

BELIEF IN MERITOCRACY AND CRIMINAL SENTENCING

**Belief in Meritocracy and Criminal Sentencing Decisions: Bias in Punitive Criminal  
Sentencing Attitudes**

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## MASTER'S DEGREE FINAL EVALUATION REPORT

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## Contents

<b>Abstract</b>	3
<b>CHAPTER 1: INTRODUCTION</b>	4
<b>Definitions</b> .....	8
<b>CHAPTER 2: LITERATURE REVIEW</b>	13
<b>Compare</b> .....	13
<i>Hierarchy-Legitimizing Myths</i> .....	13
<i>Criminal Sentencing</i> .....	18
<b>Decision Making Factors in Criminal Sentencing.</b> .....	19
<b>Contrast</b> .....	21
<i>Hierarchy-Legitimizing Myths</i> .....	21
<i>Methodologies</i> .....	24
<b>Definitions.</b> .....	24
<b>Criminal Sentencing.</b> .....	26
<b>Critique</b> .....	29
<i>Priming Manipulation</i> .....	29
<i>Varying Beliefs in Meritocracy</i> .....	33
<i>Just World Theory</i> .....	36
<i>Criminal Sentencing Decisions</i> .....	37
<b>Summary</b> .....	38
<b>CHAPTER 3: METHODS</b>	40
<b>CHAPTER 4: FINDINGS</b>	43
<b>Connections Among Hierarchy-Legitimizing Myths and Biases</b> .....	43
<b>Criminal Sentencing Decisions</b> .....	47
<b>Public Health and Incarceration</b> .....	53
<b>Methodologies</b> .....	54
<b>Punitive Attitudes</b> .....	56
<b>CHAPTER 5: DISCUSSION/CONCLUSION</b>	58
<b>Discussion</b> .....	58
<i>Criminal Sentencing, Status, and Hierarchy</i> .....	58
<i>Deservingness Heuristics in Criminal Sentencing</i> .....	59
<i>Criminal Sentencing Attitudes</i> .....	60
<b>Conclusion</b> .....	61

<b>CHAPTER 6: RECOMMENDATIONS, SUGGESTIONS, AND LIMITATIONS</b>	<b>65</b>
<b>Recommendations</b> .....	<b>65</b>
<i>Systematized Punitive Attitudes</i> .....	65
<i>Bias Prevention</i> .....	67
<b>Future Crime Risk.</b> .....	67
<i>Suggestions for Future Research</i> .....	69
<b>Limitations</b> .....	<b>70</b>
<b>References</b>	<b>73</b>

### **Abstract**

Criminal sentencing in the United States of America is a subjective process involving multiple parties contributing to decisions to convict, incarcerate, and determine the length of incarceration. Decisions regarding criminal sentencing have a substantial impact on individual and community welfare. The US has an issue with over incarceration particularly among minority communities, contributing to the US holding the largest incarcerated population in the world. The determinants of criminal sentencing decisions are researched to understand and rectify over incarceration and inequality in incarceration within the US. Individual biases and punitive attitudes are examined for their impact on criminal sentencing decisions. Hierarchy-legitimizing myths are related to individual bias and punitive attitudes to determine correlation. Bias within criminal sentencing is examined to determine prevalence of racial, socioeconomic, age, and gender bias therein. Hierarchy-legitimizing myths result in biases that impact individual perceptions regarding defendant culpability and risk of future crime. Punitive vengeance attitudes predispose individuals to prefer harsh and lengthy criminal sentencing decisions. Personal belief in hierarchy-legitimizing myths and punitive vengeance attitudes are correlated. The direct connections between hierarchy-legitimizing myths and criminal sentencing decisions are not well understood. Some studies suggest a potential bias against low-income individuals in the US criminal justice system. Findings suggest that varied personal attitudes have an outstanding impact on criminal sentencing decisions. To reduce the harm caused by unequal and harsh criminal sentencing decisions, the goals of criminal sentencing need to be systematized and the influence of bias reduced by removing considerations of future crime risk from these decisions.

*Keywords:* criminal justice, hierarchy-legitimizing myths, belief heuristics, meritocracy, vengeance attitudes, SDO, BJW, RWA, PWE, SES

## CHAPTER 1: INTRODUCTION

Criminal sentencing decisions have an outsized impact on individuals. Those who are incarcerated for prolonged periods of time experience worse health outcomes than those who have never been incarcerated (Wakefield & Uggen, 2010; Wildeman & Wang, 2017). There is bias against incarcerated individuals in job searching, apartment applications, and voting restrictions (Wakefield & Uggen, 2010; Wildeman & Wang, 2017). The families and communities of incarcerated individuals experience worse economic outcomes than those with no or low incarceration rates (Doerner & Demuth, 2010).

Within the United States of America, many policies have directly led to the over-incarceration of people of color and the economically disadvantaged—both through increased incarceration and lengthier sentences (Wakefield & Uggen, 2010). The results of these policies are twofold: minority communities and individuals comprising a majority of America's incarcerated population; and the United States of America holding the world's largest incarcerated population (Garland, 2023; Wakefield & Uggen, 2010; Wildeman & Wang, 2017). In considering the societal harms that befall incarcerated individuals and communities with high incarceration rates, it can be seen that America's criminal justice system results in an acute and broad level of harm that disproportionately impacts racial minorities and economically disadvantaged communities.

Efforts to make the criminal justice system more equitable and just have been made. However, racial minorities and disadvantaged individuals remain overrepresented within the world's largest incarcerated population (Doerner & Demuth, 2010; van Eijk, 2017; Everett & Wojtkiewicz, 2002). Understanding the unique ways in which the criminal justice system of

America operates that creates such a numerous prison population with such high levels of inequality is integral to being able to sufficiently combat the issues of social harm among prison populations and the comparative overpopulation of US prisons. It is vitally important to understand the stigmas, stereotypes, and biases that result in social harm for the incarcerated, the overrepresentation of minorities within US prisons, and the overzealous criminal sentencing decisions that grants the United States the world's largest prison population.

Cognitive bias represents an important facet of the disparate results seen within the US criminal justice system (Everett & Wojtkiewicz, 2002; Gamblin et al., 2021; Weisburd et al., 1990). Individual people comprise the jury that decides the guilt of defendants in criminal prosecution, legal professionals such as lawyers and attorneys decide how to argue a case and which cases to pursue prosecution in, judges decide the length of sentences, etc. The role of jurors is of particular note, as jurors comprise one's peers and do not necessarily include those well-versed in legal norms or cognizant of how biases impact their decision making. The impact of bias in juror decision making has been demonstrated, suggesting that in specific criminal cases "mock jurors funnel a significant proportion of the decision-making process through their racial biases" (Gamblin et al., 2021, p. 3246).

Further studies using a mock-juror format found that mock jurors assign "lengthier sentences to low [Socioeconomic Status (SES)] defendants than high SES defendants" (Esqueda et al., 2008, p. 183), and that stereotypical "information that ties the defendant and the type of crime together" (Esqueda et al., 2008, p. 184) biases jury decision making toward guilty decisions and lengthier recommended sentences. Furthermore, "African Americans are less likely than whites to qualify for jury service," (Wakefield & Uggen, 2010, p. 399), making the issue of anti-minority racial bias more likely to be prevalent in juror decision making as it is known that racial

minorities exhibit less racial bias against themselves and other groups (Esqueda et al., 2008). The lack of fully equitable racial makeup of juries may also increase SES bias amongst jurors, as “Mexican American jurors showed no... bias against a low SES Mexican American defendant” (Esqueda et al., 2008, p. 194).

There are certain beliefs that predict such cognitive bias, like Social Dominance Orientation (SDO). Social Dominance Orientation is a belief representative of an individual’s desire for the members of their in-group to dominate over other groups of people (Christopher et al., 2008; Gerber & Jackson, 2013; Miranda et al., 2021; Mooney, 2019; Pratto et al., 1994). High levels of SDO in an individual is associated with racism, homophobia, sexism, nationalism, and anti-economically-poor sentiment, among other things (Christopher et al., 2008; Gamblin et al., 2021; Kleppestø et al., 2019; Miranda et al., 2021; Mooney, 2019). SDO is an example of a hierarchy-legitimizing myth that provides a justification and rationale to our biases and unequal social outcomes (Filipe & Freitas, 2018; Pratto et al., 1994). SDO and other hierarchy-legitimizing myths can be measured and understood in individuals comparatively to various forms of bias ingrained within the criminal justice system to determine the effects of individual biases on biased criminal sentencing decisions.

Punitive attitudes represent a further abstraction of cognitive bias as related to criminal sentencing decisions. Whereas hierarchy-legitimizing myths explain social bias and current inequitable social systems, punitive attitudes define the axiomatic beliefs one holds regarding the criminal justice system specifically (Doerner & Demuth, 2010; Gerber & Jackson, 2013; Gerber & Jackson, 2015). These attitudes are a specific type of bias regarding the assumed intention of a properly functioning criminal justice system (Doerner & Demuth, 2010; Gerber & Jackson, 2013; Gerber & Jackson, 2015). A difference of belief regarding the goal of criminal sentencing (eg.



punishment, revenge, rehabilitation) will result in very different beliefs regarding appropriate criminal justice procedures and appropriate sentencing length or even the decision to utilize parole over incarceration (Doerner & Demuth, 2010; Gerber & Jackson, 2013). As such, understanding these beliefs, their implications in relation to criminal sentencing decisions and their relationship with hierarchy-legitimizing myths and cognitive biases will elucidate the impact of cognitive bias on inequitable criminal sentencing within the US.

This research will answer the question of the extent to which belief in hierarchy-legitimizing myths influences criminal sentencing decisions. To answer the research questions, a qualitative study of punitive attitudes, sentencing length, and individual beliefs was completed. Hierarchy-legitimizing beliefs were measured against punitive attitudes for correlation, and the impacts of punitive attitudes on sentencing length measured. The level of bias within the US criminal justice system is thoroughly investigated, and the tangible effects of incarceration are found. The relationship between hierarchy-legitimizing myths and prejudiced biases was further examined. The attitudes that result in harsher criminal sentencing decisions were researched, the effects of these attitudes on criminal sentencing measured, and the ways these attitudes are influenced by other beliefs understood.

To accomplish this, a qualitative study of punitive attitudes, sentencing length, and individual beliefs was completed to answer this question. Hierarchy-legitimizing beliefs were measured against punitive attitudes for correlation, and the impacts of punitive attitudes on sentencing length measured. The relationship between hierarchy-legitimizing myths and prejudiced biases was further examined. Bias within the criminal justice system was measured, as well as general opinion research on criminal sentencing decisions.

This research represents the culmination literature regarding the topics of hierarchy-

legitimizing myths, punitive attitudes, and criminal sentencing decisions. The present body of knowledge is connected to criminal sentencing decisions to highlight previously unrecognized correlations in data. With this research completed, and future research guided through the limitations of our current understanding, it is hoped that the beliefs that directly cause injustice to occur within the criminal justice system can be recognized and prevented. Criminal sentencing has an immense impact on individual and communal life outcomes. Understanding the factors that lead to unjust criminal sentencing and how to prevent the influence of these factors can prevent the criminal justice system from causing disparate harm to different groups of individuals.

### **Definitions**

The following are definitions for the words most important to understanding the research in this paper. This section can be used as a reference wherever necessary. This section also serves to comprehensively identify and justify the use of terms within this paper by providing the exact citations for all definitions used.

Meritocracy is a theoretical social framework whereby the rewards and the structural hierarchy of society are determined by the intelligence and effort of individuals, all of whom have equal opportunity to foster and prove their level of aptitude and capabilities (Costa-Lopes et al., 2018, p. 138; Filipe & Freitas, 2018, p. 7; Kim & Choi, 2017, p. 112; Miranda et al., 2021, p. 4; Son Hing et al., 2011, p. 433; Young, 1958, p. 14). When one refers to the belief in meritocracy, there are two separate beliefs they may be referring to.

The descriptive belief in meritocracy (what Goode and Keefer refer to as economic meritocracy; Goode & Keefer, 2016, p. 143) is the notion that within the current society being discussed, rewards are distributed and hierarchies are formed in accordance with the merit of individuals in the way of a meritocracy (Batruch et al., 2022, p. 1; Bernardo, 2021, p. 399; Costa-

Lopes et al., 2018, p. 138; Filipe & Freitas, 2018, p. 9; Miranda et al., 2021, p. 5; Roex et al., 2019, p. 47; Son Hing et al., 2011, p. 434). An individual with a high level of descriptive belief in meritocracy would have a stronger conviction that the society being discussed works as a meritocracy with equal opportunity for all who reside within said society.

The prescriptive belief in meritocracy refers to the positive connotations associated with a theoretical meritocracy. A high prescriptive belief in meritocracy would suggest that the individual believes society would be better, more fair, and more just if it were to be structured more as a meritocracy than it currently is, or perhaps that a theoretical meritocracy is the best (most just) form of society (Filipe & Freitas, 2018, p. 7; Kim & Choi, 2017, p. 115; Miranda et al., 2021, p. 5; Roex et al., 2019, p. 47; Son Hing et al., 2011, p. 434). Research on the topic of the prescriptive belief in meritocracy, particularly as it relates to criminal sentencing, is limited in scope. As such, this research analysis is limited to investigating only the effects of the descriptive belief in meritocracy as it relates to criminal sentencing. Thus, in this paper the term “belief in meritocracy” is used to refer to the descriptive belief in society as a place of equal opportunity whereby societal rewards are distributed according to the merit of each individual.

