are merely artefact.

Table 4.4:

Articles' dominant voice re CCTV surveillance by country of origin and issues raised

		public safety issues	ethics issues	urban develop- ment issues	cultural dimension	other themes	Total
Norway	pro	50	1		2		53
Norway		62.5%	5.6%		16.7%		46.9%
	neutral	26	7		5	3	41
		32.5%	38.9%		41.7%	100.0%	36.3%
	contra	4	10		5		19
		5.0%	55.6%		41.7%		16.8%
	Total	80	18		12	3	113
							Sign. of $\chi^2 < .0005$
Denmark	pro	22				3	25
		20.8%				13.0%	14.2%
	neutral	77	4	3	19	17	120
		72.6%	22.2%	100.0%	73.1%	73.9%	68.2%
	contra	7	14		7	3	31
		6.6%	77.8%		26.9%	13.0%	17.6%
	Total	106	18	3	26	23	176
							Sign. of $\chi^2 < .0005$

Another indicator that might clarify cultural differences between Norway and Denmark is the variable of places where CCTV is installed. It might be that Norwegian and Danish cultures have different spatial notions of places such as streets, shops, malls, or homes. Perhaps ideas of what is a public space and what is private and/or of what those qualities imply for the acceptability of surveillance vary between the two countries. However, our variable for places of installation is difficult to read in this way. The general impression is that the Danish articles are more sceptical towards CCTV (or Norwegian articles more accepting) in all categories of places. There is also some impression that the Danish articles may be relatively less sceptical regarding social infrastructure facilities than malls and mass entertainment centres, while the opposite trend appears in the

Norwegian material. However, for most place categories there are too few articles to analyse whether these differences are statistically significant (see appendix III). The texts themselves may, however, give some clues. Taking a closer look at what places were discussed in articles coded as referring to “social infrastructure,” schools and (most strikingly) day care centres were mentioned more often in Danish articles than in Norwegian ones⁹⁵. This may be yet another indicator of what some respondents mentioned in the Danish opinion poll – namely that there have been notorious episodes of child sexual abuse and that Danes, in response, have come to accept video surveillance of day care centres.

Yet another indicator for issues seen as relating to CCTV is the goals for individual CCTV installations. Are they intended as a law enforcement tool, a traffic control tool, an accident prevention tool, etc.? Whom or what are they intended to protect, and whom or what are they intended to protect against? Again, differences in cultural value priorities might show up as different associations between CCTV goals and positive/negative evaluations of CCTV. For instance, in section 1 above we hypothesised that, in light of their respective criminality statistics, Denmark might favour using CCTV to protect against housebreaking while Norway might favour using CCTV to prevent narcotics abuse. This might also be reflected in the media materials if CCTV installations aimed at housebreak-prevention were more frequently and/or more favourably written up in Denmark and installations aimed at drug abuse prevention similarly so in Norway. Unfortunately, the articles we found were not often explicit as to the intentions of a given installation. Targeted and protected groups are mentioned or implied clearly enough to code in only about 40% of the articles. Intentions for the installation in question could be coded for in about 75% of the articles, but only by generalising the values into broad categories (see appendix IV). The category “law enforcement” was the most frequently coded value in both countries’ data sets and (together with traffic control and accident prevention) a value associated with positive assessments of CCTV in both countries (and, as in other distributions, more positive in Norway than in Denmark). This category includes all types of criminality, including both housebreaking and drug crimes, but generally not further specified in the article. We could try splitting up this value into housebreaking, drug crimes, and “other”, but expect we would then be left with only a handful of articles explicit enough to be coded. Thus this variable does not help explain differences between the countries. It does, however, confirm that issues of privacy and safety confront one another regarding CCTV. Safety issues and control

⁹⁵ For instance, one Danish day care centre offers parents the opportunity to follow their children via web cams. See the institution’s home page at http://www.bu-fonden.dk/olga/olg_main.htm. See also a newspaper article in Jyllands-Posten 09.10.01 “Privatskole: Skole med tøyvask og indkjøb” [Private school: School with laundry and purchasing]. According to the newspaper, the school’s web page requires a password, thus apparently exempting it from data protection laws, however the employees’ feelings about the surveillance remain an issue. This also illustrates the contradictory varieties of practices we encountered in a country initially described as highly regulated.

against behaviours so deviant as to be deemed illegal are associated more often with positive evaluations of CCTV than are issues of social norm enforcement. Not all social norms are coded into law, and although non-codified norms do nevertheless apply, there is greater scope for private interpretation of how they apply and less tolerance for formalised interference in their interpretation.

