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W&M Law School staff

Jeffrey Bellin

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## RESEARCH & SCHOLARSHIP

# Q&A: W&M Law Professor Jeffrey Bellin on ‘Mass Incarceration Nation’

Since the book’s release, Bellin has established himself as a sought-after voice in the national conversation about criminal justice and sentencing reform.

By [W&M Law School staff](#) | Published April 18, 2023



*Jeffrey Bellin, Cabell Research Professor and Mills E. Godwin Jr. Professor of Law at William & Mary Law School, recently authored a new book offering a critical examination of mass incarceration in the United States.*

*Published this year by Cambridge University Press, its title is “Mass Incarceration Nation: How the United States Became Addicted to Prisons and Jails and How it Can Recover.” Since its release, Bellin has established himself as a sought-after voice in the national conversation about criminal justice and sentencing reform. His book and expertise have been featured on podcasts including Decarceration Nation and Everyday Injustice and his writing has been featured on NBC News, Law360 and The Conversation.*

*Below, Bellin answers a few questions about his book and what it means for incarceration in the United States.*

### **Q. Professor Bellin, what led you toward writing about the state of incarceration in the U.S. in the first place?**

A. I have long felt that the media, public and politicians in the United States were not paying enough attention to the sheer number of people we lock up. Partly in response to that frustration, in 2016, I started teaching a seminar titled, “Mass Incarceration.” By then, more and more people were talking about the topic, but I still thought the conventional accounts were incomplete. I wrote “Mass Incarceration Nation” to provide an accessible, yet comprehensive account of mass incarceration for sophisticated readers interested in the topic and curious about the path toward reform.

**Q. As you wrote your book, what stood out most to you? What was particularly noteworthy, troubling or impactful?**

A. One of the most powerful takeaways from my research and experience is how much of the current system can best be explained as a kind of mindless government bureaucracy. The best analogue to what is happening in America's criminal courts is not the glitzy portrayals on television, but the crowded disarray one might find at a local Department of Motor Vehicles. The courts have become a place where government officials work to process a seemingly endless stream of criminal cases without taking the time to reflect on how or whether this assembly-line approach furthers the country's overarching policy goals.

**Q. Your book identifies what led to the U.S. becoming the country with the highest incarceration rate. How did we get here?**

A. That's a good question and I spend about two-thirds of the book on it. Here is the summary from the introduction:

"In the early 1970s, the U.S. incarceration rate was low and unremarkable. Then, spurred by a temporary spike in crime, everyone discovered something they wanted to punish more severely. From liberal Senator Ted Kennedy to conservative evangelist Pat Robertson, the details (and motives) differed, but the broad themes were consistent: Americans wanted tougher laws, tougher cops, tougher prosecutors and tougher judges. We got our wish. The changes spread through the system in two distinct but overlapping waves. In the 1970s and 1980s, additional police and harsher laws targeted the crimes that were spiking: homicides, robberies, rapes, burglaries. When those crimes fell in the 1990s, however, arrest numbers continued at around the same level, and convictions actually increased. These numbers stayed high even as crime dropped because the system pivoted to commonly occurring, easily detected and readily provable offenses where arrests were driven by law enforcement resource allocations (like drugs) or whose characterization often hinged on subjective assessments (like assault). And because this second wave of aggressive law enforcement had more to do with policy choices than crime, it predictably fell on the easiest targets - which in this country often means the poor and minorities."

**Q. Importantly, "Mass Incarceration Nation" also pinpoints changes to alleviate our overflowing prison population. What is the formula to correct this trend?**

A. The way I frame the book is that providing an accurate diagnosis of the changes that led to mass incarceration generates a blueprint for reform. With some adjustments, we can think of the laws and enforcement mechanisms circa 1970 as a rough core of a functioning system. As long as serious crimes are prevalent in our society, we need a place where people can go for justice - an alternative to vigilantism and civil disorder. Beyond that, most of the things we added since the 1970s - like much of the federal law enforcement apparatus, an aggressive drug war, harsh determinate sentencing, mandatory minimum sentences, frequent parole/probation revocations - should be reassessed with a skeptical eye.

**Q. What are the biggest obstacles that remain in place preventing progress?**

A. Let me start with the things that favor progress. Unlike many other problems like climate change or pandemics, this is a problem we can fix unilaterally. We control the levers that control incarceration. In fact, mostly we need to just stop doing things that make the problem worse. As I say in the book, "The clearest path to recovery from mass incarceration is to stop doing the things we started doing after the 1970s that increased incarceration."

But as your question recognizes, there are also significant obstacles, including people and institutions that are invested in the status quo. Perhaps the biggest obstacle is this country's tendency to look to the criminal law and incarceration as a way to reduce crime and further policy goals. As I explain in the book:

"Over the past few decades, government officials and cheering voters latched on to the criminal justice system as a Swiss army knife policy tool that could solve society's problems. People sometimes disagreed about which crimes mattered the most, but everyone pushed the government to crack down on someone and something. 'Lock them up' is not just an applause line at political campaign rallies. It has become our country's unofficial motto."

Editor’s note: [Democracy](#) is one of four cornerstone initiatives in W&M’s Vision 2026 strategic plan. Visit the [Vision 2026 website](#) to learn more.

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