Belief in the Just World (BJW) is a similar and related conceptual framework to the belief in meritocracy as defined for this paper. BJW is the assertion that the world as it currently exists is generally a fair and just world where individuals get what they deserve in life (Bénabou & Tirole, 2005, p. 5; Christopher et al., 2008, p. 474; Freeman, 2006, pp. 2380-2381; Mooney, 2019, p. 3). The Just World Theory suggests that all individuals have a psychological tendency to perceive the world as just and to justify the Belief in the Just World when shown information contradictory to this belief (Christopher, 2008, p. 474; Freeman, 2006, p. 2380; Mooney, 2019, p. 3; Pratto et al., 1994, p. 743).

Hierarchy-Legitimizing Myths are the ideas, ideologies and common narratives that provide the justifications needed by an individual to maintain their Belief in the Just World (Filipe & Freitas, 2018, p. 7; Pratto et al., 1994, p. 741). While Pratto et al. (1994) makes the distinction between hierarchy-enhancing legitimizing myths, “which promote greater degrees of social inequality” (p. 741), and hierarchy-attenuating legitimizing myths, “which promote greater social equality” (p. 741), the term “hierarchy-legitimizing myths” will be used in this paper to refer to the beliefs that promote a greater level of hierarchy and group and individual status divisions within society.

Heuristics are the mental “rules that produce quick judgments based on limited information” an individual may use to produce a meaningful opinion when in absence of substantive knowledge on a given subject (Petersen et al., 2010, p. 26). The deservingness heuristic in particular is the multitude of cues that prompt individuals to consider their opinions of social policy based on whether the real or theoretical beneficiaries or recipients of this policy “deserve” the results of the policy (Petersen et al., 2010, p. 26). For example, in relation to welfare policy “the deservingness heuristic prompts citizens to consider whether recipients deserve their welfare benefits” (Petersen et al., 2010, p. 26) as the sole measure of justification for said policy. Using deservingness heuristics, individuals determine their level of support or opposition for welfare policy without consideration of any potential societal costs and societal benefits—only whether the recipient should receive welfare. and base their opinion on welfare policy solely on whether or not the recipient deserves welfare benefits as opposed to any of the other potential societal costs and benefits of welfare policy. As it relates to criminal sentencing, deservingness heuristics may prompt judges to base their sentencing decisions entirely on the level of perceived responsibility of the defendant as opposed to any of the other legal considerations related to the criminal act.

Right-Wing Authoritarianism (RWA) is the coalescence of an individual's predisposition to extremely authoritarian, traditional, conformist and conservative attitudes in relation to their personal, political, and societal beliefs (Christopher et al., 2008, p. 474; Gerber & Jackson, 2013, p. 66; McKee & Feather, 2008, p. 141). This set of beliefs is associated with a general appeal to authority, distrust of out-group members, and the perception that the world is a dangerous place (Gerber & Jackson, 2013, p. 66; McKee & Feather, 2008, p. 141).

Social Dominance Orientation (SDO) is defined as the desire for the members of an individual's in-group to dominate over other groups of people (Christopher et al., 2008, p. 474; Gerber & Jackson, 2013, p. 66; Miranda et al., 2021, p. 3; Mooney, 2019, pp. 2-3; Pratto et al., 1994, p. 742). SDO also relates to the tolerance an individual has for social hierarchies (Gamblin et al., 2021; Gerber & Jackson, et al., 2013, pp. 61 & 66; Kleppestø et al., 2019, p. 2; Miranda et al., 2021, p. 3; Mooney, 2019, p. 3).

Protestant Work Ethic (PWE) is a variable that describes the value an individual places on labor and leisure, where those with a high belief in the Protestant Work Ethic attribute a large sum of value to work and achievement and a very low sum of value to relaxation and play (Christopher et al., 2008, p. 473)

Socioeconomic Status (SES) is the combination of an individual's wealth, income, occupational, and social standing as it relates to their class hierarchy (Baker, 2014). An individual of high SES may have an executive position at a big company and a large sum of wealth, whereas an individual of low SES may be working paycheck to paycheck in an entry level position (Baker, 2014).

Sentencing decisions in criminal justice decisions refer to two distinct decisions. There is first the decision made by the jury or judge to find a defendant guilty and convict the defendant

(Doerner & Demuth, 2010). Then, there is the decision of the judge as to the type of punishment, severity of the punishment, and the length of punishment the defendant should face (Doerner & Demuth, 2010, p. 8). There are several philosophies pertaining to what the goals of criminal sentencing should be and how “successful” and “just” sentencing should be measured. Incapacitation is the idea that criminal sentencing should serve to prevent a criminal from reoffending and to keep the dangerous individuals of society away from the rest of the population (Doerner & Demuth, 2010, p. 7; Gerber & Jackson, 2013, p. 63). Deterrence is the notion that criminal sentencing should serve to reduce future crime by discouraging individuals from committing crime, such as by extreme and severe punishments (Gerber & Jackson, 2013, p. 63; Gerber & Jackson, 2015, p. 15). Rehabilitation as a goal of criminal sentencing seeks to reform the criminal offenders that enter into prisons into upstanding and capable citizens as a means of preventing future crime and promoting public safety. Retribution as a criminal sentencing goal suggests that the act of committing a criminal offense and causing suffering in and of itself creates a moral imperative that necessitates the proportional suffering of the criminal offender in order to restore justice (Gerber & Jackson, 2013, pp. 62 & 76). Retribution itself is composed of two competing philosophies, one of which suggests that the punishment an individual receives should be equal to the suffering caused in order to balance the harm caused by the criminal act (retribution as just deserts), and the other which suggests that the punishment should be more severe in order to allow society and the victim to seek revenge upon the criminal offender (retribution as revenge) (Gerber & Jackson, 2013, pp. 62 & 76). Both of these criminal sentencing goals as retribution philosophies suggest that they offer a proportional amount of justice for the offense in terms of what is deserved by the offender (Gerber & Jackson, 2013, pp. 64-65).

## CHAPTER 2: LITERATURE REVIEW

### **Compare**

This section of the literature review will compare the multitude of theories that embody the present research as well as the current findings of criminal sentencing research. The various theories investigated will be analyzed for similarities and areas of overlap. The most commonly agreed upon factors that influence criminal sentencing will be examined. This will serve to expound a baseline understanding of the most common general knowledge surrounding the topics of meritocracy and criminal sentencing. These topics will be expanded upon with greater detail and accuracy later in this paper before forming a cohesive body of knowledge which ties all subjects and topics together.

### ***Hierarchy-Legitimizing Myths***

“Meritocracy” as a word arises from socialist theorists to describe a world where social hierarchies, classes, and the Socioeconomic Status (SES) of individuals are determined by the individual’s merit—but only when all are given equal opportunity to cultivate and demonstrate their merit (Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Kim & Choi, 2017; Miranda et al., 2021; Son Hing et al., 2011; Young, 1958). The term was coined in the 1950s and popularized by Michael Young’s use of the term to describe a world seen by these theorists as dystopian, where social hierarchies and class distinctions are a normalized, deep rooted function of a neurotic society pushing its laborers to the absolute limit lest they fall through the cracks and become part of the dredges of the population (Kim & Choi, 2017; Son Hing et al., 2011; Young, 1958). In modern use, the conceptual meritocracy describes a world of equity and equal opportunity where none are

held back or pushed ahead by the circumstances of their birth, histories of oppression, or generational wealth (Kim & Choi, 2017; Mijs & Savage, 2020; Son Hing et al., 2011).

The descriptive belief in meritocracy carries a different weight than that of the conceptual meritocracy and the justice principles it evokes. This belief in meritocracy comprises the perception that the current society being discussed generally acts as a just meritocracy—that every individual, regardless of social circumstance, has the same opportunity for success in life that every other individual has (Batruch et al., 2022; Bernardo, 2021; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Goode & Keefer, 2016; Kim & Choi, 2017; Miranda et al., 2021; Roex et al., 2019; Son Hing et al., 2011). This measure of individual perceptions of meritocracy and meritocratic principles does not suggest that every individual should have equal opportunity and be judged by the merit they demonstrate (Goode & Keefer, 2016; Kim & Choi, 2017; Miranda et al., 2021; Son Hing et al., 2011). This measure of belief in meritocracy instead suggests that every individual currently has this equal opportunity—that any measure of an individual's life outcomes can be extrapolated to be an accurate measure of that individual's merit, character, and deservingness of such an outcome—and perhaps that any social policy meant to further promote equality of opportunity or to correct for injustice and promote equality of outcomes is unnecessary or even harmful and unjust (Batruch et al., 2022; Bénabou & Tirole, 2005; Bernardo, 2021; Davis et al., 2021; Filipe & Freitas, 2018; Freeman, 2006; Kim & Choi, 2017; Roex et al., 2019; Son Hing et al., 2011).

This acceptance and justification of every individual's life outcomes as resulting from the effort and intelligence of the individual alone, without any consideration for the circumstances of success and randomness of tragedy is reminiscent of the conclusions that can be drawn from the Belief in the Just World (BJW). If one is to assume that the world is a just place, the dominant



narrative is that everyone gets what they deserve and “good things happen to good people while bad things happen to bad people” (Mooney, 2019, p. 3). This serves to pose a moral judgment on top of the belief in meritocracy (Bénabou & Tirole, 2005; Christopher et al., 2008; Freeman, 2006; Pratto, 1994; Son Hing et al., 2011). Pratto et al. (1994) acknowledges this connection between the belief in meritocracy and BJW in their writings regarding hierarchy-legitimizing myths, suggesting that the just world theory is an example of meritocratic ideology (p. 743), a connection which several other authors have found in their research regarding attitudes of these theories (Batruch et al., 2022; Bernardo, 2021; Roex et al., 2019; Son Hing et al., 2011).

The data on the associations between belief in meritocracy and BJW suggests that the theoretical connections between these conceptual frameworks are valid—that the belief in meritocracy and the notions that successful individuals deserve their success and unsuccessful individuals deserve their failings are correlated, as displayed in actual individual beliefs (Batruch et al., 2022; Bernardo, 2021; Roex et al., 2019). Individuals with a high level of belief in meritocracy tend to have a high level of BJW and tolerance for wealth inequality (Batruch et al., 2022; Bernardo, 2021; Pratto et al., 1994; Roex et al., 2019; Son Hing et al., 2011).

The tolerance of wealth inequality and BJW have a theoretical association in the maxim of BJW that good things happen to good people and bad things happen to bad people (Bénabou & Tirole, 2005; Christopher et al., 2008; Freeman, 2006; Mooney, 2019). In a world where individuals get only that which they deserve and where good work begets good outcomes, a high sum of wealth (an ostensibly “good” outcome) can only be received by those who are good, deserving, and have done good work to earn this sum. Tolerance of wealth inequality, being related to “perceptions of economic fairness” (Bernardo, 2021, p. 398) and perceptions of the inequality being “fair or unfair, legitimate or unjustified” (Bernardo, 2021, p. 398) is strongly dependent on

whether individuals are seen to be deserving of their wealth, both for high SES and low SES individuals. If one believes in an entirely just world, whereby high SES and low SES individuals have earned their respective wealth and status of their own accord, then one can reasonably be expected to believe that differences among wealth in individuals are deserved, justified, and fair, lowering sentiments of intolerance for wealth inequality (Batruch et al., 2022; Bernardo, 2021; Roex et al., 2019). This association is supported by Roex et al. (2019), who determined that “individuals are thought to accept a high degree of income inequality if it is seen to result from a fair distributive process” (p. 49), and that greater cultural meritocratic sentiment promotes societal tolerance for wealth inequality. Batruch et al. (2022) also showcases how hierarchy-legitimizing myths, like BJW, “tend to present the status quo positively” (p. 2), which itself provides justification through BJW for the existence of real economic inequality.

Furthermore, we can provide a logical association between BJW and tolerance for wealth inequality through the already established association between belief in meritocracy and BJW. Because BJW is associated with the belief in meritocracy, and because tolerance for wealth inequality is associated with the belief in meritocracy, it can be extrapolated that BJW is associated with tolerance for wealth inequality (Bernardo, 2021). The above examples support this theory and provide a fully sufficient explanation for the association between BJW and tolerance of wealth inequality, which further provides evidence to the claim that BJW and meritocracy are inextricably linked. This logical association is strengthened and supported by the connection between BJW and other similarly related sociological perceptions which have their own correlations to tolerance for wealth inequality.

The Protestant Work Ethic (PWE) is another hierarchy-legitimizing myth which is closely related to BJW and formed of meritocratic principles. High levels of PWE suggests that one finds

great value in committed work and much less value in leisurely activities (Batruch et al., 2022; Christopher et al., 2008; Pratto et al., 1994). In order to hold such value in work and effort, one has to imagine such endeavors to be fruitful and worthwhile; that they will lead to some kind of reward. If one considers the world to be a just place where everyone gets what they deserve based on their effort and good character, then putting a strong focus towards work in one's life could directly lead to better outcomes (Batruch et al., 2022; Christopher et al., 2008; Pratto et al., 1994). The association between PWE, BJW, and belief in meritocracy has been supported across multiple studies. Bénabou and Tirole (2005) find that having a high level of PWE is correlated with having a high BJW score in their study of why individuals have a strong BJW. Individuals will be more tolerant of economic inequality if they have a strong PWE for much the same reasons those with a high BJW score are more tolerant of economic inequality—if one believes that a strong work ethic leads to success, those without success must not be working hard and therefore deserve their impoverishment because they aren't trying to succeed (Batruch et al., 2022; Pratto et al., 1994). From the lens of PWE and BJW, economic inequality is the result of individual choices and individual effort, not the result of failing social policy.