Whereas the value codes for intentions of the installation may have been too course-grained to differentiate between the countries, the values for protected and suspected groups have become too fine-grained for statistical analysis. This has come about through our adding categories as we encountered them. Even after reducing the number of categories by about half (see appendix V), most groups are still too small for statistical analysis. Nevertheless, the tendency for Norwegian press to give a more positive assessment of CCTV than Danish press is noticeable in most categories.

The same problem applies to the values for "suspected groups". Again, the categories are for the most part too small for statistical analysis. Impressionistically, however, the table seems to convey another phenomenon that may affect views on CCTV – namely "othering". The most frequent category mentioned as suspected/protected against explicitly enough to be coded was "criminals". "Terrorists", "vandals and hooligans", "gang youth", and "neo-nazis" might also be re-codable to this value. All comprise individuals whose deviant behaviour has, at least temporarily, set them outside the bounds of normal citizenship. Thus most newspaper readers are not likely to identify with these groups. They are likely to see them as "others" to whom normal citizenship rights need not fully apply. Threats to their privacy are not threats to mine. CCTV used against these groups may therefore be viewed more positively than when it is seen as used against groups such as "employees", "car drivers", or "all of us" – groups where the phenomenon of "othering" would tend not to apply. And indeed, we see that this is the case (see appendix VI). Note too that "foreigners" were mentioned only once as a protected group (see appendix V), but appear twice ("immigrants" and "refugees") as suspected groups. Again, this is too rare to be assessed statistically, but it does lend some support to the impression that "othering" in the media may be playing a role in winning acceptance for the spread of CCTV.

The variables "intentions of installation", "protected groups", and "suspected groups" are all characteristics attributed to the CCTV systems by the articles. But they may well not be correct characterisations of the intentions of those who actually decided to make the installations. They cannot be assumed to define the systems described, but do at least reflect the rhetorical choices of the journalists. They do not constitute an opinion poll (e.g. attitudes towards systems with given intentions), and yet they may reflect such opinions indirectly if association with certain intentions is used to cast a positive or negative light on CCTV. If so then they reflect the opinions of the journalists and/or the journalists' assumptions about the opinions of their readership – which the articles may also, once read, come to affect. The same goes for the variable "type of technology

installed.” This variable does not tell us the actual physical and organisational traits of installations throughout the two countries, or even of those installations mentioned in the articles. It does allow us to see whether technological traits, when mentioned, are associated with positive or negative assessments of CCTV. Only a small minority of articles mention technological traits at all. Among these, there is a tendency for web cams to be mentioned in articles more sceptical towards CCTV than in those mentioning other technical aspects (i.e. the presence or actions of monitoring personnel, recordings, and/or automated systems). But again, there are too few articles in most categories to apply statistical tests (see appendix VII). Looking more closely at the texts, we can see that this is not about the use of web cams in surveillance per se. The negative discourse on web cams is about “reality” television programs and private web-publication of private spaces as a negative example opening up society for surveillance and as a negative metaphor describing what surveillance is about in cultural terms.

Finally in this section, we will discuss three variables that all may carry hidden modalities towards CCTV, modalities often not explicit enough to have been coded as such for the article as a whole. First a series of variables for sources cited in the texts. Over half the Danish articles and nearly a quarter of the Norwegian ones cite no sources at all. About a third cite one source, and the numbers dwindle further from there. One might imagine that the more sources cited, the more likely it is that the journalist is seeking to present a balance of viewpoints and that we would therefore be more likely to code the article as neutral. However, that was not the impression the articles led us to code for. Instead, it seems that sources are seen as needed to support taking a standpoint, positive or negative, so that when sources are cited the article is less likely to be read as neutral. More interesting, however, is what sources are seen as relevant and authoritative enough to cite (see table 4.5). Executives are the most frequently cited source category⁹⁶ (93 articles – 56 in Norway, 37 in Denmark) and commercial sources the next most frequent (30 articles, of which 27 in Denmark). At the other end of the scale, data protection sources are cited only 11 times (9 in Norway and 2 in Denmark, reflecting the relative roles of the data protection agencies in the two countries) and NGOs are only cited in one (Danish) article. Articles citing executive and commercial sources, the sources most frequently cited, tend more often to have positive assessments of CCTV; articles citing academics, data protection agencies, and NGOs tend to have more negative assessments. There are some interesting categories lumped among “others” – for instance several articles citing legal expertise – but these would become too small for statistical analysis if split apart.

