The Criminal Justice Conversations Podcast with David Onek

Episode #35: Paul Ekman, UCSF Professor Emeritus of Psychology
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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. Criminal Justice Conversations, 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 Paul Ekman, Professor Emeritus of Psychology at the University of California San Francisco. Ekman is one of the world’s foremost experts on facial expressions and emotions. He has trained the FBI, the CIA, the Department of Homeland Security, police departments and many others on his research. Ekman has authored or edited 15 books, including Telling Lies, Emotions Revealed and most recently, Emotional Awareness, co-
authored with the Dalai Lama. His research was supported by the National Institute of Mental Health for over 40 years, and formed the basis of the TV show “Lie to Me”, which he helped create. Ekman was named one of the hundred most influential psychologists of the 20th century by the American Psychological Association, and was selected by Time Magazine as one of the 100 most influential people of 2009. And closer to home, his daughter Eve, who I met through Paul, was the first intern on this program when we started and was instrumental in helping get it off the ground. Ekman has a BA from New York University and received his PhD in clinical psychology from Adelphi University. And he joins us in studio this morning, Paul Ekman, welcome to the program.

PAUL EKMAN: Thank you very much.

ONEK: Paul, can you start by discussing your research on facial expressions and how it can be used to improve public safety?

EKMAN: Well, that’s really two different questions. What I was able to accomplish was to bring facial expression and emotion back into the arena of science from which it had dropped in the 40’s and 50’s. And I was able to reasonably conclusively settle
the issue of whether Darwin or Margaret Meade had the right viewpoint, which is to say, culture specific language like gestures are, and in that sense our body language, or was it part of our evolutionary heritage as Darwin claimed, that unified all of humankind. It turned out, Darwin was right and there are seven emotions that have a universal expression. So, that was the first contribution. The second was to develop a tool for measuring facial movement. So, you could get an answer to the question, how many expressions can a human being make, nobody knew before we had this tool. About 10,000. How many are relevant to emotion? About 3,000. How many will you typically see in an intense emotional discussion? Less than 300. They get, those 300 will be repeated many times. So, it’s a potentially large repertoire, very small, the tools used by everybody from Pixar to market researchers, to most scientists, who are actually measuring the face. And the thing that brought me more closely into the relevance to the criminal justice world, was the being a code discoverer, the existence of micro expressions. These are very fast, about a 25th of a second, expressions of emotion that are being concealed from the other person and usually quite successfully. Less than 1% of people can recognize a micro expression without special training, and yet, what I was able to determine, is that with less than an
hour of training, anybody can see them. And you can see the concealed emotion, the emotions that another person is either concealing from themselves or from you, either repressed or suppressed emotion, and that can be very valuable in a variety of contexts from doctor-patient, to interrogator-suspect, to surveillance, when people are concealing emotions. It doesn’t mean that they’re guilty of a crime, but it tells you that something of import is going on that you’re being deprived of. And you can see what it is. Now if it’s anger that’s being concealed, or maybe it’s anger at remembering your argument with your spouse that morning, or angry that the line is so long in security, but maybe it’s anger also about what you’re intending to do. So, sorting it out, it’s only a first step, it’s not a silver bullet. But, it does give you a tool that you didn’t have before, to know how people are feeling and to know the feelings they’re having that they don’t want you to know about. You then have to find out the answer to the two T’s, what’s triggering it, that’s the first T, and who’s the target of that emotion. So, if you see concealed anger, is the trigger the argument with the spouse, or the intention to blow up the airplane? That’s very different triggers. And who’s the target? Are you the target? The person who sees it? Is someone else the target? Emotions don’t tell you their target and they don’t
tell you their trigger, they only tell you what the emotion is. And it’s an enormous difference whether someone is angry or sad. Those are both universal emotions, and both of those can be concealed. And they can be recognized if you get the training. Now, of course when you get, you’re opening potentially a Pandora’s box because you’re taking, in Erving Goffman’s word, he was a Berkeley professor, a noteworthy sociologist, who wrote many important books that are still very much worth reading. Erving said, I’m stealing information from people that they don’t want to give me. Do I have the rights to steal it? Who has the right to steal it? Now I have a tool on the internet that allows anybody to learn how to do this, and I can’t control what they do with it. Was that a mistake?

