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THE THEORETICAL FRAMEWORK OF NODAL ORIENTATION IN CONNECTION WITH SECURITY APPLIED TO TWO CASES: THE PORT OF ANTWERP AND THE ILLICIT TRADE IN PRECIOUS METALS

'Instead of being part of the solution, it can be argued that nodes in fact represent points of greatest difficulty in the new organization of security provision'. L. Zedner

1. Introduction

Criminology, as a science about criminal behaviour and by extension the deviant behaviour of offenders in relation to their victims, is not just interested in the study of causation or aetiology, but also pays attention to the formal and informal reactions to that behaviour¹. Criminology as an interdisciplinary or multidisciplinary science² has gone through a major revolution since its origin in the 19th century. This scientific discipline³ has developed from an auxiliary science for criminal law into an autonomous entity of knowledge and insights. In the Anglo-Saxon world there is a contrast today between criminology and criminal justice studies. The core of scientific interest has shifted here to the formal and informal reactions to crime.

¹ Cools, M., Werknemerscriminaliteit, Brussel, VubPress, 1994, 20.

² Van Campenhout, M., 'Standpunten van interdisciplinair onderzoek in de criminologie', in Dellaert, R., Criminologie als interdisciplinaire menswetenschap, Leuven, Uitgeverij Acco, 1975, 61.

³ Fijnaut, C., Verleden, heden en toekomst van de ged'ntegreerde strafrechtswetenschap, Arnhem, Gouda Quint BV, 1986, 11.

From the perspective of scientific theory, one could, for example, establish a development throughout medicine, biology and social biology, psychiatry and sociology that is now undergoing change, however, in focusing on broader political, historical, polemological and economic paradigms⁴. Modern criminology fits in perfectly with the concept of current security studies. It is in this domain, in a by definition international context⁵, that new global strategies are developing and making other crime phenomena take root.

In the context of this brief contribution, and from the above standpoint, we shall consider the concept of nodal orientation in connection with security applied in the port of Antwerp as an example of a new overall security strategy with the illicit trade in precious metals as a new crime phenomenon. We shall attempt to accompany the reader in this journey by answering a number of investigative questions. These concern the altered worldwide reality of security, the blurring of borders and security borders, the governance of security and the nodal orientation in connection with security and new crime phenomena. We shall base our vision on a critical reflection concerning possible future security strategies.

2. Altered worldwide security reality

It is not possible in the framework of this article to consider an extensively substantiated historical context in order to sketch the nation state in its creation, evolution and changes. This does not prevent us, however, from daring to suggest that the nation state was at its zenith between 14 July 1789 (the French Revolution) and 9 November 1989 (the fall of the Berlin Wall) and in a Hobbesian philosophy of law provided citizens with security in exchange for giving up a number of individual rights and freedoms. For 200 years nation states have always succeeded in setting up and managing a security and defence arrangement. Roughly speaking, this can be sketched as an aggregate of judicial and political institutions, administrative inspectorates and intelligence and security services that, as it were, attempt in a compartmentalised order of battle to track down, prosecute and try the žcriminal' as an internal enemy. A national defence apparatus was sufficient against external enemies in the form of other nation states. The embryonic form and the birth of this rational state security strategy as a '*Polizeigedanke*', or police thought, can be found in 18th century Prussia, especially that of Frederick the Great⁶. The concept

⁴ Cools, M., 'De huurlingen en de criminele 'non-statutory forces' in het criminologisch laboratorium', in Christiaens, J., Enhus, E., Nuytiens, A., Snacken, S., Van Calster, P., Criminologie: tussen kritiek en realisme. Liber amica/orum Christian Eliaerts, Brussel, VubPress, 2007, 95.

⁵ Collins, A., 'Introduction: What is Security Studies?', in Collins, A., Contemporary Security Studies, Oxford, Oxford University Press, 2007, 2.

⁶ Haffner, S., Pruisen. Deugden en ondeugden van een miskende staat, Amsterdam, Mets & Schilt uitgevers, 2004, 47.

of '*Sicherheit*' (security) and '*Wohlfahrt*' (prosperity) as administrative policing shaped wider control by the government as such⁷ and would remain dominant for two centuries.

