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 weekly 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 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 San Francisco District Attorney Kamala Harris. Harris was elected District Attorney in 2003 and ran unopposed for reelection in 2007. She is the first woman District Attorney in San Francisco’s history and the first African-American woman District Attorney in California’s history. Under her leadership, the District Attorney’s office has raised overall felony conviction rates to the highest level in 14 years.
and tripled the number of felony offenders sentenced to state prison since 2001, while also creating innovative programs for first time drug offenders, crime victims and others. Harris is currently a candidate for California Attorney General, and I should know for the record that I have endorsed her in that race. She serves on the board of directors of the California District Attorneys Association and the National District Attorney’s Association. Harris is the author of the new book, Smart On Crime, A Career Prosecutor’s Plan to Make Us Safer, and she joins us in studio this morning. Kamala Harris, welcome to the program.

KAMALA HARRIS: Good morning, David. It’s great to be here.

ONEK: Let me start with the title of your book. What does it mean to be smart on crime?

HARRIS: Well, that slogan, if you will, or theory and approach, was born out of my belief that for too long, we’ve offered very simplistic choices about criminal justice policy, which allow us to fall into one of two categories. Either we’re soft on crime, or we’re tough on crime. And I just don’t think that’s working. And instead, I’d ask, and I think we all want, to be smart on crime, which means recognizing that absolutely there
should be serious and severe and swift consequences when people commit crimes, and in particular, serious and violent crimes. But if we are really going to be most effective in achieving what we all want in terms of public safety, we must be dedicated not only to reacting to crime after it occurs, but also to preventing crime before it occurs.

ONEK: One of the keys to being smart on crime is more efficiently allocating criminal justice resources. You write that, quote, we must demand a higher return on the enormous investment we make in our criminal justice system. And that, quote, it is crucial to ask how we can achieve the most safety for the lowest cost. Is this message resonating more now due to this fiscal crisis?

HARRIS: What I’m finding as I’ve traveled the state is that absolutely is, and people, because of their own, their personal circumstances, because of this economic crisis, are really forced to make decisions based on very practical issues and matters. And so there’s not the luxury of talking about these issues through ideological lenses. And instead, people want to talk about practical solutions. The reality is that we have a very broken system that’s extremely expensive in terms of public safety and public resources. And it time that we recognize
that we’re not actually achieving the goal that everyone wants, whether you’re a Democrat or Republican, an Independent or you know, a purple person.

ONEK: You mentioned earlier the tough on crime versus soft on crime debate and moving beyond that. State Senator Mark Leno was on this program two weeks ago, and he talked about politicians’ extreme caution to avoid doing anything that could possibly be perceived as being soft on crime, whether fairly or not. In this kind of political environment, how do you get your smart on crime message through to policymakers?

HARRIS: Well, one of the ways is to actually just show what we have done that has proven to work. So for example, there is our back on track initiative, which is a reentry initiative focused on first time, low level, nonviolent drug sales offenders who are 18 through 24 predominantly. And over the last five years of running this initiative, we have reduced the recidivism for that population from 54% to less than 10%. And we’re saving the City and County of San Francisco on an annual basis about $2 million in jail costs alone. So what’s happening is that other people who are responsible for leadership in our community, legislators, DAs, police chiefs, are all really open, I think, so a conversation that is about proven results. And I think
frankly that what we really want to push for is that we judge our criminal justice system through accountability and really that we infuse metrics into this conversation, instead of judging ourselves based on our adherence to tradition.

ONEK: You mentioned the back on track program, and I want to ask some questions about that. I have attended a back on track graduation, and it was a very moving experience. One of the keys to the back on track program is partnerships. You have Goodwill Industries at the table. You have the Chamber of Commerce. You have labor unions and others. How did you first reach out to these partners to get them on board?

HARRIS: You know, that’s one of the benefits of holding a position such as mine. I’m the chief elected law enforcement officer of a major city in this country, and frankly, when I call people, most people take the call. And the reality of is that I have found that our business leaders, for example, not only consider themselves to be leaders in terms of business and the economic growth of the community, they consider themselves to be leaders in general. So when you call them and say, hey, Bob, I’ve got an idea. Would you come on board? They say yes. The same with our labor leaders. And so what we have done is basically reached out to different entities in our community
that are all taking on a position of leadership, but in some ways working in silos. And through the power of my office, bringing them around my conference table and breaking through the silos in a way that allows everyone to see how we can maximize existing resources around this issue in particular, which is public safety.

