The Criminal Justice Conversations Podcast with David Onek

Episode #25: David Muhammad, Alameda County Chief Probation Officer (September 28, 2011)

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DAVID ONEK: Welcome to the Criminal Justice Conversations Podcast, a coproduction of Berkeley Law School and the Berkeley School of Journalism. I'm your host, David Onek. The podcast, recorded in the Berkeley School of Journalism studios, features in depth interviews with a wide range of criminal justice leaders: law enforcement officials, policymakers, advocates, service providers, academics and others. The program gets behind the sound bites that far too often dominate the public dialog about criminal justice to have detailed, nuanced conversations about criminal justice policy.

Today's guest is Alameda County chief probation officer, David Muhammad. Muhammad became chief probation officer in February of this year. In his position he oversees 20,000 probationers, a staff of 600, and a $90 million budget. Muhammad grew up in Oakland and, as a youth, had brushes with the system he now leads. With the help of the Omega Boys Club, Muhammad graduated from Howard University, then served as executive director of the

Mentoring Center in Oakland. He then went to Washington, DC to serve as Chief of Committed Services for the Department of Youth Rehabilitation Services, where he was part of one of the most ambitious juvenile justice reform efforts in the country. He next served as Deputy Commissioner of the New York City probation department. Muhammad has been awarded the Community Leadership Award from the California Wellness Foundation and the Next Generation Leadership award from the Rockefeller Foundation. And he joins us in studio this morning. David Muhammad, welcome home, and welcome to the podcast.

DAVID MUHAMMAD: Thanks, thanks for having me, David.

ONEK: So David, in just a few days the criminal justice system here in California is going to undergo a major shift, called realignment. Can you describe for our listeners what realignment is, and what you see as the opportunities and the challenges that will come from it?

MUHAMMAD: Yes. This is a major shift in criminal justice management, if you will, that on October 1, because of the Supreme Court ruling that supported the three judge panel that said California must reduce its massive incarceration in the

state, and secondly because of the incredible deficit that the state is in, they decided to reduce their responsibility of the criminal justice system and shift it to county responsibility. So it's very complicated and very complex. The three quick things that make it easy to understand, there's three criminal justice populations get shifted from state responsibility to county responsibility, starting October 1. People in prison today, for non-violent, non-serious, non-sex offenses, when they get out, instead of being on parole, which is a state function, they're on probation, which is a county function. Secondly, newly convicted people, of non-violent, non-serious, not serious offences, can never go to state prison, they only can go to county jail and get out under the supervision of the probation department. And third, parole violators, when they violate the technical terms of their parole and are revoked, can't go to state prison, they only can go to county jail. And so this shift from state to county, to local responsibility, I completely support. Criminal justice is better administered on the local level. The state, quite honestly, has done a pretty horrendous job. And this is a population that shouldn't be in state prison, which is more suited for long-term stays. The challenge with this is, this is ultimately, at the end of the day, a move to reduce the state deficit, the budget deficit.

And so they are doing it on the cheap, and the funding formula that they came up with hurts counties like Alameda, like San Francisco, who, ironically, has done a good job of not sending all of the lower level felonies to state prison and have kept them local. But unfortunately for that, we get penalized by getting less money.

ONEK: So with the funding, I both heard the criticism you just said about the formula, but also that there's no long-term guarantee at all. So the state is saying, OK, this year we're going to give you this much and it's actually not enough, most counties are saying. But at the same time, there's a concern that in a year or two the state will just completely wash its hands of this responsibility, and instead of taking the savings from prison beds and investing part of that at the county level, that they'll just invest it all to reduce the deficit and counties will sit, having to have full responsibility for that. Can you talk about that a little bit.