Right-Wing Authoritarianism (RWA) is a non-economic hierarchy-legitimizing myth which encompasses acceptance of extreme levels of conservative maxims (Christopher et al., 2008; McKee & Feather, 2008). RWA is associated with conformity, obedience to authority, tradition, power, self-reliance, anti-leisure, and pro-religious sentiment (Christopher et al., 2008; Gerber & Jackson, 2013; McKee & Feather, 2008). This creates very strong correlations to PWE from RWA through the values of self-reliance, anti-leisure, and religious beliefs (Christopher et al., 2008; McKee & Feather, 2008). RWA is important to measure within studies examining the relationship of other hierarchy-legitimizing myths, as any effects these myths may have on an

outcome may be better explained by generalized conservative sentiment or broad appeals to authoritarian obedience.

While PWE, BJW, and descriptive meritocracy hierarchy-legitimizing myths are ideologies that accentuate one's tolerance for hierarchy and inequality through providing moral justification for their existence, Social Dominance Orientation (SDO) acts as a measure of one's acceptance of, desire for, and tolerance of hierarchy (Batrach et al., 2022; Bénabou & Tirole, 2005; Christopher et al., 2008; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Freeman, 2006; Gamblin et al., 2021; Gerber & Jackson, 2013; Goode & Keefer, 2016; Kim & Choi, 2017; Kleppestø et al., 2019; Mijs & Savage, 2020; Miranda et al., 2021; Mooney, 2019; Pratto et al., 1994; Roex et al., 2019; Son Hing et al., 2011). SDO was coined as a measure by Pratto et al. (1994) during their writings on Social Dominance Theory, where they described the variable as a measure of "the extent to which one desires that one's in-group dominate and be superior to out-groups" (p. 742).

### ***Criminal Sentencing***

Criminal sentencing and criminal justice research tends to focus on three distinct variables as they relate to individual attitudes regarding criminal sentencing and criminal justice. One is the goals of criminal punishment—what an individual believes the reasons and justifications behind our criminal justice system existing should be and how success and failure within the criminal justice system should be measured. Another is the decision to find a defendant guilty or innocent. Lastly, there is the specific decision of how to sentence a guilty defendant. These three belief variables (goal of criminal punishment, guilt decisions, punishment decisions) combined make up the overall beliefs one has regarding criminal sentencing. The specific and combined beliefs regarding criminal sentencing are what will be examined and compared against hierarchy-legitimizing myths within this paper to determine the effects belief in hierarchy-legitimizing myths

has on criminal sentencing decisions.

**Decision Making Factors in Criminal Sentencing.** While there are a multitude of factors that contribute to the overall culmination of attitudes one has regarding criminal sentencing decisions, it is generally agreed upon that a completely just and fair system considers only factors directly relevant to the crime committed. These include such factors as the blameworthiness of the defendant in committing the crime and the amount of damage or harm caused by the crime (Doerner & Demuth, 2010; Everett & Wojtkiewicz, 2002; Gamblin et al., 2021; Schweitzer & Nuñez, 2017). More contentiously, another factor often used in the formulation of criminal sentencing decisions is the evaluation of the risk that the defendant will commit more crimes in the future (Doerner & Demuth, 2010; van Eijk, 2017; Everett & Wojtkiewicz, 2002; Jankovic, 1978; Skeem et al., 2020; Steffensmeier et al., 1998).

One of the considerations judged in criminal sentencing is the defendant's previous criminal history, which is often the most influential factor in determining the length of sentence (Doerner & Demuth, 2010; Everett & Wojtkiewicz, 2002; Freeman, 2006; Jankovic, 1978; Kenthirarajah et al., 2023; Steffensmeier et al., 1998). There is bias in these decisions when extralegal factors (information regarding those involved in the crime that does not relate to the crime itself, the culpability of the defendant, the harm caused by the crime, or prior criminal record) are considered in the ultimate decision to convict and the decision of how to sentence the convicted (Chiricos & Waldo, 1975; Costa-Lopes et al., 2018; Doerner & Demuth, 2010; van Eijk, 2017; Esqueda et al., 2008; Everett & Wojtkiewicz, 2002; Freeman, 2006; Gamblin et al., 2021; Hopkins, 1977; Kenthirarajah et al., 2023; Schweitzer & Nuñez, 2017; Sidanius et al., 2006; Steffensmeier et al., 1998; Weisburd et al., 1990).

Interestingly, the defendant's SES is most regularly considered to be an extralegal factor

supposedly irrelevant to criminal sentencing (Chiricos & Waldo, 1975; van Eijk, 2017; Esqueda et al., 2008; Freeman, 2006; Hopkins, 1977; Schweitzer & Nuñez, 2017; Skeem et al., 2020). As a justice principle, a fair criminal justice system is thought to be one that sentences high income and low-income individuals in the same way, without favoritism to one or the other for their monetary decisions or luck in finding high earning work (Chiricos & Waldo, 1975; van Eijk, 2017; Esqueda et al., 2008; Freeman, 2006; Hopkins, 1977; Schweitzer & Nuñez, 2017; Skeem et al., 2020). However, when considering risk assessment, low SES individuals are known to have a higher likelihood of committing crimes into the future (van Eijk, 2017; Skeem et al., 2020). Other variables not directly associated with one's income, such as level of education and owning a house, are factors commonly associated with the likelihood one has of reoffending while also being directly related to the SES of the defendant (van Eijk, 2017; Skeem et al., 2020). If one is to directly suggest that low SES defendants should receive longer sentences or should be more likely to be found guilty, they are considered to be demonstrating some amount of injustice (Chiricos & Waldo, 1975; van Eijk, 2017; Esqueda et al., 2008; Freeman, 2006; Hopkins, 1977; Schweitzer & Nuñez, 2017; Skeem et al., 2020). However, if one is to suggest that the risk of reoffending should be considered in these sentencing decisions, and that certain economic factors contribute to this risk of reoffending, then the SES of the defendant is considered to be a valid and just factor in criminal sentencing decisions (van Eijk, 2017; Skeem et al., 2020).

The use of risk assessment data in developing criminal sentencing decisions therefore presents a bias in the criminal justice system against low SES individuals. Low SES individuals are considered to be "higher risk" for criminal behavior (van Eijk, 2017; Skeem et al., 2020; Steffensmeier et al., 1998). Combined with a belief that higher risk individuals should be incarcerated and should face longer sentences, it can then be argued that low SES individuals, due

to their greater likelihood for engaging in criminal behavior, should be more likely to be incarcerated and sentenced for longer periods of time to keep communities safer. This bias has been demonstrated within several key studies investigating the impact of defendant SES on criminal sentencing decisions (Doerner & Demuth, 2010; van Eijk, 2017; Esqueda et al., 2008; Schweitzer & Nuñez, 2017; Skeem et al., 2020; Steffensmeier et al., 1998). Using predictions of a defendant's likelihood for committing future crimes allows individuals to consider the defendant's SES as a factor in determining guilt and sentence length.

### **Contrast**

This section of the literature review will serve to contextualize the findings of the above section with further research indicating contradictory findings and novel methodologies. The various methods of seeking answers to questions regarding the extent to which meritocratic ideologies impact criminal sentencing bias will be examined in closer detail. Opposing study results will be investigated for commonalities. Distinctions among related hierarchy-legitimizing myths will be accentuated.

### ***Hierarchy-Legitimizing Myths***

While the aforementioned hierarchy-legitimizing myths have been analyzed for points of overlap and similarity, there are many key distinctions regarding the conceptual differences of these myths. The descriptive belief in meritocracy and the Belief in the Just World (BJW) have previously been shown to result in similar conclusions regarding the distribution of social resources (Batruch et al., 2022; Bernardo, 2021; Mooney, 2019; Pratto et al., 1994; Roex et al., 2019; Son Hing et al., 2011). BJW suggests that individuals get what they deserve, both good and bad, and the belief in meritocracy suggests that resources are distributed on account of merit (the meritorious gaining the most resources; everyone getting what they deserve on account of merit)

(Bénabou & Tirole, 2005; Bernardo, 2021; Christopher et al., 2008; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Freeman, 2006; Goode & Keefer, 2016; Miranda et al., 2021; Mooney, 2019; Pratto et al., 1994; Roex et al., 2019; Son Hing et al., 2011). Bernardo (2021) acknowledged this connection in suggesting that “the belief in meritocracy is one factor that seems to legitimize wealth inequality as being deserved and, therefore, fair” (p. 399). Taken in whole, this distinction suggests that the belief in meritocracy is a tool that acts as a way of justifying one’s level of BJW as opposed to being an equal measure of one’s level of BJW.

Another key distinction is made in discussing Just World Theory or the just world hypothesis. While the belief in meritocracy is a measure of one’s belief in the meritocratic hierarchy-legitimizing myth, the Just World Theory suggests that BJW is a psychological compulsion everyone necessarily experiences and rationalizes (Batruch et al., 2022; Bénabou & Tirole, 2005; Bernardo, 2021; Christopher et al., 2008; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Freeman, 2006; Miranda et al., 2021; Roex et al., 2019; Son Hing et al., 2011). As opposed to a belief that varies in individuals which can be measured in terms of high or low levels of belief, the Just World Theory suggests that BJW is a universal myth that individuals feel a need to maintain, even when outside information disproves the notion of an entirely just world (Bénabou & Tirole, 2005; Christopher et al., 2008; Freeman, 2006). Bénabou and Tirole (2005) theorize that optimism regarding effort paying off and high levels of BJW are a survival tool that gives people motivation to maintain effort put into long-term goals. While demonstrating that participants maintain high levels of BJW by providing deservingness justifications for results known to be random, Bénabou and Tirole (2005) also acknowledged that different societies have vastly different levels of BJW, suggesting the just world hypothesis to (even if it is indeed universal) not be all-encompassing.



An individual's level of BJW and SDO are also shown to correlate with one another and to describe the acceptance of and tolerance for inequality and hierarchies (Christopher et al., 2008; Kleppestø et al., 2019; Mooney, 2019; Pratto et al., 1994; Son Hing et al., 2011). However, these two measures display very different cognitive processes regarding the acceptance of social hierarchy and inequality. In terms of acceptance and tolerance of social hierarchy and inequality, BJW is a tool that serves to rationalize the existing levels of hierarchy and can act as a rationalization for one's level of SDO (Bénabou & Tirole, 2005; Christopher et al., 2008; Freeman, 2006; Mooney, 2019). Whereas BJW provides a rationalization for inequality, SDO presents an individual's level of preference for inequality and distinctive social hierarchies (Gamblin et al., 2021; Gerber & Jackson, 2013; Miranda et al., 2021; Mooney, 2019; Pratto et al., 1994). Individuals with a high level of SDO desire inequality and hierarchy, while individuals with a high level of BJW believe inequality and hierarchy to be fair and just (Bénabou & Tirole, 2005; Christopher et al., 2008; Freeman, 2006; Gamblin et al., 2021; Gerber & Jackson, 2013; Miranda et al., 2021; Mooney, 2019; Pratto et al., 1994). BJW (and for that matter, belief in meritocracy) may act as a tool for rationalizing an individual's high SDO as fair but is not necessitated in the ascribed prejudice of the individual (Bénabou & Tirole, 2005; Christopher et al., 2008; Freeman, 2006; Gamblin et al., 2021; Mooney, 2019; Pratto et al., 1994; Son Hing et al., 2011).

Likewise, the belief in meritocracy is hierarchy-enhancing, as can be measured with SDO (Christopher et al., 2008; Mijs & Savage, 2020; Mooney, 2019; Son Hing et al., 2011). However, while SDO predicts attitudes tolerant of inequality and discrimination, meritocracy only predicts attitudes tolerant of inequality (Batruch et al., 2022; Bernardo, 2021; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Mijs & Savage, 2020; Miranda et al., 2021; Mooney, 2019; Pratto et al., 1994; Roex et al., 2019; Son Hing et al., 2011). Furthermore, meritocratic attitudes predict

intolerance of discrimination and intolerance of the evaluation of others by metrics unrelated to their capabilities (Kim & Choi, 2017; Mijs & Savage, 2020). While this may be true as it relates to individual beliefs, tangible measures of income and wealth inequality have also been found to increase as the belief in meritocracy within a society increases (Mijs & Savage, 2020).

Societal inequality may increase meritocratic sentiment in and of itself through BJW. If society is less equal and disparate outcomes are readily apparent, an individual has to find ideological rationalizations for this inequality in order to maintain their BJW (Bénabou & Tirole, 2005; Christopher et al., 2008; Freeman, 2006). This gives individuals high in BJW in an unequal society a greater sense of stability and personal control in life (Bénabou & Tirole, 2005; Christopher et al., 2008; Freeman, 2006). When considering meritocratic sentiment on its own, this connection between inequality, belief in meritocracy, and BJW was seen by demonstrating that when society is viewed as economically unfair, individuals feel a greater sense of personal control and optimism about their future based on their efforts (Goode & Keefer, 2016). This inverse relationship between societal equitable stability and personal control over one's future leads to a paradox within the belief in meritocracy, whereby information that disproves societal meritocracy increases an individual's perception of their work and effort paying off through an increased sense of personal control (Goode & Keefer, 2016). Threats to a view of society as meritocratic increases an individual's personal sense of meritocracy rewarding them (Goode & Keefer, 2016).