ONEK: Despite all the partnerships, you are adamant that back on track be viewed as a law enforcement program. Why was this so important?

HARRIS: Because it is. I created back on track because I am a career prosecutor, and I realize that we have a revolving door, in particular around these low level, nonviolent drug sales offenders, and we’ve got to shut that door. It’s just too expensive. And frankly, David, I want to reduce my work. And so, the reality of it is that every time I prosecute a felony, it costs us $10,000. It costs us $35,000 a year to house someone in the county jail. It costs up to $51,000 a year to have someone in the state prison. Back on track costs less than $5,000 per participant. And it has not only then saving us money and resources, when you look at the graduates of this initiative, they are entering the workforce and becoming very productive individuals. They are paying taxes. Through this
initiative, we require the dads, for example, to get current on their child support, and they’re doing it. And because they’re doing it, they’re also becoming more engaged in parenting their children. A majority of the people in the initiative, by the way, do have children. These are young parents who have a natural desire to parent their children, but not necessarily the skills. And through this initiative, we’ve been able to support their need and their growth and development as parents. So what we will see in the not so long run is that we have not only saved ourselves a lot of money in the short term, but we have also had an incredible impact on families and cycles. And in that way, reducing cycles that have been proven to exist, which involve the children of incarcerated parents being disproportionately likely to become involved in the criminal justice system themselves.

ONEK: Now, the back on track program was heavily criticized when it was revealed that the program originally included some participants who were undocumented immigrants, and thus could not legally obtain the jobs they were being trained for. You have stated that this was a mistake. How did this mistake happen, and what did you learn from it?

HARRIS: Well, let’s put in the context, David, of I think a
bigger issue, and then I’ll talk specifically about what happened. The reality that I have come to appreciate as a career prosecutor is that there is almost a natural disincentive for us to bring innovation to law enforcement. And I believe it is for a number of reasons, including this. The definition, the very definition of innovation is that we are bringing a new concept, a new idea, a new method to bear on something that has been longstanding. And so no matter how well intentioned, well thought out and well planned this innovative approach, we all know when you roll something out for the first time, there will be mistakes. There will be glitches. But when you hold a position like mine, that mistake is on the front page of the newspaper. So for the elected leader, the idea that one would willingly, voluntarily expose oneself to political risk is not a comforting thought. And unfortunately, this is how it is in the public sector. Private sector, they’re very good with it. We’ve got our first cousins over at Silicon Valley. They’re creating innovation all the time, and they have assumed that there will be mistakes, and then you fix it. You don’t do it again. And you keep moving on. When you’re talking about innovation in the criminal justice system, we’re also talking about the fact that if you are doing something differently with someone that’s on your radar screen, that means that you’re taking the risk that that person will go out tomorrow and kill a
grandmother and a baby. And everyone will then look back and say, well, why did you do something differently with that person? So there, and particularly for law enforcement, is a great disincentive to try something new. That being said, we went out, and we did back on track, and we rolled it out. Turned out, a couple of years into it, there was an undocumented immigrant who was in the program. We learned that because this participant in back on track went out, committed a robbery, caused serious, horrible injury to the victim, and then when that person was arrested, and when we charged that person, we learned that they were undocumented. And this hit the front pages of the paper. It was a mistake. We needed to build into it, which we hadn’t taken into account, screening to figure out who would actually be able to gain legal employment in this country. We fixed it. Let’s keep moving on.

ONEK: You talked about innovation in your office, and back on track is an example of a number of innovative programs you’ve started that go far beyond the traditional scope of the DA’s office. You have other programs in areas such as truancy and reentry. You right about how your own staff initially winced at your plan to get involved in the issue of truancy. How did you convince your staff internally, and your law enforcement partners externally, that the DA’s office should take leadership
in these nontraditional issues?