It was especially with the end of the Cold War, the end of civilisation announced by F. Fukuyama and the victory of liberal democracy⁸ that the worldwide bipolar order gave way to a multipolar world order that gave different shape to the triumvirate of state/market/society. We shall first consider these changes and then look at their implications in security thinking.

The nation state has been confronted by a state failure as a result of which it is no longer the dominant player or the pivotal point around which political society is organised⁹. Furthermore, the nation state has competition from spontaneous-ly-organising and trans-border metropolises and urban areas¹⁰. Citizens will also use this eclipsing of the state to orient themselves more and more towards the market. The government can only act in response by taking notice of new public management and managerialism.

As a result of the introduction of the global economy¹¹, the market has increasing free trade without being tied to the borders of nation states or of regions¹², and is evolving into a global village with an information stock exchange that never closes¹³. Society in turn is becoming a risk society with a negative/defensive ideal in which citizens experience moral panic. The new moral order is based on a desire for more security and reduced risk as a new politically important theme¹⁴.

3. The blurring of security borders

These evolutions have led to new global crime phenomena being denoted as risks and new security strategies being imposed. It is to the credit of X. Raufer, among others, that he has put new crime phenomena on the international public and scientific agenda. Too many criminologists attach themselves to ideologically con-

⁷ Cools, M., 'Liberale visies op veiligheid en politie', in Cools, M., Mahieu, D., Liberale visies op veiligheid en politie, St-Eloois-Vijve, Mys & Breesch, uitgevers, 1998, 7.

⁸ Fukuyama, F., Het einde van de geschiedenis en de laatste mens, Amsterdam, Uitgeverij Contact, 1992, 68.

⁹ Guehenno, J.-M., Het einde van de democratie, Tielt, Lannoo, 2000, 29-42.

¹⁰ Vandermotten, C., 'Les grandes métropoles européennes et la globalisation', Stouthuysen, P., Pille, J., Gatz, S., van Rouveroij, S., Leysen, C., The State of the City. The City Is the State. Stadslucht maakt vrij, Brussel, VubPress, 2007, 17-31.

¹¹ Held, D., McGrew, A., Goldblatt, D., Perraton, J., Global Transformations: Politics, Economics and Culture, Standford, Standford University Press, 1999, 515p.

¹² Andreas, P., Border Games. Policing the U.S.-Mexico Divide, Ithaca, Cornell University Press, 2000, 151.

¹³ Guehenno, J.-M., o.c., 53-69.

¹⁴ Beck, U., De wereld als risicomaatschappij, Amsterdam, de balie, 1997, 120p.

structed ways of thinking with too little consideration for crime phenomena as such. Examples of new crime phenomena aimed at the market are: laundering the proceeds of crime, white-collar crime, eco-terrorism, the kidnapping of executives of multinationals, forgery and fraud, organised crime, physical threats, racketeering, cybercrime, dangerous sectarian organisations, the drug trade and the theft of desirable goods in holdups¹⁵. Society is also faced with, for example, urban violence¹⁶.

In addition to and in parallel with the classical public security agencies, faced with old and new crime phenomena, the increasingly present private security industry has been able to develop further. The above undercurrents have furthermore led to private security becoming a booming business¹⁷ with an international appearance and capacity¹⁸. The boundary between public and private is no longer tenable and brings into question the monopoly of legal violence on the part of the nation state. A blurring of the boundaries has occurred in connection with, for example, the detection task of the public security agencies¹⁹. This evolution also obliges us to think about new security strategies, including the governance of security and nodal orientation in connection with security.

4. Governance of security and nodal orientation in connection with security in the port of Antwerp

The former School of Criminology, now the research group for criminal law and criminology at the Faculty of Law at the University of Ghent, has a long tradition of education and research. It has been active in this scientific discipline since 1938²⁰ and it goes without saying that the scientific curriculum has undergone many renewals and adaptations. New perspectives were applied in accordance with the Bologna reforms in higher and university education. At the moment the Governance of Security University and inter-university association research group at Ghent serves as a model for scientific research into and providing services for the changing paradigm of security/danger, with the emphasis on the study of crime,

¹⁵ Raufer, X., Entreprises: les 13 pičges du chaos mondial, Presses Universitaires de France, Paris, 2000, 74p.

¹⁶ Raufer, X., 2001 L'Explosion criminelle, Poitiers, Valmonde, 2002, 51.