### ***Methodologies***

**Definitions.** In studies which examine the effects of individual level of agreement with various hierarchy-legitimizing myths, two distinct metrics for the measurement of agreement with hierarchy-legitimizing myths are found. The correlative measure of agreement with hierarchy-

legitimizing myths suggests that the effect of hierarchy-legitimizing myths should be measured with only questionnaires (Batruch et al., 2022; Bernardo, 2021; Christopher et al., 2008; Esqueda et al., 2008; Feather & Oberdan, 2000; Freeman, 2006; Gamblin et al., 2021; Gerber & Jackson, 2013; Gerber & Jackson, 2015; McKee & Feather, 2008; Miranda et al., 2021; Mooney, 2019; Petersen et al., 2010; Pratto et al., 1994; Sidanius et al., 2006; Son Hing et al., 2011). Using a correlative measure, participants are asked the degree to which they agree with a hierarchy-legitimizing myth and are asked their views on the dependent variable of study, such as criminal sentencing decisions (Batruch et al., 2022; Bernardo, 2021; Christopher et al., 2008; Esqueda et al., 2008; Feather & Oberdan, 2000; Freeman, 2006; Gamblin et al., 2021; Gerber & Jackson, 2013; Gerber & Jackson, 2015; McKee & Feather, 2008; Miranda et al., 2021; Mooney, 2019; Petersen et al., 2010; Pratto et al., 1994; Sidanius et al., 2006; Son Hing et al., 2011). The causative measure of agreement with hierarchy-legitimizing myths suggests that an individual's level of agreement with hierarchy-legitimizing myths can be primed with information that is pro- or anti-hierarchy-legitimizing myth (Batruch et al., 2022; Bernardo, 2021; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Goode & Keefer, 2016). Using a causative measure, participants are grouped into experimental categories and presented either a hierarchy-enhancing or hierarchy-attenuating piece of media—often with a control group presented an unrelated piece of media—and then asked to provide their views on the dependent variable of study (Batruch et al., 2022; Bernardo, 2021; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Goode & Keefer, 2016).

To measure an individual's perceptions on criminal cases—the dependent variable—the same two metrics can also be used to differing effects. The correlative measure can be considered as a static test of the dependent variable, whereby all participants are shown the same case data and asked their opinions on the information presented (Gerber & Jackson, 2013; Gerber & Jackson,

2015; Goode & Keefer, 2016; Mooney, 2019; Rachlinski et al., 2017). This method was used most commonly in determining the relationship between participant attitudes and opinions regarding various hierarchy-enhancing myths (Batruch et al., 2022; Bernardo, 2021; Christopher et al., 2008; McKee & Feather, 2008; Pratto et al., 1994; Son Hing et al., 2011). The causative measure can be considered as a dynamic test of the dependent variable, whereby participants are separated into groups that view slightly different case information—such as viewing the same criminal activity description but receiving different information regarding the defendant’s race, age, gender, SES, or other traits—and asked their opinions on the information presented (Costa-Lopes et al., 2018; Esqueda et al., 2008; Feather & Oberdan, 2000; Filipe & Freitas, 2018; Freeman, 2006; Gamblin et al., 2021; Kenthirarajah et al., 2023; Miranda et al., 2021; Petersen et al., 2010; Schweitzer & Nuñez, 2017; Skeem et al., 2020; Son Hing et al., 2011). As it relates to criminal sentencing and bias, many studies simply gather real-world case data and examine the relationship between extralegal factors and the criminal sentencing decisions (Chiricos & Waldo, 1975; Doerner & Demuth, 2010; Everett & Wojtkiewicz, 2002; Gerber & Jackson, 2015; Jankovic, 1978; Kenthirarajah et al., 2023; Roex et al., 2019; Steffensmeier et al., 1998; Wakefield & Uggen, 2010; Weisburd et al., 1990; Wildeman & Wang, 2017). Very few studies regarding the relationship between individual perceptions of various hierarchy-legitimizing myths gathered substantial participant data on questions related to one’s beliefs regarding hierarchy-legitimizing myths to utilize this testing method (Batruch et al., 2022; Gerber & Jackson, 2015; Kim & Choi, 2017).

**Criminal Sentencing.** Bias in criminal sentencing, being a remarkably broad topic of study, can be researched in an infinitely multitudinous number of ways. There are considerations to be made for the specific types of crimes that will be studied, the biases to be tested for (race, gender, wealth, age, etc.), examinations of what leads to biases, using real-world data or examining

participants, measuring biases as they relate to factors differentiating among defendants or measuring the biases of the sociopolitical attitudes of sentencers, and many more (plus all of the combinations of each of these variables). All of these variances may allow for different focuses of study and may even lead to different results.

Perceptions regarding the goals of criminal sentencing present a potential for attitudinal bias to make its way into criminal sentencing decisions. An individual who believes that the goal of criminal sentencing should be the rehabilitation of defendants in order to reintegrate them into society will have very different attitudes regarding suitable sentencing decisions than an individual who believes that the goal of criminal sentencing should be vengeance and retribution against the defendant for their criminal behavior (Gerber & Jackson, 2013; McKee & Feather, 2008). Individuals with vengeance attitudes regarding criminal sentencing are more amicable to harsh punishments and the denial of fair process (Gerber & Jackson, 2013; McKee & Feather, 2008). Furthermore, they are less likely to support rehabilitation as a goal of criminal sentencing and more likely to endorse the incapacitation of criminals and protection of the community as sentencing goals (Doerner & Demuth, 2010; Gerber & Jackson, 2013; McKee & Feather, 2008). As such, these fundamental preconceptions regarding the purpose of criminal sentencing drastically change how individuals consider criminal sentencing decisions and the resulting punishment choices within sentencing (Gerber & Jackson, 2013; McKee & Feather, 2008).

Attitudinal bias on the part of legal experts that make criminal sentencing decisions has been studied in several differing capacities. In a study of judges, Rachlinski et al. (2017) found the political party of respondents to have a limited effect on a wide variety of criminal sentencing decisions. Sentence length across various crimes were not found to be statistically significantly different amongst Republican and Democrat judges. The only statistically significant difference

based on political party was found in bankruptcy cases, where Democrat judges gave significantly larger reductions of loans than Republican judges. As such, it can be presumed that the general political attitudes of judges do not significantly influence criminal sentencing decisions. However, bias relating to political party adherence may be present in criminal sentencing decisions if juror political party results in biased recommended sentences and if recommended sentences influence judges' decision making, though this was well out of scope of the aforementioned study.

Disparities within criminal sentencing decisions may also be present even when criminal punishment is equal and highly systemized (Delattre, 2011). In measuring SES bias within criminal punishment, Bing et al. (2022) present a theoretical argument that fixed-rate legal fines are biased against low-income individuals. This is because the same fee, say \$300, disproportionately harms an individual with very little income as opposed to those with very high income that can be easily disposed of (Bing et al., 2023; Jankovic, 1978).

There is a similar risk in the use of neutral or bias-free algorithms to determine criminal sentencing decisions (Davis et al., 2021). While human error and bias may be limited through the use of algorithms to make sentencing decisions, historical disadvantage is not considered when these algorithms commit to viewing everyone equally (Davis et al., 2021). As such, algorithms based on previous criminal sentencing data and results made by humans will have all the same biases as these previous humans, and inequality among different groups will lead even a perfectly fair, just, and equal algorithm to discriminatory results within the criminal justice system (Bing et al., 2023; Davis et al., 2021; Jankovic, 1978).

Incarceration itself can further grow racial and economic disparities within society because of the stigma of a felony charge that limits opportunities for the already disadvantaged members of society and the multitude of physical and mental health issues that arise due to incarceration

(Doerner & Demuth, 2010; Wakefield & Uggen, 2010; Wildeman & Wang, 2017). Those who are already disadvantaged because of current inequality are more likely to turn to criminal behavior, perhaps because of the soft and hard limits to opportunities presented by inequality (van Eijk, 2017; Garland, 2023). Individuals who face incarceration are met with reduced options for employment, education, and housing and have worse economic and health outcomes than those who are not incarcerated (van Eijk, 2017; Wakefield & Uggen, 2010). For the family members of the incarcerated, their likelihood of success in life drops considerably, causing entire communities to become locked in cycles of incarceration and without easy opportunity to find success in life (Doerner & Demuth, 2010; Garland, 2023; Tella & Schargrofsky, 2011; Wakefield & Uggen, 2010; Wildeman & Wang, 2017). Thus, those already subjected to the adverse impacts of discrimination are more likely to face the further stratification caused by criminal punishment, deepening inequality within society (Garland, 2023; Wakefield & Uggen, 2010; Wildeman & Wang, 2017).

### **Critique**

The many methodologies and findings of the literature discussed within this paper will be evaluated. Judgments regarding research methods and theories will be made to explain contradictory results in order to present a clear answer to the question of the extent to which meritocratic ideologies impact criminal sentencing decisions within a vast array of research. Limitations will be discussed in order to direct future research towards insufficiently answered questions. Knowledge regarding the validity of the varying testing methods will be utilized to direct future research to clear and truthful answers to the research question of this paper.

### ***Priming Manipulation***

In order to examine the extent to which individual perceptions on, beliefs in, and

acceptance of various hierarchy-legitimizing myths impact criminal sentencing decisions, researchers need to understand the level of belief individuals have to these hierarchy-legitimizing myths. In determining the extent to which individuals believe in these myths, priming has been used in experimental conditions to measure the causative effects of participant belief in hierarchy-legitimizing myths.

While studies such as that of Batruch et al. (2022) and Bernardo (2021) were able to use meritocratic priming to further test and contextualize their initial findings, this method of measuring respondent's belief in meritocracy comes with several challenges and limitations that may have invalidated many key research articles. Most importantly, the validity of the priming method needs to be independently verified in order to determine the efficacy of the priming method in effecting participant beliefs in hierarchy-legitimizing myths. If participants are tested for belief in meritocracy before and after being primed with pro- or anti- meritocratic sentiment and show no difference in their level of belief in meritocracy, then it is shown that the priming method is not a valid indicator of participant belief in meritocracy.

Several key studies directly assessing the effects of belief in meritocracy on criminal sentencing were fundamentally limited due to invalid priming methods. Filipe and Freitas (2018) found in testing the validity of the scrambled sentence task as a method for priming individuals with meritocratic sentiment that there was no statistically significant effect of the priming method on participant's belief in meritocracy. This calls the entire study into questions and severely limits the findings that belief in meritocracy does not influence criminal sentencing, as there was no statistical difference among the two groups tested (Filipe & Freitas, 2018).

Costa-Lopes et al. (2018) also used the scrambled sentence task method for priming individuals with pro-meritocratic sentiment, which calls into question the study's findings.



Although Costa-Lopes et al. (2018) did not test the validity of the scrambled sentence task in their own study, Filipe and Freitas (2018) also used a scrambled sentence task to prime individuals with pro-meritocratic sentiment and did test for the validity of priming. Filipe and Freitas (2018) found that the scrambled sentence tasks did not increase meritocratic sentiment among their study's participants. The findings of Filipe and Freitas (2018) may be extrapolated to studies that used similar priming methods but did not test the priming methods for validity.

In testing the effects of Social Dominance Orientation (SDO) and Belief in the Just World (BJW) on criminal sentencing decisions, Mooney (2019) used priming as the method of measuring participant BJW. Individuals were primed based on their grouping with a 32-slide slideshow. Individuals assigned to the high BJW group were shown some slides invoking positive notions regarding BJW, the low BJW group received the opposite priming effect, and the neutral BJW group did not receive any slides invoking the idea of BJW. As discussed in the above **Contrast** section of this paper, the results showed SDO as correlating to lower support for the Not Criminally Responsible On Account of Mental Disorder verdict, but BJW was not correlated. Furthermore, those primed with BJW had no association with SDO. Considering the extensive literature showing the connections between BJW and SDO, including Mooney (2019) in their literature review, it could be the case that the priming method did not influence participant BJW (Christopher et al., 2008; Kleppestø et al., 2019; Mooney, 2019; Pratto et al., 1994; Son Hing et al., 2011).

Conceptually, these priming methods do not necessarily need to prove that they directly influence participants' belief in certain hierarchy-legitimizing myths in order to be worthy of study. Rather than testing individual belief in hierarchy-legitimizing myths, priming could be used to test for the effects of simply being primed with hierarchy-legitimizing sentiment, or to more broadly test for the effects of societal narratives regarding hierarchy and inequality. However, as

a measure of an individual's level of acceptance of hierarchy-legitimizing myths, priming has been shown at times to be entirely invalid, result in contradictory findings, and unrepresentative of individuals' actual beliefs regarding hierarchy-legitimizing myths (Filipe & Freitas, 2018; Mooney, 2019).

If a research study wishes to test the effects of societal master narratives relating to hierarchy-legitimizing myths, priming still may not be a fully apt measure of acceptance of hierarchy. The presence of a master narrative within society suggests that there is a common assumption relating to these ideas that is generally accepted. As such, these ideas are supposedly ingrained within an individual and reinforced through many different forms of media commonly and consistently. Priming an individual with one piece of media that is contradictory to this master narrative may not undo the effects of a lifetime of acceptance of the master narrative and may not create a new assumed true master narrative within the individual. This exact phenomenon was theorized by Filipe and Freitas (2018) to possibly be the reason the priming method did not influence participant belief in meritocracy. In this study, all of the sampled participants were Portuguese. Because European individuals are known to have reduced levels of belief in hierarchy-legitimizing myths like meritocracy (and less tolerance of inequality), it may be the case that these Portuguese participants were less receptive to pro-meritocratic sentiment through priming (Bénabou & Tirole, 2005; Filipe & Freitas, 2018; Garland, 2023). As such, priming individuals with hierarchy-legitimizing myths may have such a wide range of varying effects among participants as to be an invalid measure of the effects of master narratives regarding hierarchy-legitimizing myths. At the very least, to measure an individual's level of belief in hierarchy-legitimizing myths, it seems apparent that directly measuring each individual's independent beliefs relating to hierarchy-legitimizing myths remains a better method than guessing the effects of

priming on an individual's belief systems.