ONEK: That’s actually exactly something that I want to ask you about, but let’s circle back to that, because first you were talking about airport security, so let’s talk about it in that context for a moment. How can these tools you’ve developed help us improve our airport security and to what extent are they being used or not being used as they should in the United States right now?

EKMAN: Well, a little out of date, I did a lot of work with TSA
developing what’s called the SPOT program, Screening Passengers by Observational Techniques. And the training of what are called BDOs, Behavior Detection Officers. And the last time I looked in, which is over a year ago, I’m due to speak to them in the next week, they were using not just the micro expression training tool, which is wonderful, because you don’t need to do it in a classroom, but they were teaching people about a number of other signs relevant to deception that we have uncovered.

Now, it’s, terrorism is fortunately a very rare event. If you’re going to catch that one person in probably a hundred million, I mean the 19 hijackers got on with two million other passengers that day. So, you’re looking for 19 out of two million, and most days there’s nobody. So, you have to be willing to accept a high false positive rate, and at most, inconvenience people a little bit. And actually most of the time, all that happens is when the SPOT trained people see a number of the different signs they’ve been trained to look for, they’ll go up and say, how are you doing today? Where you going? When did you decide to go? And usually they can clear up the reason for this, the example I like to use is somebody who’s got their head hung down, well that’s one of the things you pay attention to. And they’re slumped and they’re not looking at anybody else, so what’s the reason? You don’t know, you go up
and you ask them what’s the reason for your trip, and you find out they’re on their way to their brother’s funeral. So, you’ve got an explanation for their behavior, perfectly innocent, and that’s what happens 99% of the time. The 1% that, where you can’t resolve why they’re showing unusual behavior, that’s not being shown by everyone else, and we just go back to the anger example, if everybody on the line is showing anger, or half the people, then anger is irrelevant. But, if nobody looks angry except this one person, then it’s a relevant sign you have to clear up. For the 1% you can’t clear it up in 10 or 15 seconds, there’s a very high incidence, when they do further screening and computer check, a very high incidence of wanted felons and smugglers or weapons, drugs, money, et cetera. So, I believe the program is working. Could it work better? If congress would give them more money, they would be getting better training, they’d have more coverage. A lot of our airports have no coverage.

ONEK: Yeah, that’s one of my questions, so you’ve provided some training on this observational technique and you believe it’s effective, and you describe instances on how it works, but how widespread is that? I mean, is this 24/7 when we go to SFO, do we see this? What if we go to a small airport in another part
EKMAN: Well, you have, the dilemma is that telling you, for this podcast, is telling the enemies of the country also, where the gaps are. So, I know where the gaps are, and I’ve communicated that to Senator Feinstein, and I’ve communicated that through proper channels to the president, I know he knows about it. I know that congress won’t give them the money to close the gaps. But, I’m not going to tell you how many gaps there are, or where they are, because enemies of the country who want to do damage may well listen to these things. My experience with the Al Qaida type people is that some of them have been very well trained and briefed.

ONEK: Well, that actually circles back to the point you made earlier that there is information that you have on your website that anyone could access. Do you worry about whether there might be too much there, that somebody could take the powerful research you have and use it for nefarious purposes?

EKMAN: I do worry. I, at one point, made it, I blocked the purchase of this, from the website, from any non-democracy. And my friends in the Department of Defense said, you’re
wasting your time. The non-democracies have works around, they’ll be able to get it, it just means that the people who aren’t in power can’t get it. Open it up. This is a tool, we’ll make more use of it than anyone else will, but you can’t prevent others from using it. And you’re foolish if you think you can. So, if, I rejected a request to train Gorbachev’s protection people, I said come back 10 years later when you’ve been a democracy. Of course that hasn’t happened. I would not personally, my company would not do training in China, but I know that Chinese have my tools, I know they’re publishing research it the effectiveness of these tools. They send me lots of questions. Some of those questions I don’t answer. Some are more bona fide scientific questions. But, it’s a double edged sword. And the, I wish I could control who uses it, but I can’t. I can’t even control, the people I’ve trained in this country, the law enforcement officers, there’s nothing to prevent them from going to China and training the Chinese and I would be very surprised if some of them are not doing that right this minute, because they can make money that way.