¹⁷ Cools, M., 'De onderstromen in de private veiligheidszorg', Panopticon, Diegem, Kluwer uitgevers, 2002, 2, 134-155.

 ¹⁸ INHES-CoESS, Livre Blanc.La participation de la sécurité privée r la sécurité générale en Europe
– Private security and its role in European Security, St Hilaire le Chtel, Décembre 2008, 95p.

¹⁹ Cools, M., Ponsaers, P., Verhage, A., Hoogenboom, B., De andere rechtsorde. Demonopolizering van fraude-onderzoek, Brussel, Politeia, 2004, 189p.

²⁰ Ponsaers, P., Hebberecht, P., 'Criminologie in België: beleidsgerichte wetenschap, met een ged'm porteerde theorie?', in Vanderborght, J., Vanacker, J., Maes, E., Criminologie. De Wetenschap. De Mense, Brussel, Politeia, 2000, 48.

feelings of security and danger and nuisance. This is from a public/private, national/international and centralised/decentralised dimension. The research group is also involved in national and international policy research in the context of human rights and the constitutional state. In short, this research group has become, as it were, a scientific emanation of the aforementioned blurring of the borders where security is concerned.

One recent scientific study will be briefly presented so that the theoretical concept of nodal orientation in connection with security can be better understood. It concerns our investigation into the security strategy employed in the port of Antwerp, the largest port in Europe after Rotterdam²¹. The state/market/society relationship that has become a real network is characterised by a number of global flows of people, goods, capital and services that form a node or nodes at well-defined geographical locations. These nodes²² also provide us with new knowledge and insights into cross-border and organised crime. The critical infrastructure that is the port of Antwerp can, in accordance with technological and global evolution, be regarded as such a node. In connection with security, nodal orientation refers to the supervision, information present and risk management used to manage this geographical location and its flows from a security perspective.

This management consists by definition of a complex²³, also involving the police, in which all the security agencies have to abandon their traditional approach bound by function and territory. This implies abandoning existing security dogmas in favour of a problem-oriented approach borne by intelligence. In short, the era of diversity has begun²⁴. In the case of the port of Antwerp this means in concrete terms that the public and private security agencies have to work together. At the level of police services, this involves collaboration between the federal and local police, including the specialist federal maritime police. In addition to the police services, it also affects the inspection services, in particular customs and excise, as well as the surveillance agencies and the internal surveillance departments of large corporations. In order to harmonise these formal and informal collaboration links, the *Gemeentelijk Autonoom Havenbedrijf Antwerpen* (Autonomous Municipal Antwerp Port Authority), for example, can play a co-ordinating role²⁵.

²¹ Brink, H., Brodie-Barendregt, M., Hoogenboom, B., van Galen, A., Criminaliteitsbeeld Rotterdamse Haven, Rotterdam, Kernteam Rotterdam-Rijnmond, 2002, 27-28.

²² Shearing, C., Wood, J., Imaging Security, Portland, Willan Publishing, 2007, 27.

²³ Hoogenboom, B., Het Politiecomplex. Over de samenwerking tussen politie, bijzondere opsporingsdiensten en particuliere recherche, Arnhem, Gouda Quint bv, 1994, 127.

²⁴ Shearing, C., 'Nodal Security', Police Quarterly, Vol. 8., No. 1., 2005, 57-63.

²⁵ Gilleir, F., Easton, M., Ponsaers, P., Cools, M., 'Checking aspects of a 'Nodal Orientation' for Policing the Port of Antwerp', in Cools, M., De Kimpe, S., De Ruyver, B., Easton, M., Pauwels, L., Ponsaers, P., Vande walle, G., Vander Beken, T., Vander Laenen, F., Vermeulen, G., Antwerpen, Maklu, 2009, 359-376.

5. New crime phenomena: the illicit trade in precious metals

As has already been stated, attention to crime phenomena has long escaped the notice of criminology. Today we are seeing a revival, however. Within the framework of our contribution, we are of the opinion that it would be fitting to look at a relatively new form of crime that lends itself to be tested against nodal orientation as a security strategy. Below we will discuss the following elements from the criminological relationship: perpetrator, crime and victim. In the conclusion, we shall pay further attention to the aetiology and the formal and informal reactions.