### ***Varying Beliefs in Meritocracy***

As discussed in the definitions section of this paper, the belief in meritocracy is composed of two distinct beliefs. The descriptive belief in meritocracy—the belief that society is currently equal in opportunity for everyone and that societal rewards and hierarchies are based only on the merit of the individual—is what has been tested for in all of the studies discussed (Batruch et al., 2022; Bernardo, 2021; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Goode & Keefer, 2016; Miranda et al., 2021; Roex et al., 2019; Son Hing et al., 2011). However, and as several authors point out, the effects of individual belief in prescriptive meritocracy—the belief that society would be more just, fair, and should act as a meritocracy—is distinctly separate from the belief in descriptive meritocracy and worthy of study on its own (Filipe & Freitas, 2018; Miranda et al., 2021; Son Hing et al., 2011).

In several experiments comparing hierarchy-legitimizing myths, Son Hing et al. (2011) affirm the theoretical distinction between the descriptive and prescriptive belief in meritocracy. In all experiments, participants were asked to complete a questionnaire testing respondents' preference for meritocracy as a principle and belief that meritocracy currently exists in society. These two measures directly correlate to the prescriptive and descriptive beliefs in meritocracy. In one experiment, these separate measures were compared to participant beliefs in other hierarchy-legitimizing myths. The results showed that only the belief that meritocracy currently exists were correlated with other hierarchy-legitimizing myths and SDO, while the preference for meritocracy was unrelated both to descriptive meritocracy and these measures. The other experiments, after measuring participant levels of preference for and belief in current societal meritocracy, tested participants' responses to discrimination and support of inequality attenuating social policies. The

descriptive belief in meritocracy was associated with more tolerance of inequality and less support of any inequality reducing social policies. The preference for meritocracy was associated with more negative evaluations of discrimination. In terms of supporting inequality reducing social policies, participant preference for meritocracy was the strongest single predictor of opposition to certain specific policies, such as affirmative action, but was associated with support of programs that had the same effect as affirmative action that were labeled as “diversity initiatives”. The summation of the distinct findings related to participant belief in and preference for meritocracy and particularly the finding that these two measures are unrelated to one another demonstrates how these measures are distinct and worthy of separate study.

The lack of research on individuals’ prescriptive belief in meritocracy is a limitation to fully understanding the impact of the belief in meritocracy, and particularly the societal narratives supporting the prescriptive belief in meritocracy, on criminal sentencing decisions. As Son Hing et al. (2011) find, the prescriptive belief in meritocracy—even above the descriptive belief in meritocracy—was the single most predictive variable of opposition to some redistributive policies. This suggests a particularly strong underpinning regarding meritocracy that guides individuals in formulating their beliefs across other dimensions of social policies. This is very likely related to, or perhaps what establishes the effects of, deservingness heuristics, which prompt individuals to base their opinions on redistributive social policies only on whether the recipient “deserves” to receive them (Petersen et al., 2010). The prescriptive belief in meritocracy, which predicts opposition to discriminatory practices and support for some methods of attenuating inequality, is correlated with opinions based on the same theoretical underpinnings as deservingness heuristics. The guiding principle of this meritocratic ideology is the distinction between an individual who “deserves” the results of a given program due to their merit (which due to luck or circumstance

has gone unrewarded) and an individual who is receiving a “handout” and does not deserve the results of a given program due to their merit (and is instead being rewarded due to luck or circumstance) (Mulligan, 2018; Petersen et al., 2010; Son Hing et al., 2011). This is the direct parallel of the effects of deservingness heuristics on individuals’ opinions regarding social policies (Petersen et al., 2010). This means that the reliance on deservingness heuristics an individual has may be representative of the strong effects the prescriptive belief in meritocracy has in predicting support and opposition of various social programs (Petersen et al., 2010; Son Hing et al., 2011).

The strong and distinct effects the prescriptive belief in meritocracy has on an individual’s fundamental opinions on social policy demonstrates the importance of studying the prescriptive belief in meritocracy separately from the descriptive belief in meritocracy. It has been thoroughly demonstrated that criminal sentencing decisions have bias against lower status group members (Esqueda et al., 2008; Everett and Wojtkiewicz, 2002; Freeman, 2006; Jankovic, 1978; Kenthirarajah et al., 2023; Miranda et al., 2021; Steffensmeier et al., 1998; Weisburd et al., 1990). It has also been demonstrated how SDO acts as a valid measure of an individual’s preference for inequality, hierarchy over others, and negative perceptions of lower status group members (Christopher et al., 2008; Kleppestø et al., 2019; Mooney, 2019; Pratto et al., 1994; Son Hing et al., 2011). Considering the relationship between SDO and meritocracy, there is a severe hole in the research regarding the effects the prescriptive belief in meritocracy has on criminal sentencing decisions. Knowing that SDO adjacent attitudes reflect the biases found in criminal sentencing decisions, and that meritocratic sentiment is associated with these biases, a complete picture of meritocracy’s effect on criminal sentencing decisions cannot be made without research regarding the effects of the prescriptive belief in meritocracy (Christopher et al., 2008; Kleppestø et al., 2019; Mooney, 2019; Petersen et al., 2010; Pratto et al., 1994; Son Hing et al., 2011).

***Just World Theory***

The belief in a just world is in part predicated on the notion of Just World Theory—that all individuals necessarily feel a compulsion to believe in a just world (Bénabou & Tirole, 2005; Christopher et al., 2008). This suggests that BJW is a universal human experience, and the point of variance within individual BJW is the way in which individuals justify those beliefs (Bénabou & Tirole, 2005; Christopher et al., 2008). This is demonstrated in research by Bénabou and Tirole (2005), where it was found that participants would attribute merit values and justifications to outcomes they knew to be randomly assigned. Respondents justified their BJW, even when they knew there was no deservingness related to the positive and negative outcomes of the study (Bénabou & Tirole, 2005). However, the Just World Theory notion of BJW as an action that is in constant utilization fails to sufficiently explain all of the ways in which BJW varies in individuals.

BJW as a variable has been measured by a multitude of studies investigating hierarchy-legitimizing myths (Bénabou & Tirole, 2005; Christopher et al., 2008; Freeman, 2006). These studies demonstrate the ways in which levels of BJW vary among different individuals. The methodological efficacy of these measurements has also been supported by these studies, which came to the same conclusion that the level of BJW found in an individual correlates with other hierarchy-legitimizing myth beliefs (Bénabou & Tirole, 2005; Bernardo, 2021; Christopher et al., 2008; Freeman, 2006). Specifically, BJW is shown to be correlated with the belief in meritocracy, Right-Wing Authoritarianism (RWA), SDO, and general conservative attitudes (Bénabou & Tirole, 2005; Bernardo, 2021; Christopher et al., 2008; Freeman, 2006). Individuals with lower levels of RWA and SDO are shown to have lower levels of BJW, exemplifying the ways in which BJW attitudes are in flux among the population (Bénabou & Tirole, 2005; Bernardo, 2021; Christopher et al., 2008; Freeman, 2006). In order to sufficiently examine the effects of BJW on

criminal sentencing decisions and belief in meritocracy, the Just World Theory has to be ignored to allow for diverse measurements of these variables.

### ***Criminal Sentencing Decisions***

The majority of important decisions regarding criminal sentencing decisions are not made by the average population. A jury of one's peers may, in some cases, be responsible for rendering a guilty or innocent verdict, but the vast multitude of decisions are instead made by legal experts who take an oath to remain impartial (Delattre, 2011; Doerner & Demuth, 2010; Weisburd et al., 1990). Police have broad authority as it relates to the enforcement of laws and can widely use their discretion to handle unique circumstances as they deem most appropriate—such as choosing who to pursue, who to arrest, and who to ticket, and who to give a warning to (Delattre, 2011). Prosecutors can choose who to prosecute, lawyers advise their clients on how to plead, and—most pertinently—judges make the final ruling on the type of punishment, degree of punishment, and length of punishment to be served for guilty defendants (Doerner & Demuth, 2010; Weisburd et al., 1990).

Thus, studies regarding the general citizenry's opinions on criminal sentencing decisions may only be aptly used to describe the factors relevant to a jury's decision to find a defendant guilty or innocent. It is a limitation to only consider general consensus and not reference expert opinion when legal experts make many of the most important decisions regarding criminal sentencing (Delattre, 2011; Doerner & Demuth, 2010; Weisburd et al., 1990).

Other studies support this notion by suggesting key distinctions in bias within the criminal justice system when considering the beliefs of judges as opposed to the general public. Rachlinski et al. (2017) find that “political attitudes have exhibited a weak effect on judicial decisionmaking” (p. 2097). These results differ from studies of the general population demonstrating a large impact

of conservative political attitudes and SDO on attitudes related to criminal sentencing goals (Gamblin et al., 2021; Gerber & Jackson, 2013; Gerber & Jackson, 2015; McKee & Feather, 2008; Mooney, 2019).

Conversely, Skeem et al. (2020) demonstrate a significant bias among judges against low SES defendants—even with the same risk assessment information as high SES defendants. This bias against low SES defendants amongst judges is consistent with the findings of similar studies with participants sampled from the general population, suggesting an economic bias in criminal sentencing across several layers of the criminal justice system against low SES defendants (Esqueda et al., 2008; Freeman, 2006; Schweitzer & Nuñez, 2017; Skeem et al., 2020). However, to truly understand how biases of any kind impact criminal sentencing decisions and especially how hierarchy-legitimizing myths and the belief in meritocracy influence criminal sentencing decisions, the influences on the part of legal experts in charge of socially critical decisions regarding criminal sentencing needs to be more sufficiently studied.

## **Summary**

Research regarding hierarchy-legitimizing myths suggests that there is a high level of interconnectedness among the varying beliefs. This means that belief in a given hierarchy-legitimizing myth can predict belief in other related attitudes. Criminal sentencing research within the US and Canada suggests that there are biases that result in racial minorities and low SES individuals facing higher levels of incarceration and lengthier prison sentences than others. Direct research on the subject of belief in hierarchy-legitimizing myths influencing criminal sentencing is limited and struggles with validity. Previous methods of study take a wide variety of forms, and studies which involve direct questionnaires on individual beliefs and which forego continuous encoding for dichotomous coding seem to capture information on the present topics of research



most sufficiently.

### CHAPTER 3: METHODS

To discuss the implications that hierarchy-legitimizing myths have on criminal sentencing, a keyword search of various hierarchy-legitimizing myths was completed. The search was limited to academic journals and doctoral dissertations. After researching each distinct theory and belief, a keyword search was done through Google Scholar and Western Oregon University's research database at the Hamersly Library for the various permutations of multiple hierarchy-legitimizing myths (eg. meritocracy and Belief in the Just World; Right Wing Authoritarianism and Social Dominance Orientation and Belief in the Just World). Societal master narratives regarding hierarchy-legitimizing myths were evaluated via keyword searches for academic articles regarding popular beliefs regarding these myths.

With research completed on hierarchy-legitimizing myths, their influence on personal beliefs and connections with one another, the focus of research moved to criminal sentencing decisions. Keyword searches of academic articles were completed by searching for a meritocratic ideology plus criminal sentencing. To search for meritocratic bias as it relates to income information and wealth stereotypes of defendants, keyword searches of academic articles relating to criminal sentencing and Socioeconomic Status (SES) were completed. The focus of research was then broadened to studies regarding bias in criminal sentencing broadly, providing a more complete picture of the influences of criminal sentencing decisions.

The origins of the term "meritocracy" and its evolving definitions was considered. Michael Young's 1958 *The Rise of Meritocracy 1870-2033* was read in full as the original work that popularized the term "meritocracy." Other books on the topic of meritocracy were searched to

provide a complete definition of the term throughout its history. Books on the subject of criminal justice ethics were considered to understand the challenges and considerations to be made within that field. All were found via keyword search or recommended as further reading in scholarly journals.

Scholarly articles regarding the impacts of incarceration on individuals were considered via keyword searches to understand the justice principles and inequalities that can be compounded by the criminal justice system.

Research was limited to a focus on well-developed Western societies with the hope of focusing the results on the US. This means that research regarding meritocracy in China specifically was not considered. Meritocracy serves a different function within Chinese bureaucracy and society and has a much longer history than in the US. As such, research regarding meritocracy and related hierarchy-legitimizing myths was limited to articles discussing ways in which these societal attitudes manifest and relate to one another as could be applicable to the US or exemplify their distinctions. Considering this limitation in sampling and the focus of this paper, research regarding bias in the criminal justice system and punitive attitudes specifically was limited to research that sampled from US territories and Canada.

A comparison of competing methodologies and methodological validity within the research was completed. Criminal justice articles were found which examined the methodological validity of prior research. The referenced prior research was sought out and examined on its own. This allowed a more thorough understanding of the reasoning behind different research methods and the potential validity of these methods, as well as the context behind inconsistent results. Research demonstrating the impact of a hierarchy-legitimizing myths on other individual beliefs were organized by methodology to make sense of inconsistent results and examine the validity of

distinct research methods to direct future research in this field. Evaluating this research involved assessing the validity of methodologies and the limitations of each study's findings, and connecting varied research that asked similar research questions while investigating different subtopics therein. In this way, it was found what valid information was corroborated by multiple studies, and what findings were theoretical or unproven.