HARRIS: Part of the resistance I receive was frankly because people thought that it would be a political hot button and politically unpopular for me to declare in a city and country like San Francisco, that I was going to start prosecuting parents for truancy. And that’s where I said, look, I fully appreciate that as a prosecutor, as the elected DA, I’ve got a huge carrot and stick, and I’m will to use both of them. And when need be, I willing to play the bad guy. So I said, you know what? I looked at who our homicide victims were in San Francisco who are under the age of 25. And the data came back, and it included the fact that 94% of them were high school dropouts. I went over to the school district. What’s going on? The superintendent shared with me, of the few number of children we had in the school system, in the public school system, 5,500 had been designated as habitually and chronically truant, and of that 5,500, 2,400 are elementary school students. That appalls me. And I think it would shock anyone who expected anything from these kids. So I had a meeting with all the principals and the administrators, and I said, you know what? I’m a product of California public schools. My first grade teacher, Mrs. Francis Wilson, showed up and attended my law school graduation. I wouldn’t be here if I didn’t have this education. I believe a
child going without an education is tantamount to a crime, so I decided I’m going to start prosecuting parents for truancy, for elementary school students who are habitually and chronically truant. And let me tell you, David, who we’re talking about. We’re talking about elementary school students, six and seven year olds, who are missing 50, 60, up to 80 days of a 180 day school year. That’s a crime. So with the stick that I have, we sent out a letter to everyone, all the parents in the school system and said, we’re going to start prosecuting you. It’s a crime. And you know what else we did. We created a mediation program, where we started, I started sending prosecutors to meet with the principals when they were meeting with all these parents. And let me tell you the prosecutors who volunteered to do that work, which is not work that we had been doing as a DA’s office, and it’s not traditional for a DA’s office. The prosecutors who volunteered were my gang prosecutors, my homicide prosecutors, because they got it. They know what they read about and understand to be both their defendants and their victims. And so what ended up happening through this mediation process over the last two years, yes, I’ve had to prosecute about 20 parents, but we’ve had hundreds and hundreds of parents who have come in, and the attendance rate for their children has improved so much so that we have improved the attendance rate overall by 20% in San Francisco.
ONEK: You have a great quote in your book from Katie Miller, who runs the truancy program for you and is a wonderful person.

HARRIS: Yes, she is.

ONEK: Her quote is, quote, there is a myth that these are bad kids and that they don’t want to go to school. A six year old is not choosing to be truant. It’s a parent issue. In one case, when the judge ordered a parent to get to school, to get the child to school, the little boy pumped his fist and cried out, yes. Can you comment on that dynamic?

HARRIS: That’s absolutely right. I mean, again, the goal is not to prosecute the parents. It’s to get the children in school. The reality is that if you create this as a big issue, elementary school truancy, then we will start asking the second and third logical questions. What’s going on in the home? What’s going on with the parent? What types of resources that exist is this parent not accessing? And let’s get them access to those resources. And what we have found when we ask these questions is that we’ve got a lot of parents who have substance abuse as their primary issue. There are other parents who are just overwhelmed and don’t realize there are services available
for them in terms of daycare. You know, we have hard working parents who are single parents who are holding one and two jobs, and they are literally just trying to hold it all together. And so the six year old’s not in school. But there are services that exist, and when we say, hey, this is a big issue for all of us that that child’s not in school, then we figure out how to get that parent access to those services. The reality of it, David, is that when I think about the dynamic that is at play, we’re talking about this kid who is not harming anyone by not being in school. And so they’re missing these 50, 60, 80 days of 180 day school year. They then, by the time they get into middle school are not going to be able to catch up, and they will be high school dropout. At the time that they’re six, they’re not harming anyone. It’s not a big issue for anyone. When they turn 16, everyone’s knocking on my door saying, get rid of that menace. Well, let’s just be smarter. Let’s be more effective. And actually, it’s cheaper to deal with it when they’re six.

ONEK: Another nontraditional issue you’ve taken leadership on is the whole issue of reentry and reducing our horribly high recidivism rate. Again, another issue where someone might say, that’s not the DA’s job. The DA’s job is to prosecute. But in your book, you talk about programs like the RSVP program in San
Francisco jails, and we had Sonny Schwartz, who helped create that program, on a few weeks ago to talk about it in detail. And you quote Sheriff Hennessey here saying, We got them. We might as well do something with them.

HARRIS: Yes.

ONEK: So how can a DA be a leader in terms of reducing recidivism and helping offenders come back to the community with good reentry programs?