MUHAMMAD: Absolutely. I think there's three issues. One is the total amount of money wasn't enough, though I must say, that's the least of my three issues. The second was how they allocated the money, right, so $360 million was allocated to the

counties to handle this in the first abbreviated fiscal year, October 1 to June 30. And, for instance, Alameda County, the county with the city with the highest crime rate in the state, got 2.6% of that allocation, extraordinarily small portion of the allocation, because the formula was based upon how many people you have in state prison. So quick for instance, San Bernardino County and Alameda County have the exact same crime rates, but San Bernardino County sends three times as many people to state prison than Alameda County. For that, they got $25 million the first year, we got $9 million the first year. The frustrating part of that is, we're doing the spirit of the law, which is, not send so many people to state prison, and for that, we got penalized. The third issue is protection. This is all statutes, so a new governor and a new legislature could change this at a whim. Right? They could raid the fund, they could change it, and keep us holding the bag with the responsibility. So we're asking for a better formula, but also a constitutional protection for the funding.

ONEK: Now so those are the challenges. Can you talk about the opportunities here? You touched on it earlier in saying that actually these offenders, if you have the proper resources, are much better handled at the county level. So can you talk about

that a little bit.

MUHAMMAD: Absolutely. And I've been frustrated that I've spent to much time talking about the money, because I would rather spend my time talking about, this is a good thing, this is what should happen, we shouldn't be sending parole violators, probation violators, low-level offenders, drug addicts, basically, people who have challenged with drug use, to state prison. I must say I've, there's two things about me, one, I never imagined I would be the Chief Probation Officer of anyplace, but certainly of a place where I grew up and was on probation. And secondly, I never thought I would say, every time I hear the Secretary of Corrections speak, I agree with everything he says. Very weird for me to say that, having kind of grown up completely being an advocate for so many years, kind of railing against the system. But the Secretary Kate has said consistently that his system is fundamentally broken, and that people spend their time on their bunks, walking the yard, and that's all they do. There's no rehabilitation. Yes, Governor Schwarzenegger put the R back in CDCR several years ago to reflect rehabilitation, but none of that is happening. And so this is a population of people who spend short amount of times anyway in state prison, who would be much, much better served at

the local level. Unfortunately it's a low bar to do better than the state. They have 70 to 75% recidivism rates, the cost that they spend to house these inmates, the extraordinarily minimal amounts of services and supports that they get. And so what we want to do is continue kind of the success of being able to not send everybody to state prison, Alameda County has had, and provide support services and opportunities while also protecting the public safety. And I think that we can do that in a much better way than the state. The state agrees with that and so I think it's a win-win when we allocate the resources correctly.

ONEK: Now you mentioned that you had grown up in Oakland and had been in the probation system you are now leading. Obviously that's extremely rare background for a chief probation officer. How has that experience influenced the decisions you make today, as Chief Probation Officer of Alameda County?

MUHAMMAD: It really influences almost everything I do. I've had the great fortune of being born and raised in Oakland, California, the city that I know and love, and in Alameda County. Graduated from public school in Oakland, kind of barely, right, I struggled initially. Many of the same statistics and scenarios many of our young people are facing,

single parent home, in a difficult neighborhood. Ended up going into foster care, ended up in the juvenile justice system. Had made some poor choices, but also had some opportunities. One, I was never really incarcerated at any long periods of time when I was a young person. I was given second and third chances. I connected with an organization called the Omega Boys Club. I had a kind of a mentor as a teacher at Oakland Tech High School. And those opportunities lead me to turn things around when I was about 16 and never looked back. I was able to go to Howard University in Washington, DC through a scholarship with the Omega Boys Club. And although I studied journalism, I don't know how I got into this, I was able to use those experiences, providing opportunities to young people, giving people a second chance, not just quickly going to incarceration when someone makes a mistake. And those qualities, I think, is what makes up a good system and can help people turn their lives around. So that's what we're trying to do in changing, the only reason I took this position was to make change. When I met with the Board of Supervisors, I told them that I was not interested in business as usual, that things actually were going great for me in New York. Some people thought I was crazy to leave New York, but the opportunity to come home and to make changes, and, to the Board of Supervisors credit, the said then they wanted

change and they have supported me since I've been here, and so I really appreciate that, but we've got a long road to go.