The illicit trade in materials is an example of increasingly organised transnational crime that threatens the sovereignty of nation states and the international rule of law²⁶. Scientific attention in this case was paid primarily to, for example, the problem of proliferation²⁷ and the illicit trade in diamonds, including blood diamonds and the vulnerability of that sector²⁸. New crime phenomena are usually burdened with a limited number of scientific sources, rather provincial in nature, and lead by definition to further scientific criminological research. The trade in precious metals such as gold and platinum, just like a number of other trade sectors, has high criminal potential in it that can affect the most fundamental world problems, such as war and peace²⁹.

A recent study in South Africa, where the mining industry is of national importance and forms a critical infrastructure, went deeper into this problem. The various parties involved were interviewed using a qualitative and quantitative methodology³⁰. These parties were: the mines, the refineries, the employees, the surveillance agencies and SAPS, the South African Police Service.

The theft of gold and platinum, mainly by employees (directors and executives, clerks and workers), whether or not in collusion with third parties such as contractors, is a manifestation of employee crime as a local crime phenomenon with branches in local and international organised crime that is active in Nigeria, Russia, India, China and Western Europe.

²⁶ Giraldo, J., Trinkunas, H., 'Transnational Crime', in Collins, A., o.c., 346-355.

²⁷ Wirtz, J., 'Weapons of Mass Destruction', in Collins, A., o.c., 286; Detez, O., 'Le travail du renseignement et la non-prilifération', in Cools, M., Dassen, K., Libert, R., Ponsaers, P., De Staatsveiligheid. Essays over 175 jaar Veiligheid van de Staat – La Sűreté. Essais sur le 175 ans de la Sűreté de l'Etat, Brussel, Politeia, 2005, 308-309; Cottey, A., Security in the New Europe, New York, Palgrave Macmillan, 2007, 14 9-168.

²⁸ Vander Beken, T., Cuyvers, L., De Ruyver, B., Defruytier, M., Hansens, J., Kwetsbaarheid voor georganiseerde misdaad. Een gevalstudie van de diamantsector, Gent, Academia Press, 2004, 321-459.

²⁹ Fijnhaut, C., 'De criminologische relevantie van de studie van de (illegale) diamanthandel', in Bruinsma, G., Huisman, W., van Swaaningen, R., Basisteksten in de criminologie I. Aard, omvang en verklaringen, Den Haag, 2005, Boom Juridische uitgevers, 272-279.

³⁰ Goethals, J., Pauwels, L., Kwantitatieve en kwalitatieve criminologische onderzoeksmethodes: een introductie, Leuven, Uitgeverij Acco, 2008, 204p.

The SAPS police statistics, which of course are only a reflection of recorded crime and cannot take into account the 'dark numbers', yielded the following information for the period January 2000 - June 2003, which allows us to speak about a rather limited longitudinal investigation. They recorded 6,612 cases and 5,245 arrests of perpetrators in connection with the theft of 633,254 kilograms of gold. For platinum there were 1,014 cases and 511 arrests. The interviewing of the gold mines and the refineries as primary victims, based on 194 selected cases in the period January - June 2003, that can be considered to be a victim survey³¹, yielded more detailed information about the places/flows where thefts occurred. The gold mines and the refineries inside the security perimeter (53%) and on it (23%) as scenes of crime can be considered as nodes from that point of view. Similar interviewing in an identical timeframe took place for 81 cases in the platinum mines with scenes of crime inside the security perimeter (47%) and on it (20%) respectively. ³²

Because of the specificity of precious metals, in particular their high monetary value and the ease of transporting them, their theft also leads to the setting up of illicit trade, their use³³ as an instrument for laundering the proceeds of crime³⁴, for example for terrorist activities, trafficking in people and weapons and setting up VAT carousels³⁵ such as rotating the invoicing flow for the same goods³⁶. Illegal export is primarily to Western Europe and the United States of America.

6. A critical reflection: the illicit trade in precious metals and nodal orientation in connection with security

There is no disputing that the illicit trade in precious metals is a new crime phenomenon that deserves more criminological attention. The rather limited South African study could be a guideline for further scientific research. Nevertheless it is to the credit of that study that it has given a signal. Criminology is pre-eminently a signal science³⁷ and only needs to take note of it. In a wider perspective, the illicit trade in precious metals and its associated crime phenomena described above must be looked at as a form of hybrid network of international crime within the context

³¹ King, R., Wincup, E., Doing research on Crime and Justice, Oxford, Oxford University Press, 2000, 98-101.