HARRIS: Well, one is by creating reentry initiatives like the one we’ve created, back on track. The other is, using not only the jurisdiction and the statutory responsibility of the office, but also understanding that we’ve got a great bully pulpit. Our community listens to us as law enforcement leaders. And so it is about educating the community about the fact, for example, that in California on an annual basis, we release 120,000 prisoners because they’ve served their time. But within three years of their release, 70% recidivate. It’s the highest recidivism rate in the country. And it’s extremely expensive. And it is a revolving door. And believe me, when they recidivate, they’re doing it right back in that community where they originally committed the crime. So it’s
a public safety issue. It’s not only a failure of a system in terms of design. It’s a public safety issue. And that’s why I believe DAs are becoming compelled to look at reentry as a responsibility they have toward the goal of keeping our communities safe and reducing their caseloads. And so you see DAs from Atlanta to Philadelphia who are replicating back on track. There’s a DA in San Diego, Bonnie Dumanis, who’s doing some great work with reentry programs. I chair the reentry committee for the California DA’s Association, and we just created that committee a couple of years ago. I think there’s an increasing awareness that the revolving door is something we can shut. And instead of just being victims to it, you know, we prosecutors, we can actually get on top of it and slow it down.

ONEK: You talk a lot about an issue near and dear to my heart, how to break through the distrust between community and law enforcement to build effective partnerships. One of the ways this distrust plays out is the difficulty in getting witnesses to testify. In your book, you write that, quote, one of the most difficult challenges we face today in the prosecution of violent crime is the difficulty in getting witnesses to come forward in homicide investigation. You discuss the horrible murder at the LA Hill Hutch Community Center in San Francisco in 2006, where a young man was gunned down in the middle of
a gym packed with kids, including his own. I worked for the mayor’s office at the time and was at LA Hill Hutch later that night. I’ll never forget the scene. Many of the people in the community know who the shooter was, but not one witness has come forward. What can prosecutors do to get more cooperation from witnesses?

HARRIS: Well, I’ll tell you what I’ve done. After that tragic case, the LA Hill Hutch case, I asked our faith based leaders, multidenominational, to meet with me, and we actually had a meeting at a church. And locked the doors, no press, no public, and just had a conversation about what we need to do as community leaders around saying to the community that, you know what, you may not want to participate in this system that sends young men of color to jail, but when you’re talking about a homicide, when you’re talking about a father who was shot and killed in front of his six year old child, that’s where we’ve got to draw the line and say, listen. There has to be accountability. That life has value. So it was that conversation. It was about what we should do as community leaders to work with the community to say, you know, we’ve got to draw some boundaries here, and we’ve got to step up and work with law enforcement. Separately, I had the conversation with law enforcement, which is, there are communities of people who
based on their history either in their country or origin or based on their history here, who do not trust law enforcement. And it is good for no one to allow that to be status quo, because the reality is, if a community does not trust law enforcement, they will not call on us. They will not be witnesses. They will not participate in the system. And they will continue to be victimized. Plus, frankly speaking, it’s also an officer safety issue if a community does not trust law enforcement. So for those reasons, instead of arguing why and whether a community should distrust law enforcement, law enforcement should take it upon itself to realize that we always have to work at creating and building relationships of trust with all the communities that we’re charged with serving, because it is in our best interest for our law enforcement purposes. So the point being there that I believe that there are responsibilities on both ends to work at building these relationships and cultivating these relationships, because to not do so means to allow serious and violent crimes to go without consequence. It means to allow chaos on a community. And it means to really allow systems to break down that are meant to protect. But I’ll also say another thing, which I also talk about in the book. Let’s also deal with the myths all around. In fact, in the book, the first half of the book, I talk about what I believe are the myths that have slowed down
smarter criminal justice policy, and in the second half of the book, I talk about best practices. Well, let’s also address the myth that poor people and people of color don’t want law enforcement. That is an absolute myth. They absolutely do. In fact, more so, often, than other communities. What they don’t want, is they don’t want excessive force. What they don’t want is racial profiling. But they do want law enforcement.

ONEK: I want to turn now to the national scale. You were heavily involved in the Obama campaign and have a close relationship with the President. You very likely could have gone to Washington in a high level position. With all the excitement generated by Obama’s victory, why did you decide to stay in California and run for Attorney General?