ONEK: And what has been the reaction from the youth on probation, if you've gone up in the units and talked to them? Have you gone up and told them your story and, I mean, it must just be amazing to them to see someone who was once in their shoes, now in your position.

MUHAMMAD: Yes, it's really been remarkable. You know, for the last numerous years, the positions that I've had wouldn't actually have me have an interaction with young people, right, but I would crazy if that was the case. So very early on I've gone into Juvenile Hall, talked to young people, talked to young people on probation in the community. And as you could imagine, the response has been quite significant. I've really been happy with many of my staff who have shared different news articles that have come out talking about my experience, from having been on probation, to running probation in Alameda County. And in fact we had one group of young adults on probation, 18 to 24 year olds, who all wrote essays after reading about my story. And they were endearing essays, I mean, just to hear them talk about, this is somebody who can relate to me, gives me

inspiration that I could turn my life around as well. And so I hope to do that on an individual basis, but certainly for an entire system as well.

ONEK: So let's talk about your first job in law enforcement. You graduated from Howard, you came back to Oakland to run the Mentoring Center, a very well respected non-profit here. And then you had the opportunity to go to DC and be part of the system. And you went there as an outsider, from outside of DC and from outside of law enforcement. How were you received by the rank and file there when you arrived?

MUHAMMAD: That was an interesting experience. You know, I remember in California, I was taking a train ride to Sacramento and I was with a colleague and we were going to advocate that the state look at the Missouri model for the youth authority, the state facilities. And at that point a friend of both of ours, Vinnie Chiraldi, was just named the head of Washington, DC's juvenile justice system. And the woman on the train with me, and who knew Vinnie said, would you ever go into the system, go into law enforcement? And I remember saying, I never would do that. And a few months later Vinnie called me and asked me would I join him in San Francisco. And so, you know, we were

initially welcomed well in the community and the system. But I think that most of the employees, when we got there, they had seen in 20 years, 21 different directors.

ONEK: Just repeat that because we all knew the system was problematic there, but.

MUHAMMAD: In 20 years they had 21 different directors at that department. And so things, as you could imagine, were chaotic. The facility was horrendous. They were under a 20 year old lawsuit consent decree that they couldn't just do the basic things, like literally get the water hot enough to wash the clothes. That was literally a part of the lawsuit that historically the system just couldn't do right. Let alone stop abusing the kids, stop locking them in their rooms for excessive periods of time. And so we came, and I think some of the staff thought they can wait us out, right, some of the staff embraces --

ONEK: Because when you've had 20 leaders in 20 years you figure, hey, I'll just pay lip service to whoever comes in and a year later they'll be gone.

MUHAMMAD: Absolutely. And when they saw we were serious, we made humongous changes. We closed the horrible 220 bed facility, opened up a state-of-the-art 60 bed facility in its place. Really made extraordinary changes and people, when we were there five years later, still making big changes, the unions and the others started to dig in around being concerned, because those changes also came with some difficult choices, like a lot of firing of people who were doing some really bad things to young people. And we did make those difficult decisions and fire people. And so it was, it became very interesting, in DC particularly when we got to a mayor's race and it got very political, but we're very proud of the work that we did in Washington, DC, and change is not easy.

ONEK: Well, let's talk about maybe the biggest, certainly the biggest physical change you made, which is the New Beginnings Center that you helped build and establish. So you had talked about kind of the infamous Oak Hill facility, with all its problems. And you came in with a vision, you and Vinnie came in with a vision of bringing the, quote, Missouri model to Washington. So for our listeners, could you talk a little bit about what the Missouri model is, and then how you went about implementing it in Washington.