³² Coetzee, B., Horn, R., The theft of precious metals from South African mines and refineries, Tshwane, Institute for Security Studies, 2006

³³ FATF-GAFI, RBA Guidance for dealers in precious metal and stones, Paris, 17 june 2008, 7.

³⁴ Robinson, J., De Witwassers, Rijswijk, Uitgeverij Elmar B.V., 1994, 211.

³⁵ Bové, L., 'België verdient aan BTW-carrousels. Fraudeurs lichten Britse schatkist op. Belgische justitie neemt buit in beslag', De Tijd, 4 augustus 2009.

³⁶ Staelens, F., Zwendel met toegevoegde waarde, Diegem, Kluwer Editorial, 1998, 40.

³⁷ Hoefnagels, G., Witte-boordencriminaliteit: opstellen over Misdaad en Macht, Assen, Van Gorcum, 1981, 44.

of the security studies already quoted. In addition to this organised international crime as such, critical questions and scientific interests into the nodal origin of precious metals can also develop. At the moment, there is no relevant strictly scientific research. However, this should not keep us from placing this problem within a larger context of a human security³⁸ approach to, for example, African tribal war zones and post-war zones³⁹, analogous to the illicit trade in conflict diamonds and/or blood diamonds⁴⁰.

With respect to the aetiology or the origins of this crime, the South African study counts as a classic example of how employee crime should be explained. A company's own personnel, irrespective of their employment statute or status, take the lead roles where offending or joint offending and complicity are concerned. This leads us to place the causes of this crime in the corporate culture that is already present in all private companies and is broadly conflictual, as a field of tension between shareholder-management-employee, and is used by various explanatory models – from a defective socialisation (organisational pressure, representative role expectations, task enrichment and mismanagement), through the work ethic (unknown property ratios and remuneration) and the normative framework (differential association, anomy, subculture, opportunity, neutralisation, rational choice and social ties) up to and including a political dimension⁴¹.

Finally, we need to place this new form of crime within the discourse on nodal orientation in connection with security. In our opinion, the illicit trade in precious metals including its associated crime goes to the core of the security of the nation state. This type of by definition internationally-organised crime has political, historical, polemological and economic points of contact in the current multipolar world order. Nation states as such cannot control or manage this criminality either preventively or repressively. The cause of this criminality lies, after all, far outside state or regional borders, yet its consequences are apparent in the immediate vicinity of citizens, as a result of which it increases their moral panic and the consciousness of living in a risk society is reinforced.

Our nodal orientation in connection with security has attempted to place the control and management of crime at a well-defined geographical location within a network characterised by global flows of people, goods and capital and other things. Since the end of the Cold War, the origin of the illicit trade in precious metals and its associated crime can sometimes be traced to previously weak nation states where proper internal government is lacking and the violation of human rights is the

³⁸ Kerr, P., 'Human Security', in Collins, A., o.c., 93.

³⁹ Buzan, B., Waever, O., de Wilde, J., (1998). Security. A New Framework for Analysis, London, Lynne Rienner Publishers, 239p.

⁴⁰ Feldt, H., Natural Resources and Conflict, Heinrich Böll Stiftung, Berlin, s.d.

⁴¹ Cools, M., Werknemerscriminaliteit, o.c., 93-111.

norm⁴². Global villages⁴³ and seaports⁴⁴ also hold such a nodal position in the context of governmental security in connection with organised global crime. It goes without saying that the seaports in the exporting countries referred to above will lend themselves to this.

In short, the necessity for a nodal orientation as a new security strategy in connection with the illicit trade in precious metals and related items has become obvious. This will be possible, for example, through proposing a security scenario with supervision and/or risk management driven by information and intelligence. We are thinking here in abstract terms of a decentralised approach to it by national public and private security agencies in collaboration, supported by the information and intelligence security agencies and research institutes.