HARRIS: That’s a great question. Yes, I was very privileged and honored to support the President when he first decided to run. I actually supported him when he ran for Senate. He supported me in my reelection race for DA. And then I, election night, I was in Chicago. And the morning after, took a long walk up Michigan Avenue by myself to kind of have the talk with myself. I’m a little anal, so I have to overanalyze everything. And thought, wow, its’ going to be a wonderful thing to see all the bright people who are going to go to DC and be part of this
new, exciting and historic administration. But ultimately, I knew in my gut, and when I asked the question, what do you want? I want to come back home and run for Attorney General. I love California. I am a native Californian. I love what I do. And certainly, when you hold elected office, most of us know that you hold your breath every time you open the paper in the morning. You don’t know what you’re going to read. The buck stops with us, so you take a lot of punches. But you can also get a lot done. And there’s an autonomy that comes with these offices that allows you to, if the public has confidence in your intentions and your professionalism, it allows you to actually wade through the morass in a way that you can use the power of the office to convene. You can use the power of the office to impact the public’s understanding of systems. You can use the power of the office to empower people. And you can use the power of the office to create innovation, even if you do take couple of risks along the way. And that excites me, and that, you know, I know we can actually do something and make a difference. And I think the office of Attorney General in any state, but in particular in California, is probably one of the most powerful offices in terms of the ability of the officeholder to do good and have a direct impact on the community. So that’s my intention.
ONEK: Speaking of the Obama Administration, last summer, you and I were both invited to Washington for the White House conference on gang violence prevention. You were one of just a handful of featured speakers, but that was just a onetime event. How can you stay relevant in the national criminal justice policy debate from 3,000 miles away?

HARRIS: Well, you bring up a very good point, which is that, I mean, I went to Howard University in Washington, DC, and I know what it’s like to be there. I actually was a Senate intern for Alan Cranston when he was the senior senator from California. And there is a big old opaque huge wall that crosses the Mississippi sometimes, where the people on the East Coast don’t necessarily see what we’re doing in California. But I think that’s changing. And certainly, as evidenced by the fact that I was the only elected DA asked to go to that White House conference, and you and I were there together, receiving a lot of attention and support, because, and this gets back also to why I decided to run. In order for this administration to be able to actually impact the entire country with good policy, they will need their soldiers in the field. And in particular in California. When you look at our state, our ability to have impact, for example, on progressive legislation and enforcement of the law around crimes against the environment, our ability
to reform our criminal justice system, our ability to show the connection between public safety and public education is profound. And when we do it here, I think they all know, and certainly you and I believe in that old adage about California. So goes California goes the rest of the country. And for that reason, if none other, they’re paying attention to us. They want to support us, and they want to see us succeed.

ONEK: There’s no question that there are a lot of eyes on California right now with the prison crisis and the other issues that we have right now. So there really is an opportunity, I think, from California, to make changes that can resonate across the country. Of course, there’s also the opportunity that things will go in the other direction, and so that’s why, as you said, it’s an exciting time to be in California right now.

HARRIS: That’s right. I think so. I think we’re back to the Gold Rush days.

ONEK: One final question. Your book is dedicated to your mother, who passed away last year. You called her, quote, the toughest, smartest and most loving person I have ever known. How has your mother influenced your career?
HARRIS: How has she not. I mean, my mother came to Berkeley in the ’60s to get her graduate degree, a PhD in endocrinology, and she, my mother used to go and teach the black nurses at San Francisco State night school. She’d make dinner for me and my sister and get us all ready, and then she’d go and teach. She used to fight all the time for the need for people to take seriously the issues that impact women and people of color, in particular health issues and the need for funding and research to take those issues seriously. My mother was active in the civil rights movement. That’s where she met my father, marching and shouting all the time about this thing called justice. My mother taught my sister and me that we could be and do whatever we wanted to do, and that we should always focus on what we can do and now who has done what. My mother taught my sister and me, you may be the first to do many things, but make sure you’re not the last. And in that way, she really, I think, taught us very, very important principles about how one can have impact in a way that is about success, but also about giving.

ONEK: Kamala Harris, thanks so much for joining us.

HARRIS: Thank you, David. It’s great to be here.

ONEK: Please tune in to the next Criminal Justice Conversations
podcast two weeks when we’ll be joined by Jeanne Woodford, the former warden of San Quentin State Prison, and the former secretary of the California Department of Corrections and rehabilitation. 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 Eckman. I’m David Onek. Thanks for listening.