DAVID ONEK: Welcome to the Criminal Justice Conversations podcast, a coproduction of the Berkeley Center for Criminal Justice 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, policy makers, advocates, service providers, academics and others. The podcast 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 Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation, known as CDCR. As Secretary, Cate oversees 33 adult prisons and five juvenile facilities throughout the state, with a budget of over $8 billion. CDCR has approximately 167,000 inmates, 107,000 parolees, and 14,000 youthful offenders under its care. Cate
Matthew Cate was appointed Secretary by Governor Arnold Schwarzenegger in May, 2008. Previously he served as California’s Inspector General, responsible for public oversight for CDCR, the very agency he now leads. Cate has also served as a Deputy Attorney General at the California Department of Justice and a Deputy District Attorney for Sacramento County. He joins us from a Sacramento studio this morning. Matthew Cate, welcome to the program.

MATTHEW CATE: Thank you, David, good to be here.

ONEK: I want to start by discussing the controversy over recently legislation that changed the state’s oft criticized parole policies. You have called the changes a, quote, landmark achievement. But law enforcement and crime victim groups have been up in arms about provisions that provide for early release and reduced supervision for some offenders. Why do you think this legislation is such a landmark achievement? And why are so many law enforcement and victims groups so upset about it?

CATE: Well, I think I’ll take the second question first. The biggest problem we’ve had is really misinformation about
what the bill actually does. As a prosecutor myself, as you mentioned, this is really a no brainer when it comes to public safety, in my opinion. In California, before this bill was passed, California was really the only state who put everyone on parole, regardless of their risk level, or the seriousness of their offense. As a result, we spread our parole resources very thinly over a wide group of offenders. And so we had caseloads at 70 to 1 or more. An so what this bill does is, it says, let’s take the lowest level offenders, the least likely to commit a crime in the future. We’ll still have them on search and seizure, meaning a law enforcement officer can still search them at any time without a warrant while they’re on parole, but they won’t be actively supervised. And let’s take those resources and focus on the 85% of offenders who are most likely to commit an offense. And so that’s what we’ve done. And as a result, our case loads are going to drop down to about 45 or 48 to 1, which will allow our agents to really focus on, as I said, the more serious offenders, the more likely to commit an offense, and also allow us to provide rehabilitation to more offenders who need it.

ONEK: You mentioned that some of it has been misinformation
or miscommunication. How do you get the message out that this is really, benefits public safety to do what you’re doing when there are folks, of course, who are concerned about having more offenders coming back to their communities earlier, or that some of those offenders, albeit the low risk ones, will not be as well supervised as they previously were?

CATE: Well, I think that, you know, standing on the street corner and yelling early release gets attention. It sells newspapers, etc. And so you’re always going to have some of that. But on the prison side, the provisions of SB183X that impact the amount of time an offender spends in prison are focused around those inmates who are non-serious and nonviolent, non-sex offenders. And what it provides is, listen, we know that an offender who has an education, is literate, earns a GED, for example, is clean and sober, has an opportunity to get a job, those offenders are far less likely to commit crimes on the outside. And so what the bill says is, if you earn your GED, if you complete your drug and alcohol program, if you learn a viable trade, you can earn up to six weeks off your sentence in any one year. A very modest approach, and one that will reduce crime on the outside. But getting that through and getting
that message across is a huge challenge. But I think we’re starting to get there. I’ve found that most major publications now understand this, and most responsible news agencies are reporting it accurately. It just took us a while to get that message out correctly.

ONEK: And this isn’t a new idea. There have been numerous studies over the years that have shown that California really is unique in its parole policies to this point, as you said, one of the only states in the nation that really put everybody on parole, and I think had the highest return rate of technical violations of any state in the nation. So is there a way to message that this is not something new, but something that really has gotten consensus from folks across the political spectrum over time?

CATE: Well, the interesting thing is, that if you talk to most sheriffs, you talk to the chiefs of police, if you talk to chiefs of probation departments, they get this. They see it as something that not only allows us to deal with our overcrowded prisons, but also something that can be actually helpful to public safety in their communities. So it’s not really those
kind of mainstream law enforcement folks that we’ve been struggling to get this across to. It’s some groups more on the fringe. But you’re right. As we sit here, of course we’re going to have the most returns for technical violations, because we have the most offenders on parole. And whether, again, whether they’re a risk to the community or not, we supervised everybody the same. And just last year, well, I guess it’s been now about a year and a half ago, for the first time, California developed a validated risk assessment tool. So for the first time in our history, we’re able to say with a pretty good degree of accuracy who’s most likely to re-offend on the streets. And that allows us then to responsibly focus our resources on those offenders.