Before suggesting a possible European approach, we must point out a number of South African and Russian examples. SAPS originally had a specialised investigation division, the Diamond and Precious Metal Branch, which was intended to combat the illicit trade in precious metals with the assistance of the surveillance agencies and the internal surveillance departments of the mining industry. SAPS abandoned this approach however, decentralised the Diamond and Precious Metal Branch and incorporated it into the Organised Crime Branch. This allowed for a multidisciplinary approach, and the emphasis came to be on the international and organised character of this form of crime⁴⁵. A study by the East-West Institute and Norilsk Nickel puts the emphasis on crime related to the illicit trade in precious metals, in particular on criminal organisations and the financing of terrorism. Since national and international public and private security agencies have not been very successful in combating this, they refer to the experience of the Kimberly Process Certification Scheme in using an international certification system for diamonds to irrefutably establish their legitimate origin⁴⁶. In particular, they make the case for such things as an international register of dealers in precious metals, better checks by the customs services in the industry and a registered network of forensic experts and laboratories. They are also seeking closer and better involvement of, for example, the World Customs Organisation, the Financial Action Task Force within the OECD, and the World Bank. Their Platinum Initiative recommends a Complex Analytical Procedure for Identification of the Nature and Source of Origin of Precious Metals Containing Products of Mining

⁴² Fukuyama, F., Het bouwen van een staat, Amsterdam, Uitgeverij Contact, 2005, 119-120.

⁴³ Findlay, M., The Globalization of Crime, Cambridge, Cambridge University Press, 1999, 2-11.

⁴⁴ Brink, H., Brodie-Barendregt, M., Hoogenboom, B., van Galen, A., o.c., 40.

⁴⁵ Coetzee, B., Horn, R., o.c.

⁴⁶ Feldt, H., o.c.

and Metallurgical Operations, or CIP that can identify the illegal origin of precious metals from a reference database⁴⁷.

We believe we have been able to demonstrate that a nodal orientation in connection with security can be of benefit and that we have given an example of how to realise this with respect to the illicit trade in precious metals and the crime phenomena derived from it. In a European context, this implies collaboration between the national police, inspection, intelligence and security services in consultation with the judiciary and defence, with all of this in relation to the private security sector. The IPA, the International Platinum Group Metals Association, must play a co-ordinating role because in that way the necessary security awareness will be imparted to everybody. A nodal consultation seems to us to be an appropriate option. Internationally, it would make sense to request the involvement and engagement of, for example, Europol, Eurojust, the European Police College⁴⁸ en the European Network of Forensic Science Institutes, where vulnerability and scenario studies by university research teams⁴⁹ can provide the necessary raw materials.

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⁴⁷ Perelygin, A., Selin, A., Ivanov, V., Metal Fingerprint: countering illicit trade in precious metals and gemstones, s.l., Policy Paper 4/2008, 11p.

⁴⁸ Peers, S., EU Justice and Home Affairs Law, Oxford, Oxford University Press, 2006, 487-562.

⁴⁹ Vander Beken, T., Organised crime and vulnerability of economic sectors. The European transport and music sector, Antwerp, Maklu, 2005, 322p.; Vander Beken, T., Cuyvers, L., De Ruyver, B., Hansens, J., Black, C., Het meten van de kwetsbaarheid van de legale economische sectoren voor de georganiseerde misdaad, 2003, Gent, Academia Press, 2003, 185p.

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TEORIJSKI OKVIR NODALNE ORIJENTACIJE U BEZBEDNOSTI PRIMENJENE NA DVA SLUČAJA: LUKA ANTVERPEN I NEDOZVOLJENA TRGOVINA PLEMENITIM METALIMA

Rad predstavlja pokušaj objašnjenja potrebe za modernijim kriminološkim pristupima problema organizovanog, transnacionalnog kriminala, iz ugla (liberalističke) kritike istorijske situacije u kojoj se nalazi nacionalna država. Autor prati razvoj novog oblika kriminala- krađu plemenitih metala od nudnika u Južnoafričkoj Republici do luke Antwerpen, zalažući se za orijentaciju nodal-bezbednosti, kao novu strategiju u borbi protiv ilegalne trgovine plemenitim metalima i onoga što tu pojavu prati.

U evropskom kontekstu, nodal-bezbednost podrazumeva saradnju između nacionalne policije, inspekcija, obaveštajnih i bezbednosnih službi, u komunikacijama sa pravosudnim sistemom i odbrambenim sistemom i sve to u povezanosti sa sektorom privatne bezbednosti.

Ključne reči: kriminologija, privatna bezbednost, nacionalna država, plemeniti metali, nodal-bezbednost.