Scholarly articles regarding punitive sentencing attitudes and their influence on criminal sentencing decisions were searched for with keyword search. "Punitive attitudes" were searched for along with "punitive attitudes and sentencing decisions." Then, understanding the influence of punitive attitudes on criminal sentencing decisions, the influence and connections between hierarchy-legitimizing myths and punitive attitudes were searched for with keyword search, limited to scholarly articles. Direct research regarding the influence of hierarchy-legitimizing myths on criminal sentencing decisions was searched for. This research formed the basis of the answer to the research question of the ways in which hierarchy-legitimizing myths influence criminal sentencing decisions.

## CHAPTER 4: FINDINGS

To answer the research question and discover the extent to which belief in hierarchy-legitimizing myths result in biased criminal sentencing decisions, scholarly articles were reviewed on the individual topics of hierarchy-legitimizing myths, punitive sentencing attitudes, the impacts of criminal sentencing decisions, bias within the criminal justice system, and human bias. The results of this research are presented here. Studies displaying the connections amongst hierarchy-legitimizing myths and punitive sentencing attitudes are described in detail to showcase their commonalities and shared themes. Criminal sentencing decisions are examined for bias from extralegal factors. Studies examining the combined impacts of criminal sentencing decisions, extralegal bias, hierarchy-legitimizing myths, and punitive sentencing attitudes are described to provide an answer to the research question.

### **Connections Among Hierarchy-Legitimizing Myths and Biases**

Social bias and its causes are examined through the lens of hierarchy-legitimizing myths. The similarities in these biases are used to connect various hierarchy-legitimizing myths together and further demonstrates the influence of hierarchy-legitimizing myths on punitive attitudes due to the wide range of interconnected beliefs and biases involved.

In a study of Australian university students, Batruch et al. (2022) found that individuals who reported a high belief that education acts as a meritocracy had significantly lower perceptions of discrimination and privilege on the basis of social class. This finding was repeated and supported in further trials by Batruch et al. (2022) when they gathered data from the 2009 International Social Survey Program (ISSP) and the 2018 European Social Survey. These studies consisted of nearly

100,000 individual responses to questions asking respondents their beliefs regarding access to education, their perceptions on the fairness of their society's income inequality, and their support of policies meant to reduce income inequality.

In two studies of Filipino university students, belief in meritocracy was associated with greater tolerance of wealth inequality, and those primed with meritocracy had less disturbance towards reporting of income inequality (Bernardo, 2021). A study of over 45,000 individual responses from the 2009 ISSP Social Inequality Data survey demonstrated that individual belief in meritocracy was associated with a reduced belief that income differences within the participant's country are too large (Roex et al., 2019). Income stratification had a much weaker correlation with participant tolerance of income inequality (Roex et al., 2019). In societies with higher overall levels of belief in meritocracy, participant measures of tolerance of income inequality were greater—even among participants with a lower level of belief in meritocracy (Roex et al., 2019).

Bénabou and Tirole (2005) demonstrated that tolerance of wealth inequality varies with Belief in a Just World (BJW) in a study showcasing the differences in societal levels of BJW and tolerance of wealth inequality among the United States and European states. This study found that in the US, a society with a much lower belief that luck determines income (an inverse of BJW sentiment), individual tolerance of wealth inequality is much higher than in many European states, as demonstrated by the lower levels of social spending and redistributive policies within the US than in other European states. US citizens are also much more likely than European citizens to hold inequality justifying beliefs, being over twice as likely to believe that poor people are lazy and lacking willpower, thus determining their lot in life. Comparatively, in many European states there is a much greater intolerance of wealth inequality and much higher sentiment among citizens that luck is the primary determinant of an individual's income. This is shown in the far greater

levels of social spending and redistributive policies within European states compared to the US, as well as the vastly reduced levels of inequality justifying sentiments. Finally, the study showcased a significant correlation between BJW and the belief that individuals are responsible for their own fate (the belief in an internal locus of control).

BJW is also shown to take an active role in promoting tolerance for wealth inequality (and not just being associated sentiments) in studies that randomly select individuals for good and bad outcomes. In studies where a group works towards a task and an individual has been preselected to receive a large payment for this work (and the participants know this person to have been preselected entirely randomly before work has even begun), participants “find imaginary merits and superior performances in” (Bénabou & Tirole, 2005, p. 5) the work of the individual who has been given the best outcomes by pure chance, providing justifications for outcomes they know to be entirely random (Bénabou & Tirole, 2005). The inverse result has also been found when participants are shown an individual who is suffering and whom they know to be unable to do anything to alleviate their own suffering. In this instance, many of the participants “end up blaming the victim... or invoking... a silver lining” (Bénabou & Tirole, 2005, p. 5) to justify the negative outcome or to rationalize it as not so negative at all given that the individual does not deserve their suffering (Bénabou & Tirole, 2005). Son Hing et al. (2011) also demonstrated that “positive stereotypes of high-status and powerful individuals can rationalize and justify social inequalities” (p. 434) by providing a sense of deservingness through BJW in good people receiving good outcomes (Son Hing et al., 2011).

The Protestant Work Ethic (PWE) is a hierarchy-legitimizing myth associated with valuing committed work and devaluing leisurely activities (Batruch et al., 2022; Christopher et al., 2008; Pratto et al., 1994). Bénabou and Tirole (2005) found that a high level of BJW is associated with

a high level of PWE. They saw that positive associations regarding hard work and negative associations regarding leisure correlated with higher individual credence in BJW.

Social Dominance Orientation (SDO) acts as a measure of one's acceptance of, desire for, and tolerance of hierarchy (Christopher et al., 2008; Gamblin et al., 2021; Gerber & Jackson, 2013; Goode & Keefer, 2016; Kleppestø et al., 2019; Miranda et al., 2021; Mooney, 2019; Pratto et al., 1994). In the original article by Pratto et al. (1994) that defined SDO, they found that an individual's SDO was correlated with BJW, sexism, cultural elitism, and meritocratic notions of equal opportunity existing in society (Pratto et al., 1994).

The connections between SDO and prejudice have been demonstrated through studies linking SDO to preference for inequality and ingroup superiority, homophobia, racist attitudes, fiscal conservatism, antiegalitarianism, and nationalism (Gamblin et al., 2021; Gerber & Jackson, 2013; Kleppestø et al., 2019; Miranda et al., 2021). Conversely, high levels of SDO was found to be associated with negative attitudes regarding social welfare, affirmative action, feminism, foreign aid, globalism, immigration, labor unions, and miscegeny (Christopher et al., 2008; Kleppestø et al., 2019; Miranda et al., 2021; Pratto et al., 1994).

Those with a high SDO have been found to be more likely to endorse meritocracy and BJW (Christopher et al., 2008; Mooney, 2019; Son Hing et al., 2011). This research was further expanded upon to note the correlations between PWE and SDO—that placing a large value on work and anti-leisure itself was strongly correlated with a higher degree of SDO (Christopher et al., 2008; Pratto et al., 1994).

Right-Wing Authoritarianism (RWA) is associated with acceptance of extreme levels of conservative maxims, obedience to authority, tradition, and power, (Christopher et al., 2008; Gerber & Jackson, 2013; McKee & Feather, 2008). Through these associations, SDO has been



shown to be directly correlated with RWA (Christopher et al., 2008; Gerber & Jackson, 2013; McKee & Feather, 2008). Individuals with high levels of RWA and SDO have higher levels of BJW, and those with lower levels of RWA and SDO have lower levels of BJW (Bénabou & Tirole, 2005; Bernardo, 2021; Christopher et al., 2008; Freeman, 2006).

### **Criminal Sentencing Decisions**

Research on bias in criminal sentencing decisions is varied in approach and conclusions. Certain research methods are more likely to suggest that the SES of a defendant impacts criminal sentencing decisions in similar cases. Studies that examine other extralegal factors sometimes find that age, race, and gender have a greater level of influence on criminal sentencing decisions than SES, while others find a lack of statistically significant bias.

Chiricos and Waldo (1975) conducted one of the first studies examining the hypothesis of conflict criminology that less powerful groups will be more likely to have their behaviors perceived as criminal and for their members to be categorized as criminal. In order to research this theory, they examined the data of over 10,000 inmates sentenced in three different states between 1969 to 1973, notably excluding inmates charged with first-degree murder due to the propensity for life sentences. They compared the variables of length of sentence and defendant SES, and controlled for the criminal offense the defendant was charged with. To code defendant SES as a variable, defendants were ranked in order of SES and assigned a score of 1-100 based on their placement within this ranking. Overall, defendant SES did not have a statistically significant impact on sentencing length, except for juveniles. In considering first-degree murder separately, they found that working class defendants were about nine times more likely than upper class defendants to be given the death sentence. While they found no statistically significant difference in sentence length based on defendant SES, they did note a significant difference in sentence length

for several crimes on the basis of race, where Black individuals received longer sentences for the same crime than White individuals.

Jankovic (1978) completed a similar study to Chiricos and Waldo's 1975 research, only coding defendant SES as dichotomous rather than continuous. Defendants would be rated as either high or low SES. This would be based on the defendant's income, occupation, and education. Other legal and extralegal factors such as prior convictions, type of legal counsel, number of counts the defendant was charged with, marital status, sex, and age were controlled for. With the exception of first-time drunk driving charges (which have standardized sentencing policies), all crimes examined were found to result in longer sentences for low SES defendants than for high SES defendants. Using the same continuous scale methodology as Chiricos and Waldo, Jankovic found no statistically significant difference in sentence length based on defendant SES within the same data set.

Weisburd et al. (1990) used the SocioEconomic Index (SEI) to investigate class based criminal sentencing disparities in white-collar crimes. Defendants were categorized into one of five distinct labels, such as worker, manager, and officer. When examining criminal offenses such as embezzlement and tax fraud, higher status defendants were more likely to be convicted and to receive a longer sentence than were low status defendants.

Steffensmeier et al. (1998) investigated how the extralegal factors of age, race, and gender jointly and independently related to criminal sentencing decisions by investigating 3 years of felony and misdemeanor convictions in Pennsylvania. Independently, men are generally sentenced more harshly than women, Black defendants are generally sentenced more harshly than White defendants, and young adults are generally sentenced more harshly than the very young and the very old. Combined, young Black men are the group generally sentenced the most harshly. Age

disparities were found to be most pronounced amongst Black and male defendants, and gender disparities were found to be most pronounced among White defendants.

MONFY92 and MONFY93 case data from the US Sentencing Commission Monitoring Database was evaluated for racial disparities and differences in the sentencing of various crimes by Everett and Wojtkiewicz (2002). Here it was found that Asian and White individuals are the most likely to receive a sentence within the bottom quartile of the standardized sentencing ranges enacted by the Sentencing Reform Act of 1984. Black, Hispanic, and Native American individuals were the most likely to receive a sentence within the upper quartile of the standardized sentencing ranges. Defendants convicted of purely economic offenses were given comparatively shorter sentences than those convicted of violent, drug, or immigration related offenses.

Freeman (2006) ran a study whereby respondents would examine case information and be asked to provide a verdict and sentence length. In this study, all 273 university student participants were split into two groups. Each group was presented with the same case information, with the only difference between the groups being the defendant's SES as presented in the case information. Participants were then asked to render a verdict, state their confidence in their verdict, answer questions regarding how culpable the defendant was, and recommend a sentence length. In this study, the defendant's SES on its own was not shown to influence guilty verdicts or sentence length.

In two mock juror studies, Esqueda et al. (2008) investigated the extent to which criminal sentencing disparities due to defendant SES could be explained by ethnic bias. In mock trials with European American participants from European American communities, both defendant SES and defendant ethnicity were found to have pronounced impacts on sentencing decisions, with low SES and Mexican American defendants receiving longer recommended sentences and being more

likely to be convicted than high SES and European American defendants. In a follow-up study with Mexican American participants from a Mexican American community, these same variables had no statistically significant relationship to sentence length or conviction rate. The most important factors related to sentencing decisions were found to be perceived defendant blameworthiness and perceived likelihood of the defendant repeating the crime in the future. In the original study, low defendant SES and Mexican American ethnicity correlated with both of those factors.

Controlling for minimum sentence guidelines, criminal history of the defendant, number of counts charged, case disposition, and judicial district, Doerner and Demuth (2010) evaluated 33,505 cases from the US Sentencing Commission 2001 Monitoring of Federal Criminal Sentences for extralegal bias in criminal sentencing. Individually, male defendants receive harsher sentences than female defendants, young defendants receive harsher sentences than old defendants, and White defendants receive lighter sentences than Hispanic and Black defendants. Combined, young Hispanic male defendants are the most likely group to be incarcerated, and young Black male defendants tend to receive the longest sentences. Old White female defendants are the least likely to be incarcerated and when incarcerated tend to receive the shortest sentences. Gender influences the decision to incarcerate more for Hispanic and Black defendants than for White defendants. Gender influences sentence length more for Black defendants than for White and Hispanic defendants. Age influences both the decision to incarcerate and sentence length more for male defendants than female defendants.

To investigate the effects of political party affiliation on the decision making of legal experts, Rachlinski et al. (2017) completed a study with a sample population of judges. Democrat affiliated and Republican affiliated judges were asked to make a wide range of decisions regarding

various types of case information. There was no statistically significant difference in conviction rates of example defendants between Republican and Democrat judges. Republican judges gave defendants a sentence length “one-fifth of a standard deviation [longer] than Democrats” (p. 2088). In the admission of evidence on the grounds of probable cause, Democrat and Republican judges made similar decisions. In bankruptcy cases, Democrat judges discharged an average of \$16,000 more debt than Republican judges and were more likely to support the debtor over the creditor than Republican judges. In some scenarios, Republican judges were more likely to give a harsher sentence to a Black juvenile than a juvenile without racial demographic information described, whereas Democrat judges gave the Black juvenile defendants lighter sentences than in ambiguous cases.