ONEK: Now, how do you handle the situation. Inevitably some of these folks getting out are going to re-offend. People in communities have a right to be concerned about people coming back to their communities and victimizing the community. Inevitably that’s going to happen, just like for anyone who’s never been to prison, there’s a chance that they might offend at some point. Are you thinking through now how to handle those cases? There’s already been a case in the news from Sacramento
where an offender was released 16 days early and allegedly committed a serious crime within a day of being released. There are going to be more stories like that that come out. The public has legitimate concerns about this. How do you address that by having people look at the bigger picture?

CATE: Well, that’s really the only way to look at it. I think first of all, you have to recognize that, and have empathy for every crime victim. It’s a terrible thing. And it can’t be really underplayed. On the other hand, we know, and we have known for better than 20 years now, from USDOJ statistics that recidivism doesn’t change at all by keeping an offender in prison for an addition six months, for example. All you’ve done is really delayed that crime by six months, and you’ve changed the name of the victim. The most important thing is to put incentives in place, like we have with the prisons where we say, listen, we know that a literate inmate is 5% less likely to commit a crime than an illiterate inmate. So we can then statistically show, hey, just by encouraging literacy, by encouraging inmates to get their GED, we can literally reduce crime in the thousands, because we release 100,000 to 120,000 offenders to the streets based on the old laws. So just a 5%
reduction would be dramatic reduction in crime. And that’s what we try to focus on.

ONEK: The supervision of sex offenders in the community is another issue that has received a lot of attention recently. Under Proposition 83, commonly known as Jessica’s Law, sex offenders are prohibited from living within 2,000 feet of a school or park. The proposition, as you know, passed overwhelmingly with 70% of the vote in 2006. In some cities, the residency provisions leave offenders almost nowhere to live, so they become homeless. An estimated 84% of paroled sex offenders are homeless in San Francisco, and about a quarter are throughout the state. And the state sex offender management board, which includes representatives from law enforcement and victim advocates, as well as treatment providers and others, argues that the law may actually reduce public safety, as homeless offenders are much harder to monitor and to provide with treatment services. Now, some of this is being sorted out in the courts now, but right now, how is CDCR responding to the challenges created by these residency restrictions?

CATE: Boy, it’s a real challenge. And there’s only so much
we can do, especially with the budget crisis we’re in. So we provide some assistance for offenders trying to find compliant housing. We’ll actually pay for compliant housing during the first 60 days to try to transition an offender into a stable living environment, because we know that has a great impact on whether the offender can maintain a crime free status. But it is really hard. We just don’t have the funds to try to do that over a long term period, nor should we, I think, as a society, continue to pay for parolees’ rent and those kinds of things. You know, the most distressing part is, we’re not seeing these restrictions change in big cities. What we’re seeing is actually more and more communities are layering their own restrictions on top of the state restrictions. And so it’s becoming more and more difficult for sex offenders to find a stable living environment, which we know is so important for public safety. But really that’s an issue for the legislature to resolve.

ONEK: That’s going to be very hard in a tough on crime environment with something that passed by 70% of the vote. Would you agree with that?
CATE: Oh, I would. You know, one approach, the approach that the sex offender management board mentions is to say, the most important thing is not where you live, per se, but to distinguish amongst offenders. So they use the example of the 18 year old and the 15 year old who have a relationship. And one gets labeled a sex offender, when it’s all consensual. Versus a real violent sex offender, pedophile, those kinds of people. Secondly is to distinguish between where you live and where you loiter, and recognizing that really the danger is for sex offenders to be loitering around schools, or hanging out at parks or at places where children are congregating, versus where they sleep at night. And so I think the sex offender management board is advocating that we try to approach the issue as to where are you spending your days, as opposed to where are you sleeping.

ONEK: I want to talk now about some of the tough cuts you’re making to rehabilitation programs with the budget crisis. Since your time as Inspector General, you’ve been a firm believer in rehabilitation, and the Governor famously changed the name of the Department of Corrections to the Department of Corrections and Rehabilitation in 2005. You’re now proposing cuts of
approximately $250 million that I understand will include about 800 layoffs. And there’s been strong resistance, both from providers as well as from crime victims groups. What is your response to the criticism of the cuts?