ONEK: Now, you talked about working with law enforcement, which you’ve done increasingly, I think, especially since 9/11, there’s been more and more interest in your work. Some of your
colleagues in academia have criticized you for what they see is a cozy relationship with law enforcement, what’s your response to that criticism?

EKMAN: Well, I think that’s nuts. It’s so simple minded. I usually say, do you want the police to make more mistakes? Let more criminals go free, and innocent people be incarcerated or even executed? They have to do a better job, and the people that I work with, which are by and large people either doing counter terrorism, or people doing homicide investigations, I’ve encountered at least as much integrity as I’ve encountered in the academic world.

ONEK: Now, let’s turn to your book with the Dalai Lama, which is transcripts of conversations over a series of sittings that you and the Dalai Lama had, discussing emotion from both eastern and western perspectives. How did this book come about? It’s really a remarkable book.

EKMAN: Well, it’s my daughter, Eve, who, when she was a high school student, we allowed a teacher, or we paid for the cost for a teacher to take her and a bunch of other high school kids trekking in Nepal, not knowing that the last 10 days, each of
these kids would be living with a different Tibetan family in a refugee camp in Katmandu. So, they came back all fired up about free Tibet and the oppression of the Tibetans. And I had actually no interested in Buddhism, and no interest in the Dalai Lama. I mean, I knew he was an advocate of nonviolence, I thought that’s a good thing. But, I was not in any, I’d never read anything he wrote. But, I knew that he was very interested in Western science and that if you got invited to his headquarters in Dharamsala, you got to bring an observer. A silent observer. I thought that would be a gas for my daughter. So, I put my name in, I got invited in the year 2000. I and four other scientists went and I brought Eve to sit for five days, and listen to the conversation. Now Eve is no longer very interested in Tibet or Buddhism but the Dalai Lama and I, for inexplicable reasons, from my point of view, just hit it off enormously. And we’ve developed a very warm friendship, he believes we were brothers in a previous incarnation. I don’t believe in reincarnation. I mean it’s a harmless fairy tale like heaven and hell, invented really to solve the same kinds of unsolvable problems, which is that life comes to an end and most of us, if we’re not falling apart, don’t want it to end. But, that’s the nature of life. But, so over the course, he was very excited about my findings on the universals of facial
expressions, because, you know, Darwin, in his book Expression of Emotion in Man and Animals, that really started the field of psychology as far as I’m concerned, said that this evidence shows the unity of mankind, that we’re all descended from a single progenitor and it was a direct challenge to the races of his time, who said Europeans were descended from more advanced. Well, the Dalai Lama seized on this, and said I am a Darwinian, because it shows that we are all, he liked to emphasize that we are all one people, we are all brothers and sisters, but that was in some sense a misunderstanding, I thought, because emotions not only unite us, they divide us. Even within a culture. Even within a family, emotions can be a source of enormous trouble. My wife and I both have the emotions of anger, that doesn’t mean that we’re going to get along or be able to deal with disagreements and the anger that arises with disagreements. So, I thought it was really necessary to explore these matters further, and I proposed to meet with him and, after a year or so, a meeting was arranged and I thought that after the first hour he’d say well thank you very much, this has been very interesting, but we spent 12 hours over the course of three days, and we had just begun. And, we found it enormous fun. I’ve never laughed so much or had such a good time. And now, I’ve spent more time talking about emotion with him than
with anyone in the world. We’ve now spent over 50 hours. I’ve never spent that much time with any one person before, and because everything he takes for granted, I don’t. And everything I take for granted, he doesn’t. So, we challenge each other’s assumptions and viewpoints, and we both enjoy disagreement and where it could lead us.

ONEK: And that really comes through in this book. You can see the humor and see the rapport that you two have. You know, you talked about the emotion of anger. And I want to talk about that in the context of public safety. It’s something that you and he discuss in the book and I think it could be argued that the emotions of anger and fear have really guided our public safety policies in the United States, rather than an analysis of what actually makes us safer on a rational basis. We’ve had two corrections directors on this program, Matt Cade in California, and Pat Caruso from Michigan. And they both made the statement that we’ve been incarcerating people we are mad at rather than focusing on who is dangerous. I’d love to get your thoughts on anger and fear and its role in our criminal justice policies and what we can do to overcome that.