Miranda et al. (2021) considered racial biases in a study evaluating support of early release policies in prisons due to the coronavirus pandemic. Of the 250 online participants convenience sampled, 180 responses from participants ranging from 18 to 60 years old were considered. When considering prisoners charged with car theft, participants were less likely to support the early release of a Black prisoner than a White prisoner. There was no statistically significant racial bias demonstrated when considering prisoners charged with embezzlement. Participants with higher levels of anti-egalitarianism had more opposition to the early release of all prisoners regardless of circumstance or crime. Participants with a higher level of belief in meritocracy displayed greater levels of anti-Black racial bias when considering the early release of prisoners charged with car theft.

The effect of racial stereotypes and associations on criminal sentencing decisions were evaluated by Kenthirarajah et al. (2023). Various independent groups of participants rated the names of 296 Black male defendants aged 18-24 sentenced between October 1, 1998 and October

1, 2006 and the names of 105 White male defendants aged 18-24 sentenced between October 1, 1998 and October 1, 2002 for stereotypicality as a Black or White name, perceived SES associated with the name, and the extent to which others might think someone with the name is a violent criminal. Names rated as more stereotypically Black than stereotypically White were correlated with lower perceived SES. Names rated as more stereotypically Black than stereotypically White were nearly exactly correlated to others perceiving an individual with that name to be a violent criminal. In the sampled cases, Black men received longer sentences when they had more stereotypically Black first names, even when controlling for other legal factors. When participants were presented with criminal case information and defendant demographics that were exactly the same except for their name, participants recommended longer sentences to defendants with more stereotypically Black names, regardless of all other demographic information presented.

Many of the studies examining Socioeconomic Status (SES) bias in criminal sentencing concluded that low defendant SES results in a higher likelihood of incarceration and longer sentences than high defendant SES (Esqueda et al., 2008; Freeman, 2006; Jankovic, 1978; Skeem et al., 2020; Sidanius et al., 2006). However, in considering very specific crimes stereotypical of higher SES individuals, Weisburd et al. (1990) found that high SES defendants were considerably more likely to be incarcerated and receive a longer sentence than low SES defendants.

Schweitzer and Nuñez (2017) found that the victims' SES—rather than the defendant's—may also result in varying criminal sentencing decisions. When respondents were asked to consider the death penalty for a murder case, defendants who had murdered a high SES victim were more likely to be recommended by respondents for a death sentence penalty than defendants who had murdered a low SES victim. Furthermore, in a control group where no data about the SES of the victim was present, respondents were less likely to recommend the death sentence than when the

defendant had murdered a high SES individual. This ambiguous point supports the previous findings of the study that victim SES biases juror decision making, as when respondents were asked to assume the SES level of the victim in the control group they assumed the victim was of low SES, consistent with the reduced likelihood of recommending a death sentence. Respondent SES was not found to significantly correlate to the recommended sentencing decision, suggesting a lack of juror SES bias in criminal sentencing.

### **Public Health and Incarceration**

Wakefield and Uggen (2010) found several causes and effects of incarceration on the general population and particularly among minority populations. They found that Black men with no high school degree are more likely to be incarcerated than not, and that the stigma of incarceration further reduces employment prospects. Incarceration itself increases the likelihood of future incarceration, with roughly half of the population who leaves prison becoming reincarcerated within 3 years. Incarceration of family members is linked to economic disadvantage and poor mental health among children. Black individuals are less likely to qualify for jury service than White individuals and are more likely to be incarcerated for drug related crimes despite White individuals having higher rates of drug abuse. In the US, the likelihood of incarceration has increased even when criminal behavior has decreased and economic prosperity has increased.

In regards to health, Wildeman and Wang (2017) found “profoundly harmful effects of physical and mental health after release” from prison (p. 1464). They found a higher prevalence of chronic health issues, disease, and mental health disorders for incarcerated individuals as compared to the general population. In communities with a high incarceration, they found “poor population health, including high prevalence of asthma, sexually transmitted infections, and psychiatric morbidity” when compared to the general population (p. 1470).

Doerner and Demuth (2010) corroborated these results in their study on extralegal bias on criminal sentencing post sentencing guideline enforcement. Beyond health impacts, they found that incarceration had negative effects on “family formation... community organization... and participation in a representative democracy” (p. 2).

### **Methodologies**

In studying the effects of the descriptive belief in meritocracy on perceptions of personal control and societal stability, Goode and Keefer (2016) primed respondents on meritocracy by presenting respondents with one of three articles: one which described meritocracy as indicative of current society, one which described meritocracy as no longer being realistic in current society, and a control article with no described sentiment regarding meritocracy. In this study, respondents who were presented with the unrealistic meritocracy article were more likely to view themselves as having a high amount of control over their life, even as their meritocratic sentiment decreased.

Filipe and Freitas (2018) primed respondents with meritocracy via a scrambled sentence task. In this priming method, respondents are asked to organize a random array of words into a predetermined sentence (Costa-Lopes et al., 2018; Filipe & Freitas, 2018). In order to prime individuals with meritocracy, respondents are put into separate groups. Some participants will organize words that form into sentences with positive meritocratic sentiments, while others will organize words forming into sentences with negative meritocratic sentiments or with no meritocratic sentiment (Costa-Lopes et al., 2018; Filipe & Freitas, 2018). In measuring the extent to which the belief in meritocracy accentuates bias in criminal sentencing decisions, Filipe and Freitas (2018) found that priming individuals with pro-meritocracy or anti-meritocracy sentiment through scrambled sentence tasks did not influence criminal sentencing decisions. Furthermore, meritocracy priming was not associated with different attitudes related to criminal sentencing.



Meritocracy priming did have a statistically significant influence on support for social programs, with individuals in the pro-meritocracy sentence scramble group reporting less support for inequality reducing social programs.

Costa-Lopes et al. (2018) used meritocracy priming via scrambled sentence tasks to test the influence of meritocracy on individual bias regarding socially critical decisions. Individuals were placed into either a control group with no priming in the scrambled sentence tasks or a test group with pro-meritocracy priming in the scrambled sentence tasks. Participants were then presented with a moral dilemma facing either high or low status group members and asked how they would resolve these dilemmas. While this study did not test for criminal sentencing decisions, it did support the findings of Filipe and Freitas regarding social program support. Individuals primed with meritocratic ideas through scrambled sentence tasks were more likely to make socially critical decisions unfavorable to low status group members. This included being more likely to sacrifice one person to save five if the one person is from a low-status group and being less likely to prioritize medical care for low-status group members when under time pressure. However, in the condition that the individual making socially critical medical decisions knows they will be highly responsible for the results of their decisions, and when there is a time pressure to make a decision, individuals primed with meritocracy were more likely to prioritize the care of low-status group members over high-status group members. The pro-meritocracy group did not prioritize the care of low-status group members more than the control group in any scenario.

To further understand the ways in which the belief in meritocracy interacts with social attitudes, bias, and tolerance of inequality, Bernardo (2021) used both correlative and causative meritocratic sentiment testing. In one study, participants were asked to complete several questionnaires which asked participants about their belief in meritocracy and their level of

disturbance regarding income inequality in the Philippines. Here it was measured that the belief in meritocracy correlated with greater tolerance of wealth inequality, but only among those with a high perception of their Socioeconomic Status (SES). In a second study with only high SES participants, respondents were assigned to read either a graduation speech discussing the importance of meritocracy in society, or a control graduation speech discussing attachment to one's country. It was found that participants primed with meritocracy through the graduation speech had greater tolerance of wealth inequality than those in the control group.

Using much the same methodology as Bernardo, Batruch et al. (2022) tested the extent to which the belief in meritocracy as it relates to educational institutions impacts tolerance of wealth inequality and social hierarchies. Batruch et al. (2022) ran two studies, one in which the belief in educational meritocracy within schools and attitudes related to social and economic hierarchies was measured using questionnaires, and one in which the belief in educational meritocracy within schools was primed with an article describing meritocratic attainment in schools. In the causative study which primed respondents on educational meritocracy, half of the participants read an article describing social class as a strong predictor of educational outcomes (low meritocratic sentiment group), and the other half read an article describing social class as unrelated to educational outcomes (high meritocratic sentiment group). In both studies, it was found that high meritocratic sentiment regarding educational institutions—either measured from participants or primed—was correlated with reduced perceptions of class discrimination and class privileges in all of society as well as reduced support for inequality reducing social policies.

### **Punitive Attitudes**

In an online study of criminal sentencing attitudes, Gerber and Jackson (2013) analyzed 176 survey responses to define the distinctions between different categories of sentencing goals.

They found a distinction between instrumental goals, which “justify punishment in terms of the future benefits of reducing the likelihood of crime” (p. 63), such as rehabilitation, and retributive goals, which are concerned with retaliation over crime prevention (Gerber & Jackson, 2013). Retributive goals were further delineated into two separate sentencing goals. Retribution as revenge is understood “as the desire to get even with criminal offenders by making them suffer” (pp. 64-65), whereas retribution as just deserts is “the desire to restore justice by allowing the offender to compensate society proportionally to the harm” (p. 65) caused by the crime committed. These retributive goals are known as vengeance attitudes.

Vengeance attitudes regarding criminal sentencing, which predict “the willingness to deny fair procedures” (Gerber & Jackson, 2013, p. 61) and support of harsh punishments, are associated most commonly with Right-Wing Authoritarianism (RWA) and Social Dominance Orientation (SDO) (Gerber & Jackson, 2013; McKee & Feather, 2008; Mooney, 2019; Sidanius et al., 2006). Vengeance attitudes are also associated with acceptance of the criminal sentencing goal of incapacitation and protection of the community, which posit that criminal sentencing decisions should serve primarily to remove criminal individuals from the rest of society (Gerber & Jackson, 2013; McKee & Feather, 2008). Furthermore, they are correlated to the belief in criminal sentencing as a means to discourage future crime (Mooney, 2019; Sidanius et al., 2006).

## CHAPTER 5: DISCUSSION/CONCLUSION

### Discussion

#### *Criminal Sentencing, Status, and Hierarchy*

The belief in meritocracy acts as a hierarchy-legitimizing myth that is associated with one's propensity to establishing rigid hierarchies and dominance over other social groups, or SDO (Batruch et al., 2022; Bernardo, 2021; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Mijs & Savage, 2020; Miranda et al., 2021; Pratto et al., 1994; Son Hing et al., 2011). More directly, the belief in meritocracy is associated with the dislike of low status groups and individuals (Batruch et al., 2022; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Son Hing et al., 2011). In tandem with the demonstrated bias against low status group members in criminal sentencing, this suggests that the belief in meritocracy is both a belief that predisposes individuals to bias against low status group members and a belief that explains the origins of this bias.

Furthermore, the hierarchy-supporting retributive attitudes within criminal sentencing are supported by status differences between offenders and legal officials. While support of criminal sentencing as a means for retribution is associated with more support for punitive measures and extrajudicial methods, this is only when these extrajudicial methods are enacted by legal authorities and not from vigilantes (Gerber & Jackson, 2013; McKee & Feather, 2008; Mooney, 2019; Sidanius et al., 2006). This effect is measured in the correlation between retributive criminal sentencing attitudes and high belief in RWA; without the legitimacy of authority and the goal of producing social conformity, extralegal action is not supported (Christopher et al., 2008; Gerber & Jackson, 2013; McKee & Feather, 2008; Mooney, 2019; Sidanius et al., 2006). The connections

between meritocracy and RWA therefore lends even more credence to the notion of the belief in meritocracy leading to a lower disposition towards low status group members and biased sentencing decisions (Christopher et al., 2008; Gerber & Jackson, 2013; McKee & Feather, 2008; Mooney, 2019; Sidanius et al., 2006).

### ***Deservingness Heuristics in Criminal Sentencing***

Measures of deservingness have been demonstrated to be an important consideration in an individual's attitudes regarding various forms of social policies (Petersen et al., 2010; Pratto et al., 1994). In criminal sentencing, deservingness of punishment is the primary measure of support for various forms of criminal sentencing decisions (Bénabou & Tirole, 2005; van Eijk, 2017; Feather & Oberdan, 2000; Gerber & Jackson, 2013; Petersen et al., 2010; Pratto et al., 1994). The belief in meritocracy, hierarchy-legitimizing myths, and SDO are shown to influence perceptions of deservingness (Bénabou & Tirole, 2005; Bernardo, 2021; Christopher et al., 2008; Feather & Oberdan, 2000; Freeman, 2006; Mulligan, 2018; Pratto et al., 1994). Thus, understanding the determinants of perceptions regarding the deservingness of criminal offenders as it relates to their criminal punishments is important in understanding the influence of meritocracy on criminal sentencing.

The most influential determinants of sentencing decisions are the type of crime committed and the defendant's previous criminal record (Freeman, 2006; Jankovic, 1978; Kenthirarajah et al., 2023; Steffensmeier et al., 1998). These are direct, legally relevant factors that influence criminal sentencing decisions (though prior record may disproportionately impact low status group members) (Freeman, 2006; Kenthirarajah et al., 2023; Steffensmeier et al., 1998; Wakefield & Uggens, 2010). These factors are directly tied to notions of a defendant deserving their punishment—if they have previously committed a criminal offense, then more punishment is due;

and if the crime is more severe, then more punishment is due (Freeman, 2006; Jankovic, 1978; Kenthirarajah et al., 2023; Steffensmeier et al., 1998).