CATE: Well, I mean, I think the criticism is value. It’s heartbreaking to really understand for the first time, through an accurate assessment tool, what the criminogenic needs of offenders are. So to explain a little more, it’s only been in the last 12 months that corrections has had an accurate way of assessing which offenders have a drug and alcohol need, which ones need anger management, which ones need family counseling, all these things that we know make up the needs that lead offenders to committing crimes, but not be able to do anything about it. But the truth is, is that the legislature took 1.2 billion out of the corrections budget. It’s gone. And the legislature specifically laid out, along with the administration, that 250 million of that would come from rehabilitative programs. It’s just a terrible budget time. So what we’re doing is trying to --

ONEK: Yes, how are you insuring that the cuts are made in the
most efficient way possible so that the best programs are able to continue?

CATE: Well, it really amounts to trying to do more with less, something I think that we’re doing all the way down to the family level in California right now. And so we’ll have fewer teachers, as you’ve mentioned, which is a really hard thing, but we’re going to use teaching assistants. We’re going to ask teachers to see more students during the course of the week. We’re going to focus our industrial programs on those jobs that pay a living wage, those industries that have jobs available for parolees, so that we get the best bang for our buck. My hope is that in a couple of years, we can go back to the legislature, bang our fists on the table, show them our statistics and say, look, we’re using our money well. We’re reducing crime. You need to fund this at a higher level, and hopefully the economy will allow it at that time.

ONEK: Many of my colleagues here at Berkeley and elsewhere believe that California’s prison issues can only be truly solved if there is real sentencing reform. Are you in favor of sentencing reform? And if so, is there a role that the
secretary of CDCR can play in the debate about sentencing reform.

CATE: Well, I think so. You know, the Department of Corrections has the unenviable task of incarcerating everybody we’re sent. And so we have no control of the front door, as it were. And frankly, most of our prisons are at 190% of designed capacity or more. And any correctional officer will tell you that it is just flat more difficult and dangerous to run prisons at those crowding levels. So I do think that, as the Secretary, I should have a voice in this issue, because the safety of the staff of the Department of Corrections is at issue, and our ability to provide rehabilitative programming in a safe environment is at issue. So yeah, I think there’s a role. Obviously it’s been a really hot button issue in California, this idea of a sentencing commission. It seems to me, hearkening back to my days as a Deputy District Attorney, that I don’t think there’s anybody who wouldn’t agree that the penal code and our sentencing laws couldn’t use with some simplification, couldn’t use with some study and so forth. The real question is, does that commission have power to change law or just make recommendations?
ONEK: Now, I know you spent yesterday in Chino to mark the closing of the Herman G. Stark Youth Correctional Facility, better known simply as Stark. And it was the latest in a number of Division of Juvenile Justice, or DJJ facilities that have been closed in recent years as the DJJ population has plummeted from over 10,000 down to about 1,700. You have pledged to reduce the astronomically high cost at DJJ down from about $250,000 per year per youth, to about $175,000 per year per youth. And I’m wondering if you’ve been able to make any progress towards that goal by closing facilities like Stark.

CATE: Well, it’s our only chance. I think it’s a good thing that we’re reducing the population of wards at the state level. The truth is, is that I think best correctional science says that we need to keep those wards as close to the families, their families and communities as we can and reserve state wardship only for those youth who are really the most troubled. And so, in our department we’ll have, 95% have been involved in violence of some kind. The numbers of mentally ill are upwards of 50% or above, and so we really have some really sick, troubled, difficult to deal with youth. And the problem with downsizing,
while it’s a good thing, is it makes you less efficient. And so it has been a real struggle to bring down those costs as we have to provide specialty care for these wards. But if we’re going to get there, the only way to do that is to make sure that we use our beds most efficiently, and that’s always going to include closing facilities that we don’t need.

ONEK: The Governor recently made two proposals about juvenile justice. One was lowering the age of jurisdiction from 25 to 21. The other was eliminating time adds, the additional sentence time imposed upon wards for disciplinary and related reasons. What do you see as the pros and cons of each of those proposals?