EKMAN: There are people, each emotion, I’ll back up a bit.
Each emotion can be transformed into a disorder. So, fear can be transformed into anxiety and be crippling. But, fear saves your life often, causes you to avoid situations that are threatening, or to cope with them or anticipate them. Now, anger, to me, is a sign that you’ve got a problem you need to deal with when you’re not angry. Never deal or try to resolve a problem when you are angry. But, that means you have to be aware of the fact that you’re angry at the moment that you’re angry. And the funny part is although we’re not unconscious, we’re often unaware the emotions that have gripped us. The Dalai Lama and I, from different perspectives, have talked about different exercises that can increase our awareness of our mental state. But, there’s a disorder of impulsive violence, and that’s a disorder of anger. And there’s an area where you need incarceration for protection, because we do not yet know how to correct this, or whether it is indeed correctable. I’m, through my contact with the Dalai Lama, I’ve changed from being a pessimist, to an optimist, so I believe, or hope, that at some point we will be able to correct people who fly off the handle and hurt other people. There aren’t many of these people, but that’s where incarceration of a humane kind, not the use I read about of isolation, which is really, in my mind, a form of torture. But, you have to protect society from people who can’t
control their violent behavior. And they are usually repeaters. It’s not a momentary thing. If you lose control and physically hurt another person, there’s a very high likelihood you’ll do it again. And so, there needs to be an intervention. And without a promise if there can be any cure, at this point in time. So, the issue is protection. But, that’s not who’s filling up our jails.

ONEK: Right.

EKMAN: Right? And I don’t know whether anger is responsible or fear, for what’s filling up our jails, I would --

ONEK: And by the way, by anger and fear, I didn’t mean on the part of those incarcerated, I meant on the part of those in society who are voting for these measures of anger and fear, that end up filling up our prisons. But, let me move on to something else in the book that I think is really relevant to something else we’ve been talking about on this program, which is restorative justice. And forgiveness is something you and the Dalai Lama talk about a lot. And one interaction you had reminded me of a recent panel that I was on with two former guests on this show, Sujatha Baliga of the National
Council on Crime and Delinquency and Omega Boys Club founder Joe Marshall, they’ve both been on this program and we were on a panel recently about restorative justice and Joe Marshall expressed his reservations about the practice because of a perceived lack of accountability for vendors. And this reminded me of the conversation you had with the Dalai Lama about how do you forgive the person but at the same time hold the person accountable for their actions. I was wondering if you could comment on that?

EKMAN: I wish I had more to say. Certainly for a Buddhist perspective I am not a Buddhist. But, it’s much easier, because with their belief in reincarnation, they, he says he forgives, but he doesn’t forget. So, he takes account of what the person has done, but he can still forgive them because they’re going to be punished so terribly in their next incarnation. So, punishment is not out of the scene. It’s just out of the current scene. Now for those of us from Western perspective, you could say well, they’re going to go to hell. Well, if you believe in heaven and hell. Now, if you put aside heaven and hell and just say well, the issue in forgiveness has to do with what’s most likely to allow the harmed person to go forward. And I think there’s pretty good evidence that if they’re able
to forgive, it’s not going to fester. They’re going to be more likely not to, it’s like when your best friend dies, there’s no way you’ll ever get over that, but you can continue your life without it destroying your life as much as it destroys it the first few days that you hear about that. So, I think forgiveness, and the Dalai Lama says this, is of main benefit to the person who can forgive. It’s of a secondary benefit to the person forgiven if it’s in a context of responsibility. And what they can do to try to indicate their realization of their responsibility and any mending they can do, if there is any repair that can be done. But, the issue will still remain, is this going to become a repeat offender? Was this a repeat offender in the first place? Is every act forgivable? If Hitler was still alive, should I forgive Hitler? People who enjoy torturing other people, and there are such people, that’s how they get their kicks. I think that’s clearly an aberration and they should be incarcerated, but if they, in my book, Emotions Revealed, I interviewed at some length, a woman, a husband and wife whose daughter had been tortured and then raped and murdered. And that person is awaiting execution, about 10 years waiting for execution. But, should we ask her to forgive this person for murdering, torturing, raping her 25 year old daughter? I don’t know the answer to that.
ONEK: Well, --

EKMAN: I know that if she could, it might. She disagrees, but if she could, she might be able to move forward with her life better than not being able to. She doesn’t think so.