Support for a standpoint can be based in “facts” as well as in the opinions of others. Two other variables seem to indicate that what are presented as “facts” are taken to speak in

⁹⁶ We should mention that we coded articles citing police sources in this category, and that such articles were particularly frequent.

favour of CCTV surveillance rather than against it. We coded each article as to whether it made reference to specific events or not in connection with CCTV. Most typically, such events were crimes or sightings/arrests of criminals. But other types of events also occurred in the material. In the Norwegian data, articles citing events were about equally likely to support CCTV as articles not citing events, but were less than half as likely to take a negative stand on CCTV and correspondingly about twice as likely to be neutral. In the Danish data, articles citing specific events were twice as likely to be positive towards CCTV and less likely to be neutral or negative than articles not citing events (see table 4.6). Thus, overall, events as “facts” seem to lend support to less critical, more supportive views on CCTV, although the distribution is not statistically significantly different from random.

Table 4.1: Sources cited by country of origin

Numbers of articles from among 293 (114 Norway, 179 Denmark). No missing values.

	Norway	Denmark	Total
Executive	56	37	93
Commercial	3	27	30
Political	17	10	27
Citizens	14	12	26
Associations	11	13	24
Academics	8	9	17
Data protection	9	2	11
NGOs	0	1	1
Others	33	27	60

Table 4.2: Articles' dominant voice re CCTV surveillance by country of origin and whether or not specific events are cited

		no	yes	total
Norway	pro	9	44	53
		47.4%	46.8%	46.9%
	neutral	4	37	41
		21.1%	39.4%	36.3%
	contra	6	13	19
	31.6%	13.8%	16.8%	
	Total	19	94	113
Sign. of $\chi^2 = .110$				
Denmark	pro	6	19	25
		7.6%	19.6%	14.2%
	neutral	56	64	120
		70.9%	66.0%	68.2%
	contra	17	14	31
	21.5%	14.4%	17.6%	
	Total	79	97	176
Sign. of $\chi^2 = .055$				

Table 4.3: Articles' dominant voice re CCTV surveillance by country of origin and effects of CCTV mentioned in article

		effects not mentioned	positive effects mentioned	lack of effects mentioned	negative effects mentioned	Total
Norway	pro	35	18			53
		43.2%	78.3%			46.9%
	neutral	33	5	3		41
		40.7%	21.7%	75.0%		36.3%
	contra	13		1	5	19
	16.0%		25.0%	100.0%	16.8%	
	Total	81	23	4	5	113
Sign. of $\chi^2 < .0005$						
Denmark	pro	10	15			25
		7.6%	53.6%			14.2%
	neutral	99	13	6	2	120
		75.0%	46.4%	60.0%	33.3%	68.2%
	contra	23		4	4	31
17.4%			40.0%	66.7%	17.6%	
	Total	132	28	10	6	176
Sign. of $\chi^2 < .0005$						

Another such claim of "facts" in the articles was claims as to the effects of CCTV. We coded whether articles mentioned positive effects of CCTV, negative effects, lack of effects, or did not mention effects at all. As with events, these "facts" seem overall to be taken as support for more positive assessments of CCTV. Claims of positive effects are, of course, much more strongly associated with positive assessments of CCTV; claims of lack of effects or negative effects with neutral or negative assessments. But claims of positive effects are far more frequent than claims of lack of or negative effects. Thus the overall trend as to assessments of the (positive) effectiveness of CCTV is affirmative (see table 4.7). The distribution of effects mentioned is about the same in Norway and Denmark, with a stronger trend towards positive assessments/weaker trend towards negative assessments in all categories for Norway than for Denmark.