CATE: Well, taking the age of jurisdiction first, nationally, I think 47 states limit jurisdiction for their state program to 21. There’s some benefits to going to 25, one of which is that prosecutors are perhaps less likely to charge 14, 15, 16 year olds as adults, if they know that that offender can spend up to ten years in a juvenile program or on juvenile parole. The downside, though, is that obviously it’s very expensive to keep these wards incarcerated for that long. Secondly, the difficulty in maintaining a real rehabilitative environment
with young wards and old wards, older wards together can make it really less conducive to rehabilitation. On the issue of time adds, I don’t think there’s really any good argument for time adds. Let’s say a ward misbehaves early in his or her time in DJJ. Well, adding three months to that ward’s sentence for conduct that happens when they’re 15 doesn’t mean much, because at the end, by the time they’re 21 and ready to be released, they’ve already learned those lessons along the way. The reason we’ve been using them is that we need to give the correctional officers and the correctional youth counselors another tool to manage behavior, because believe me, these wards, they can really misbehave, as you can imagine. So we’ve got to have some alternatives in place, and we’re doing that now.

ONEK: This administration has relied on academics far more than previous administrations. The department’s research unit was actually abolished in the mid 1990s to the mid 2000s. Governor Schwarzenegger created a rehabilitation strike team, lead by Joan Petersilia, then at UC Irvine and now at Stanford, and a number of other academics to advise him. As Secretary, how helpful have you found this partnership with academics?
CATE: Oh, it’s been just absolutely vital. Otherwise you’re just making policy decisions based on either politics or based upon kind of your gut sense of what works. And I think that’s how California got in this spot. For example, making decisions based upon risk level, as opposed to based upon, again, the politics of the situation can actually reduce crime. And that’s the ultimate goal here, is to help public safety by reducing crime. The simple fact is, is that our population has mushroomed, and in large part that’s because we’ve lacked research as to who we should be afraid of, versus who we really are just mad at, if you understand my meaning.

ONEK: Yes. I want to go back to your years as state Inspector General from 2004 to 2008, when you were tasked with providing public oversight of CDCR. How familiar were you as a prosecutor with the prison system when you took the job?

CATE: Not very. Typically, as a prosecutor, especially at the county level, my job was to get assigned a file. I prosecuted that case. I tried to get the maximum sentence that I could according to law, that was in accordance with justice. And if that offender got sent to prison, I took the next file,
and I never thought about that offender again. There are numerous people in California prisons serving 25 to life that I prosecuted myself. So going to the Inspector General’s office, and with a background, I did have a specialty in public corruption prosecution and crimes committed by public officials, but really didn’t know very much about the prisons.

ONEK: What types of problems did you uncover once you got there?

CATE: Well, I’ll tell you, overall I found that prisons, as you mentioned, often lacked a cohesive plan that was based upon the best criminogenic studies, the best corrections science. But a lot of that was not the fault of corrections. Much of it was based upon the marching orders that they were given. And I’ll give you an example. We did a report labeled the drug and alcohol programs and corrections, a billion dollar failure. And the reason was is that the science all shows, and the evidence shows that to be successful, to have a successful drug and alcohol program, you have to have after care. It’s not enough just to have programs on the inside. You also have to couple that with about 90 days of programs on the outside to have it
be effective. But the department wasn’t funded for that after care, and so many offenders didn’t receive it, and as a result, they failed on the outside. So we’ve been able to now go from almost no after care to a place where today about 50% of our offenders get after care, and that number is rising all the time. You know, it was a department that was troubled, but it’s made up of the most hardworking, wonderful people that you could ever imagine. And so I really got to see that as well. They were just really placed in a really difficult position.

ONEK: What are you most proud of from your time at the Inspector General’s office?

CATE: Well, several things. One is, we really recreated the office discipline system. So what was happening is that there were, like in any profession, there’s going to be a very small few who give the rest a bad name. And the department’s officer discipline process was really broken. It was unfair to the staff. It was ineffective. And so that was completely reworked with the help of the Inspector General’s office, while I was there. And so that has really ensured that now I know that our staff out there, that they’re doing the job according
to the law, and if they’re accused of something by an inmate or anyone else, they’re going to get a real fair shake as to what really happened. And so that’s been great. I was also proud of the rehabilitation report, which I described earlier. And I think it really, I was proud of the fact that at the Inspector General’s office, we created something called bulldog accountability, where we said, listen, if we issue a report and find a problem, and you say you’re going to fix it, we’re going to keep coming back every year until you do so. And I think that has increased accountability in corrections. And so all those were very satisfying. We had a terrific staff there at the IG’s office.

ONEK: What’s your relationship like with the current Inspector General?

CATE: You know, I joke that I’ve been advocating for reduction in the IG’s office now that I’m here. But Mr. Shaw and I have a very good relationship. He’s an excellent corrections professional. He really knows his job. Of course, we worked together at the IG’s office when I was there. It’s clear from the report on the Grido case that he’s not going to pull any
punches. He hit us hard and fairly in that report. But we get along well, and I think he’s got a pretty good understanding of the challenges that we face. And so far, so good.