ONEK: What would the Dalai Lama say to that question?

EKMAN: He would say you have to engage, and the Buddhists have exercises that will help you move on the path towards forgiveness. There’s nothing that’s unforgivable from his vantage point. But, I’m not the, I don’t hold him as the standard for which I should be achieving. He’s like a Mozart of the mind. Now, I play a little bit of music, I don’t expect to be a Mozart.

ONEK: Well, let’s move on to another topic, which is your TV show, Lie to Me, which was not only based on your research, but the main character was based on you. Obviously this is very unusual for a psychology professor. How did the show come about and why did you think it was worth the investment of your time?
EKMAN: Malcolm Gladwell wrote a profile about my work in the New Yorker, which was read by Brian Grazer, a major film and television producer, and he contacted me and said I want to do a TV series about this. It was his idea, not mine. And I got to find the right writer, and then he came back, and he said I’ve got the right writer, Sam Baum, and I want you to meet him and meet my head of production, and we’re going to go ahead and do it. So, they came up to San Francisco, I spent a day with them, I really liked Baum, I thought he was a very thoughtful guy and he didn’t want to, he wanted to deal with the complexities of lying and truthfulness. But, they told me, we’re going to do this with you or without you. You’ve written so much, there’s so many interviews with you available, we can do the program without you. If, however, you sign a contract, you’ll get to see every script three weeks before production, and give us feedback about it, which we will read. We may not follow it, but you’ll at least have the change to tell us we’re off base. And you’ll be able to restrict certain things. So, for example, they never mention my work with the Dalai Lama. That was in the contract they couldn’t. They, I wish I had written, knew more about what to restrict them from. I did say that they couldn’t, that the main character couldn’t resemble me at all, and I thought Tim Roth played one of the most obnoxious
figures who’s ever appeared on television, but I guess some people really liked his characterization. I would have stopped it if I could have, because it made, I think the unintended consequence was that it made it seem too easy to catch a lie. And it isn’t easy.

ONEK: Because it’s TV so they have to show an expression and then say ahh case solved!

EKMAN: You’re right, and they’d say well, I’m the expert, I can do that, I got Fox to agree that I would write a critique of every program called, The Trick About Lie to Me: Separating the Science from the Fiction, which appeared on Fox’s website the day after the program. And the, I would point out all the mistakes they’d made, I would point out the, I always opened it by saying I’ve never been as certain as Tim Roth, and I’ve never solved a problem so quickly. But, they have only 44 minutes. I have more than 44 minutes to deal with a problem. And often, I say, I can’t tell. He never said, I can’t tell. I tried to get them to do a program where he makes a mistake, and mistakenly thinks someone is lying who’s actually being truthful. But, they never did it. And I was very glad when the program went off the air. On the other hand, it opened doors that publishing
in Science and Nature hadn’t opened. And government opened doors, because there was some people rather high up who liked the show. And therefore, they responded to my letters. The reason I got that Time magazine 2009 was because of that show. And at that show I met Obama’s Chief Speech writer, because he was also one of the 2009. And I had a direct access to send him material. So, there just, it had benefits. So, it had its upside and its downside, I think a little more down, on some days, somebody sitting on a jury is going to either make a mistake because they saw something that’s really wrong on the show, which I couldn’t get them to correct, or they’re going to think they can really tell and don’t realize how hard it is. So, that’s life.

ONEK: Paul Ekman, unfortunately, we’re out of time, thanks so much for joining us, this has been terrific.

EKMAN: Thank you, it’s been fun to talk.

ONEK: Please tune in next time when we’ll be joined by San Francisco Filmmaker Kevin Epps, discussing his latest documentary, Straight Out of Hunter’s Point II.
Thank you for listening to the Criminal Justice Conversations Podcast. You can find this episode of the program, and all prior episodes, on our website at www.law.berkeley.edu/cjconversations, on NPR KALW’s website, and on iTunes. You can also become a fan of Criminal Justice Conversations on Facebook, and you can follow us on Twitter on CJ Conversations. Our production assistant is Nicole Jones, our intern is Lauren Bénichou. I’m David Onek. Thanks for listening.