5 Conclusions so far

We began our study with the hypothesis that Denmark was far more restrictive towards CCTV than Norway. After considering their historical, cultural, legal, and demographic similarities in broad terms, we proposed a second hypothesis that they might differ not so much in terms of restrictiveness/permisiveness as in terms of where and for what purposes they would tend to implement CCTV.

A closer look at the legal framing of CCTV showed that there are some differences in how the two countries have structured their laws and organisations for regulating video surveillance. However, these differences could not be assumed to result in differences along a restrictive/missive dimension for CCTV in general, but does so for specific areas. For instance, video surveillance of street-side cash dispensers is strictly forbidden in Denmark but not in Norway, whereas video surveillance of day care centres is unknown in Norway so far but accepted and occasionally implemented in Denmark. We do not have any explanation to offer for these differences. Instead our list of hypotheses grew: The legal framework differences may be due to cultural differences (an emphasis on discourse in Denmark vs. regulation in Norway). They may have arisen more or less by chance, depending on what individuals happened to be in what positions and opted for which courses of action at critical moments in surveillance history. They may also represent strategic choices, with Norway pursuing a registration and regulation strategy and Denmark seeking a more flexible approach through less formal agreements the better to keep abreast of rapid technological developments.

In response to an earlier version of this report, one of our project colleagues suggested yet another hypothesis, namely that developments in most countries, including these two, may be strongly influenced by experiences in England, which has in a sense “blazed the trail.” Looking back through our interviews, we did find some support for this hypothesis. In both Norway and Denmark, some key actors told the early local history of CCTV with reference to study trips to England. However, study trips, like laws, appear to be “texts” that must be “read.” And, in reading a text, the reader also becomes an interpreter and thereby a (re-)author of the original text. Thus, a Danish “reader” of English CCTV experience draws the conclusion that it calls for critical discourse initiatives:

In 1997 I went on a study tour to England and attended a large trade fair on technology where there was also a lot of surveillance technology. And back then surveillance wasn't exactly widespread in Denmark. There were only a few places, such as banks (...) When I got home to Denmark, I told my boss, “This will be coming to Denmark with explosive speed.” So what we did in the Crime Prevention Council was that we headed up a conference where we discussed attitudes to video surveillance. You have to consider whether you want to accept being under surveillance everywhere you go. Seen with Danish eyes, at any rate, there's something offensive about being watched and controlled.⁹⁷

⁹⁷ Interview in the Crime Prevention Council, 05.12.01

A Norwegian “reader” of English CCTV experience, however, includes a similar story when telling the early history of Norway’s first (and so far only) open street surveillance system:

Representatives from the Oslo Police District went on a study tour to England in the early 90’s, where they were given information about and guided tours of how video surveillance was run there. Some thought it was very interesting, including one who was attending a leadership training course at the Police Academy and who wrote a paper about it there.⁹⁸

Thus, although English experience clearly affected both Norway and Denmark, it cannot explain the differences between them. This brings us back to our hypotheses about cultural, idiosyncratic, and/or strategic differences, perhaps especially the cultural one. However, not all our data support the cultural hypothesis either:

In the chapter 3 we looked at several indicators for public discourses. Public discourses also form a sort of porous wall around emerging practices. Some practices may be met with resistance while others are encouraged. With reference to a handful of published opinion poll results, the general public does not seem much concerned about video surveillance in either country. People don’t notice when they enter areas under surveillance, even when these are marked with signs as required. And when asked, people claim not to be bothered by the idea of being under surveillance, as long as it is in public spaces where one expects to be seen by strangers and as long as it increases their sense of security. Acceptance, as evidence by these polls, was so massive in both countries that no restrictive/permissive dimension between Danish and Norwegian culture seems likely.

Other discourse indicators, however, do seem to confirm such a dimension. In Denmark we readily found a number of discourse initiatives, active interventions explicitly aimed at triggering a debate. In Norway one evaluation study of a CCTV installation has served as something of a “trigger”, but has addressed a narrower scope of issues. This does not mean that no other debate initiatives have occurred in Norway, but if so they have been less successful. It may even be a measure of the success of the Danish initiatives that the Danish newspaper articles were, on average, more critical to CCTV than the Norwegian ones and covered a larger scope of related issues. That remains, however, a hypothesis rather than a drawn conclusion.

⁹⁸ Excerpt from an interview by Heidi Mork Lomell with the current head of the Oslo S surveillance project.

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