MUHAMMAD: In the 60s and 70s, Missouri had almost the exact same system California had and ironically at one point they were looking at California as a model. And we know now that California is kind of unfortunately the butt of jokes around the country for having probably the worst state juvenile justice system in the country. And so Missouri had these large facilities, 500, 600 youth, far away from young people's communities, that were, there was no rehabilitation going on, and even very abusive. And Missouri said they're going to change all of that. So what we now call the Missouri model is small facilities, no more than 40 youth, no more than 40 miles from their homes, so their families can participate in their treatment, very rehabilitation and treatment-oriented, where young people go through a process of earning their way out, right, so it's not they're just doing time, and when you just do time, that's when you get the fights and the abuse and all of that which goes on in these facilities. But they're earning their way by learning, by going through rehabilitative process. And so in Washington, DC we had a similar horrible facility, of abuses, escapes, education was horrible. And we adopted this Missouri model, small units, no more than ten youth in a unit, there was going to be three to five staff at all

times with these ten youths. We actually took, we removed the public school from the facility, brought in a private provider on publicly funded, and they did an amazing job. No more than ten youth in a classroom, with two teachers in each one of those classrooms. A smart board technology in all of those classrooms. And we just really saw the complete transformation. And then we closed that old decrepit facility and build a brand new state-of-the-art facility. It resembles more a college campus, a juniors college campus, than a juvenile institution, but yet it still is that, there's still razor wire around the fence, these young people are still locked up, they have single rooms that are cells, right, so this isn't summer day camp, right, this is still a juvenile facility where young people are held accountable, but they get rehabilitation and education so that they can get out and be productive with their lives.

ONEK: So the reforms you helped you lead in DC were very controversial, I think it's fair to say. And reformers around the country looked at your work as a model, and I know people are visiting from all over the country now to see what you did there. At the same time, there were some local critics who vociferously accused you of being, quote, soft on crime. What is your response to those critics?

MUHAMMAD: I think, you know, it's, one, it's good to be back in California. But I think that our wonderful Attorney General, Kamala Harris, has said it best – let's be smart on crime. Being so-called tough on crime has not worked. Right? The massive incarceration rates that has been extraordinarily expensive and incredibly ineffective. It's clear, and right, when I saw Parade magazine, not your most, you know, socially conscious magazine on earth, but that is everywhere, on the cover of it, a senator from Virginia writing an article saying we lock up too many people in America, I knew that we had hit mainstream. It's clear that we waste millions and billions of dollars locking up people who don't need to be locked up. If a person is a real risk to the public safety, yes, we need to remove them from society for some time, and provide them rehabilitation while we do that. But there's so many people who are not an actual risk to the public safety who are locked up for bureaucratic sake or political sake because we just want to be safe. And so what happened in DC, if you look at the numbers, we reduced recidivism, we increased public safety, juvenile crime went down every year we were there. But you had these individual incidents that yes, were horrifying, don't get me, I will never say that some of these individual incidents

were not horrifying. But they were blow up by our critics, but when you looked at the overall numbers of what we were doing, over, year after year we were reducing crime, we were reducing recidivism, and we were increasing good outcomes for young people.

ONEK: How do you deal, though, with those specific horrible incidents? We have talked about this with many of our guests, Matt Kate included. You know, with realignment now, you can guarantee that there's going to be someone in the next few months who commits a horrible crime and they're going to say, well, this wouldn't have happened except for realignment. This is a continuing challenge for people in leadership positions like you. How do you get people to look at the overall policy rather than focusing on one horrible incident that might be a complete outlier or might not even be because of the changes that have been made.

MUHAMMAD: Yes, I mean, the Willie Horton effect. This is real, we've talked a lot about it. You know, I know, I think that what we have to keep our eye on is what happens now. Right? If you are OK with what happens now, which is 70 to 75% recidivism of people leaving state prison, which is numerous, horrible

incidents of murders and attempted murders and robberies and rapes, of people who have left, and, but, not that, again, we need to raise up these individual incidents now or later, but we should know that I am confident, and what I want I want to do is let the numbers speak for themselves. If we can't reduce a 75% recidivism rate, yes, take the responsibility back from me in a couple of years. And I want to, part of my entire reform, to my department, one of the tenets is a data-driven performance management system. Now we want to have particular measures: recidivism, achievement, right, and we want to have both young and old, juveniles and adults on probation, are they earning their high school diploma or their GED, are they going to college, are they getting a job, are they finishing drug treatment programs, are they having better outcomes, in addition to are they not committing crime, and we want to look at those measures and evaluate those measures. And that's what I want to be evaluated on, is the overall performance of my department, not individual incidents that we will, unfortunately, never stop any time soon, these individual incidents.