ONEK: So after being Inspector General for four years, and being a critic of the CDCR, and making recommendations for improvement, the Governor offered you the position of CDCR Secretary. This was going to be the fourth secretary in five years, a lot of turnover. You knew more than anyone all the challenges facing the department, from the federal court oversight, to the severe overcrowding, the spiraling costs, the high recidivism rate. So when the Governor offered you the job, did you accept on the spot? Or did you need to think about it?

CATE: No, I didn’t accept on the spot. It took me a couple of different meetings. You know, the truth is that you don’t take the job of Secretary of Corrections as a career move. It’s just way too political for that, which is unfortunate. But I think you only really want to take this job if you’re committed to the mission of the department and you believe you can make a difference, and if that’s important. And so it was. In working with the Governor on the job, one of my key must-haves
was that the Governor give me the discretion to run day to day operations in the prisons. That hasn’t always been the case. But this governor gave me that discretion, gave me some latitude to do the work that needed to be done, especially in terms of rehabilitation and public safety. And that was a, and he’s been true to his word, and that really has made all the difference.

ONEK: How surprised were you that he asked you to take the position?

CATE: Well, you know I had known for several months that the former secretary, Mr. Tilton, was having some health problems. And I also knew that, frankly, it was maybe the least popular job in state government.

ONEK: That’s right, maybe other than director of finance or something. But other than that.

CATE: Right. So Miss Monasantos and I, I think, we have breakfast about once a month and pat each other on the back and say, it’s going to be OK. But it’s true. It’s a difficult job, and it’ not one that everybody wants. And so, when he came to
me, I was a big surprised. But it makes sense. It really is, I think you have to know this department from the inside out, and I had that view as Inspector General. But I have to say, I was surprise somewhat when I took the job about what it was like to run corrections.

ONEK: That actually leads right into my next question, which is that being on the outside, you make recommendations for reform, and you probably at times got frustrated at why they weren’t implemented more quickly. Now that you’re in the other seat, give me an example of something that’s been much harder to change or to implement than you thought it might have been before sat where you sit now?

CATE: Well, the changes to rehabilitative programming is a great example. You look, and you say, all right, we know that we need to, for example, we have one teacher for every 27 students. That teacher is in a classroom five days a week with those same 27 students six hours a day. We know that adult learners are best off meeting several times a week, instead of five days a week, and maybe only three hours at a time instead of six. But to make those changes, you have to work with the
legislature and get their approval. You’ve got to work through the unions and get the buy off from labor. You then have to work through the Governor’s office and finance. And then you have to go through your staff and put all that in place. It’s a, obviously, an enormous enterprise, and I think it’s difficult to understand both the political hurdles that have to be overcome, but also just the sheer magnitude of the place with, as you mentioned, 167,000 offenders behind bars. It really takes a long time to get things done.

ONEK: OK, a final question. The Governor’s term is nearing its end. A new governor will be elected in November. What advice would you give the next governor, whoever that may be, about priorities for CDCR going forward?

CATE: Well, I think it’s a couple of things. One is, don’t micromanage the department from the Governor’s office. The Governor gets, obviously, more political heat than I do for things that happen, and you really have to stick to your guns and let correctional professionals run the department of corrections. Secondly, you need to follow best correctional practice. Don’t make decisions based upon what’s in the
newspaper today. Base decisions on what’s been proven to work and stick with it, because eventually that’s the only way out. And then third, you’ve got to have some guts. You’ve got to have the ability to say, you know what? I know that we’ll be safer if we incentivize rehabilitative programs. I know we’ll be safer if we focus our resources on the most dangerous offenders. And I’m going to be willing to take the heat that’s inevitably going to come from some corners for making those decisions. But you’ve just got to absolutely have the guts to do that.

ONEK: Matthew Cate, thank you so much for joining us.

CATE: Thank you. My pleasure, David.

ONEK: Please tune in next week when we’ll be joined by Bill Bratton, the former Los Angeles police chief and former New York police commissioner. Thank you for listening to the Criminal Justice Conversations podcast. You can find this episode of the podcast and all prior episodes on our website at www.law.berkeley.edu/cjconversations. You can also become a fan of the Criminal Justice Conversations podcast on Facebook. The
podcast is engineered by Milt Wallace. Our editor is Callie Shenafelt, and our program intern is Eve Ekman. I’m David Onek. Thanks for listening.