ONEK: So I think you've strongly answers your critics in Washington. At the same time, you know, when we've talked privately, you've talked about the lessons you did learn from

Washington and things you would have done differently. And now here you are in Alameda with a chance to take some of those lessons learned here. So what are some of the things you learned form Washington that you think can help you as you start out here in Alameda?

MUHAMMAD: A couple of things. We did a lot of our facility reform before we did community partnership and community connection improvement. And we should have done both at the same time. And so we were improving our facility, we were improving rehabilitation, and getting young people out of our facility who had not shown any reason that they were a risk to the public safety. Before we built up our community infrastructure. And the good thing here in Alameda County is, we've got an extraordinary community infrastructure already. The community-based organizations that provide services to people on probation, who are at risk, who are in trouble, is large. Now we need more resources and we need more services and opportunities, don't get me wrong, but we've got a great starting point that unfortunately we didn't have in Washington, DC. But also that the system, I'm a chief probation officer. I wear a badge, I'm a law enforcement official. I shouldn't be out front around the advocacy of changing the department. Now

I'm going to be, I'm only here to make good improvements to the system, but there, I still need to be yelled at, as I sit here today, I still run a pretty bad department, right? Now I've been able to, in six months, make some significant improvements, but last week there was a staff member who opened up a door to a youth in my juvenile hall and just emptied a can of pepper spray in that young person's face, with, just because the young person was banging on his door. That horrifies me. So now, that person got walked out and won't be back, but that, I still run a bad system. I need people yelling at me, you know, and some of the advocates who I know and love, that, you know, they don't, I'm telling them no. For what I'm still doing wrong, point that out. Now I know you know it's not me doing the wrong and I'm changing it, but I still need you to point out what I'm doing wrong, because I can't be everywhere and I still need the advocate. We didn't have in DC. Once Vinnie Chiraldi and myself they were saying, OK, the reformers are here, we could turn to something else. And unfortunately the advocates there, in my estimation, kind of just let us take the lead and that didn't work well. And so I think that good strong community partnership, which, unfortunately, the good thing is, you know, I used to run a non-profit here, I've got a lot of community connections, and I'm building on that community partnership.

We have to do that as well as reform what's going on in our facilities.

ONEK: Because it seems to really make the kind of changes you need an inside-outside partnership.

MUHAMMAD: Absolutely.

ONEK: Where we need good people in the inside and good people on the outside who understand where each other are coming from. They're not always going to agree, but they ultimately have the same goal and can help each other reach the goals that they want collectively.

MUHAMMAD: Absolutely, and, you know, I have 200 youth in my juvenile hall today, 60 youth in my camp, so 260 youth in my two facilities. I have 2,000 youth on probation in the community, right? I have 15,000 adults on probation in the community. And so obviously my biggest part of the pie is outside, right. Now we focus on the inside because we have them 24 hours a day and we have care, custody, and control, and the rehabilitation responsibilities. But as far as the sheer numbers, the vast majority of the people under the supervision of my department

are in the community. And we have to have strong supervision and law enforcement, but we also have to have strong community partnerships where people are getting services, supports, and opportunities. We're helping them finish school, we're helping them get a job, or helping them get the support that they need.

ONEK: Now how are you going about building those partnerships and building that trust, given that Oakland, like many cities, there's a long history of distrust, especially in certain communities, with law enforcement. And there have been, you know, several incidents here that have really exasperated that problem. What have you done coming in in February to try to build that trust?

MUHAMMAD: You know, this is rough. Oakland, particular, around the country there is obviously significant trust issues between the community and law enforcement. It might be most extreme in Oakland. And I sincerely believe we've got a good police chief in Anthony Batts, and he's had his challenges with the community, primarily, you know, when he was looking at going to San Jose. But I've talked to him, he is committed to this work. I think he can do a good job. He just does not have the requisite resources in Oakland. We heard last night the federal

government gave a grant for 25 new officers. And so what we're trying to do is work in partnership with, not just the city of Oakland police, but Hayward and many police departments around the country. But also, you know, fortunately I have some, at the moment, cachet in the community, we'll see how long that lasts. And I'm trying to use that to say, yes, I'm weary of law enforcement. I'm a head law enforcement official, right, but I want to be transparent, I'm going to be, you know, I think this conversation I have been open and honest everywhere I go with my staff, in the community. That's not only my style but it's what I want, I want to be completely honest. When we make a mistake I want to tell people we made a mistake. When we do good things, I want to tell people we did good things, and I want to try to have that same spirit leak out into my law enforcement partners, the sheriff's department and police departments throughout the county.

ONEK: So we already talked about realignment. What do you see as the other biggest challenges facing you in Alameda, in the next, you know, one to three years?

MUHAMMAD: Well, I, you know, it's funny. I had such a gigantic agenda, have such a gigantic agenda, without realignment, right,

before I even knew realignment was happening, you know. Before, when I accepted the job, it was, before I got here I knew realignment was happening, but I didn't know it when I first accepted the job. Ironically, we were pushing for realignment in New York. And of course I had a gigantic agenda, right? And so I just say a few things about that agenda, on the juvenile justice side, realignment right now is on the adult side, though we could talk about it needing to happen on the juvenile side. On the --

ONEK: Well, in some ways it's already happened, because we went from having 10,000 kids to, I don't know what the latest number is.

MUHAMMAD: Thirteen hundred, I think, in the state.

ONEK: Yes, like about 10% of the kids we had recently. And of course we haven't seen a big increase in crime because of that at all. And so that, again, we've done realignment at the juvenile level in some respects, but nobody's talking about that.

MUHAMMAD: Yes, yes, which I say, we can have another show about

that. So what, the overall arching reform that I'm trying to make in the department is one of a strength-based approach, so on the juvenile side, what we're calling positive youth development. We want to build on young people's strengths and assets, not focus on their deficits, not say what's wrong with you, how are going to punish you, or what's wrong with you, how we are going to fix you. What's right with you, how are we going to focus on that so that you don't have to spend any time on any delinquent [UNINTELLIGIBLE] behavior. Next we want to have a risk-based supervision and needs-based services, right. So based upon your likelihood of you re-offending seriously, we're going to increase your supervision or decrease, with your less likelihood. And then needs, what are those needs that you have, educationally, mental health, drug treatment, family-wise, a healthy relationship with a positive adult. And then a few other things. We want to have a trauma-focused intervention. What trauma have you experienced your life that has produced this delinquency? If young people who never met his dad, if a young person never met his dad, his mother is working two jobs, his aunt just died of AIDS and his little brother got killed, the trauma that, and that story is far too prevalent amongst the young people that we have on probation. And all we do is say, why did you steal the car, and we don't look at the trauma that

produced what went into stealing the car, that we've got to look at serving the trauma that the young person experienced. And the last think I'll say around this is, we want to incentivize achievement, you know, if you improve your grades, we want to give you a gift card, all the way up to getting you off probation. Right? And so for adults on probation, if you're [25?] years old and you don't have your GED, you get your GED, we want to give you six months off probation. You finish your drug treatment program, we want to give you three months off probation, because often you talk to the folks on probation, particularly on the adult side, and what they want the most, yes, a gift card is great and a certificate is good, they want off probation. And so we want to incentivize achievement, where it's not just, don't do crime, but it's also to progress and develop so that you can be more productive.

ONEK: Well, David Muhammad, thanks so much for joining us.

MUHAMMAD: Absolutely, thank you for having me.

ONEK: Please tune in next week when we'll be joined by Gena Castro Rodriguez, Executive Director of Youth Justice Institute. Thank you for listening to the Criminal Justice Conversations

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