While these variables may measure only legally relevant information, there is bias within how important these variables are considered to be (Freeman, 2006; Kenthirarajah et al., 2023; Steffensmeier et al., 1998). In examining over 100,000 sets of case data, Steffensmeier et al. (1998) found that “the criminal records of young black males were often defined as qualitatively more serious and indicative of future crime risk” (p. 786) when compared to defendants in other social groupings. Freeman (2006) found that participants viewed low SES defendants as more likely to be found guilty, even when the defendants had the same criminal record. Kenthirarajah et al. (2023) found that participants, on average, recommended a sentence one year longer for individuals with stereotypically Black first names than with stereotypically White first names—again, even among defendants with the same criminal record.

Here it is displayed that the status of defendants influences how the most important factors in determining criminal sentences are considered (Freeman, 2006; Jankovic, 1978; Kenthirarajah et al., 2023; Steffensmeier et al., 1998; Wakefield & Uggen, 2010). Considering that the belief in meritocracy is correlated with negative perceptions of low status group members, it is probable that the belief in meritocracy influences the extent to which criminal record and blameworthiness is considered reflective of defendant deservingness of criminal punishment (Batruch et al., 2022; Costa-Lopes et al., 2018; Filipe & Freitas, 2018; Son Hing et al., 2011).

### ***Criminal Sentencing Attitudes***

One of the strongest and most direct influences on individual perceptions of criminal sentencing decisions are beliefs relating to what the goals of criminal sentencing should be (Gamblin et al., 2021; Gerber & Jackson, 2013). These attitudes involve the punitive desire for

retribution/vengeance, criminal punishments that discourage future crime, protecting the community by keeping criminals away from the rest of society, and rehabilitative attitudes seeking to reform criminals and reintegrate these individuals into broader society (Doerner & Demuth, 2010; Gerber & Jackson, 2013). The desire to utilize criminal sentencing as a tool to keep criminals locked away from society and the desire to utilize criminal sentencing to reform and reintegrate criminals into society result in very different perceptions regarding “fair” criminal sentencing decisions (Doerner & Demuth, 2010; Gerber & Jackson, 2013). Furthermore, retributive attitudes are associated with higher tolerance of extrajudicial prosecution, resulting in unfair trials and stronger sentencing than there otherwise would be (Gerber & Jackson, 2013).

As it relates to meritocracy, it has been demonstrated that on its own—and through its connection with the Belief in the Just World (BJW)—the descriptive belief in meritocracy is associated with higher levels of SDO (Mooney, 2019; Pratto et al., 1994; Son Hing et al., 2011). Hence, there is an attitudinal disposition for high believers in meritocracy to support more punitive criminal sentencing decisions. This is further supported in research linking the belief in meritocracy to more negative socially critical decisions regarding low status individuals (Costa-Lopes et al., 2018; Filipe & Freitas, 2018). Importantly, decisions regarding criminal sentencing are considered to be socially critical (Costa-Lopes et al., 2018; Filipe & Freitas, 2018). Thus, there is a theoretical disposition for high believers in meritocracy to be more likely to support harsher forms of punishment in criminal sentencing, particularly against low status individuals. The links connecting hierarchy-legitimizing myths to each other and to punitive sentencing attitudes suggests that belief in hierarchy-legitimizing myths biases criminal sentencing decisions in a harsher manner, but valid research assessing this claim directly have yet to be completed.

## **Conclusion**

Qualitative research on the topic of hierarchy-legitimizing beliefs, punitive attitudes, and criminal sentencing decisions was completed. This research attempts to elucidate the extent to which individual bias in the form of hierarchy-legitimizing beliefs results in biased criminal sentencing decisions that harm disparaged and minority groups more than other groups within the United States of America. Through this research, a broader understanding of the reasons behind America's lead in incarcerated populations, the inequality found within these populations, and the harm that befalls American society as a result can be obtained.

The results of research on the topic of hierarchy-legitimizing myths suggests that all the beliefs are interconnected—that a prevalence of any one belief is very likely to connect with another. As it relates to punitive attitudes in criminal sentencing, it is known already that Social Dominance Orientation (SDO) and Right-Wing Authoritarianism (RWA) are associated with vengeance attitudes (Gerber & Jackson, 2013; McKee & Feather, 2008; Mooney, 2019; Sidanius et al., 2006). Because the Belief in a Just World (BJW), Protestant Work Ethic (PWE), and the descriptive belief in meritocracy are status-legitimizing beliefs associated with SDO and RWA (Christopher et al., 2008; Mooney, 2019; Pratto et al., 1994; Son Hing et al., 2011), it is very likely that these distinct beliefs are associated with the same vengeance attitudes in criminal sentencing.

Vengeance attitudes suggest that the goals of criminal sentencing decisions should be retribution and punishment for bad behavior (Gerber & Jackson, 2013; McKee & Feather, 2008). These attitudes are associated with support for criminal sentencing as a means for the incapacitation of criminal offenders, the use of the death penalty, and harsher treatment of criminal offenders (Gerber & Jackson, 2013; McKee & Feather, 2008). Here it is seen that individuals who believe the goals of criminal sentencing decisions should be retribution, punishment, incapacitation, and who support harsh punishment through criminal sentencing have very different



ideas about what is “fair” criminal sentencing than individuals who think criminal sentencing decisions should serve as a means to rehabilitate criminal offenders and reintegrate them into broader society. This change of perspective on “fair” criminal sentencing means that holding vengeance attitudes leads to harsher and longer criminal sentencing decisions. Because hierarchy-legitimizing myths correlate with vengeance attitudes through SDO and RWA, these beliefs predispose individuals to support harsh criminal sentencing decisions.

Beyond the punitive attitudes, hierarchy-legitimizing myths are known to promote bias regarding individuals and outgroups. The belief in meritocracy is “associated with intolerance and dislike of low status group members” (Costa-Lopes et al., 2018, p. 138). SDO is associated with a desire “that one’s in-group dominate and be superior to out-groups” (Pratto et al., 1994, p. 742). Individuals high in “BJW have less favorable perceptions of defendants and sentence them more severely than do low believers in a just world” (Freeman, 2006, p. 2389). RWA is in part defined by how individuals “high in RWA... express prejudice toward” (Christopher et al., 2008, p. 474) those who are different and do not conform to their worldview (Christopher et al., 2008; McKee & Feather, 2008). PWE is “associated with prejudice” (Batruch et al., 2022, p. 2) against low status members of society.

Bias against low-income individuals—such as low Socioeconomic Status (SES)—has been thoroughly shown to have an influence on individual perceptions of defendants and criminal sentencing decisions. Low SES defendants are regularly given significantly longer criminal sentences than high SES defendants (van Eijk, 2017; Jankovic, 1978). Furthermore, other measures of lower societal status, such as being a member of oft-discriminated against racial and ethnic groups, showcase continual bias in criminal sentencing decisions through higher conviction rates and longer sentences than other groups (Doerner & Demuth, 2010; Everett & Wojtkiewicz,

2002; Filipe & Freitas, 2018; Kenthirarajah et al., 2023; Steffensmeier et al., 1998). When considering public and expert opinion in hypothetical cases, low SES and low social status defendants are regularly given longer sentences for the exact same crimes featuring the exact same case information (Esqueda et al., 2008; Freeman, 2006; Gamblin et al., 2021; Kenthirarajah et al., 2023; Miranda et al., 2021; Schweitzer & Nuñez, 2017; Skeem et al., 2020). This demonstrates a bias against low status individuals within the criminal justice system.

Combined, these examples of bias suggest that individuals high in acceptance of hierarchy-legitimizing myths have a dislike for those of a low-income and who are different from themselves. Individuals high in acceptance of meritocratic belief heuristics hold a preference for their “in-group” members and perceive low achievement or negative circumstances as representative of individual failings. This creates an inherent bias against low-income, racial minority individuals that transfers into the criminal justice system through criminal sentencing decisions. Strong belief in any hierarchy-legitimizing myth points to internalized biases that will create harsher and unjust punishments for individuals on the basis of extralegal factors unrelated to their guilt and unrelated to the severity of the crime they are charged with. Belief in meritocracy, a just world, a protestant work ethic and right-wing authoritarianism are linked to harsher criminal sentencing decisions. The beliefs lead to biases against criminal defendants that result in a higher likelihood of being found guilty, and biases subjective criminal sentencing decisions toward the more punitive end. Therefore, these beliefs need to be understood, challenged, and the criminal justice system established in such a way that these biases cannot influence criminal sentencing decisions in order to create a just system.

## CHAPTER 6: RECOMMENDATIONS, SUGGESTIONS, AND LIMITATIONS

### Recommendations

The results of the aforementioned biases produced by greater acceptance of hierarchy-legitimizing myths is that low-status group members will face greater discrimination within the criminal justice system, and that all individuals will have their cases considered under the assumption that the criminal justice system should punish the guilty and legal authorities given greater extralegal discretion to enact such justice. Incarceration has life-lasting consequences in health, well-being, community welfare, economic security, voting rights, and more. Attitudes which result in an increase in incarceration and which exacerbate the harm that incarceration causes present a credible harm to society while reinforcing current societal disparities. With this in mind, the following recommendations are presented based on the findings of this research.

#### *Systematized Punitive Attitudes*

Attitudes pertaining to the goals of criminal sentencing are presumptive and highly predictive of the length and severity of a criminal sentence an individual will recommend for a given defendant (Doerner & Demuth, 2010; Gerber & Jackson, 2013). Punitive attitudes are influential in the formation of a criminal sentence but are different on an individual basis (Doerner & Demuth, 2010; Gerber & Jackson, 2013; Gerber & Jackson, 2015). Hence, individual opinion as to the goals of criminal justice, sentencing, and “fairness” present an undue and unsystematized influence on criminal sentencing decisions. It is therefore recommended that a relevant legal body within the US create a systematized and universal preset of goals as to what criminal justice is that can be referenced within the criminal justice system, such that all who interface with the criminal

justice system understand the purpose and framework their decision-making is placed in. It is suggested that this framework focuses on criminal rehabilitation and has the goal of reducing societal stigma surrounding incarcerated individuals in order to reduce other forms of sentencing bias.

Baseline presumptions about what the criminal justice system is and what it should be are currently major factors in criminal sentencing decisions. Other forms of bias from hierarchy-legitimizing myths are presented within this research as influences on punitive attitudes. Addressing punitive attitudes therefore reduces some influence of individual bias on criminal sentencing decisions. The compounding effects of varying presumptions regarding the criminal justice system can be fairly put to rights by deciding within the United States of America what the purpose and intent of criminal sentencing is and instilling this purpose within those interfacing with the US criminal justice system. It is variance within individual assumptions of this purpose and intent that creates disparate judicial outcomes in criminal sentencing. Having a federal legislative or judicial body outline the goals of the criminal justice system that all who interface will work to enact allows everyone making criminal sentencing decisions to work under the same guiding principle of what “justice” means.

Being written by a federal legislative or judicial body allows such principles to be adjusted as attitudes change. It is a framework that can be worked within and tuned to the common beliefs and morals of US society. Explaining these principles to all who enter into the criminal justice system and allowing those principles to be referenced or appealed to prevents variance in justice due to assumptions made from limited information. It prevents, at least in part, overreaches in justice due to individual punitive attitudes that run counter to the US criminal justice system. From this, a portion of the variance in length and severity of criminal sentencing due to individual bias

and hierarchy-legitimizing myths is reduced.

### ***Bias Prevention***

Although reduced in some respects by a foundational set of US centric punitive attitudes, individual cognitive biases present the potential for injustice to permeate within the criminal justice system. It is known that the belief in meritocracy, the Belief in a Just World (BJW), and the Protestant Work Ethic (PWE) biases individuals of low Socioeconomic Status (SES). Furthermore, Right-Wing Authoritarianism (RWA) and Social Dominance Orientation (SDO) present a bias against low-status individuals, which would include those of low SES. These hierarchy-legitimizing myths therefore present a cognitive bias against the most common interfacers with the US criminal justice system. It is henceforth important to be aware of and account for the bias presented by hierarchy-legitimizing myths within the criminal justice system. While greater education to increase societal awareness of these myths such that these hierarchy-legitimizing myths are no longer subscribed to by any members of US society will reduce these biases, an immediate set of solutions that accounts for the current levels of popular belief is needed.

**Future Crime Risk.** Currently, the use of predictions as to whether a defendant will commit similar crimes in the future as a determinant of present criminal sentencing terms is problematic. Such a variable relies on determinations of future guilt and punishes defendants for crimes they have not committed. Determinations of future guilt offer a pathway for many cognitive biases and stereotypes to be given undue credence. These determinations can only be made by using preconceived notions of the behaviors that make up the defendant's actions and assumptions about how they will behave into the future. If a jury member presumes that a minority group is more violent and commits more crimes than another group, then determinations of future guilt will rely on that individual's preconceived racial stereotyping. This is what makes future crime risk as

a variable the most direct way for an individual's biases to permeate within the criminal justice system—it is a variable in determining a defendant's present guilt and appropriate criminal sentencing that allows for the most unimpeded use of imagination as a valid assessment.

The use of future criminal behavior predictions in criminal sentencing further allows for extralegal factors unrelated to the current crime being tried to be used in determinations of present guilt and appropriate criminal sentencing. A defendant's SES is perceived to be “extralegal” when considering their guilt and appropriate criminal sentencing, as to suggest that economically rich or poor individuals should be treated harsher or better within the criminal justice system would go against current US ideals of a fair and equitable criminal justice system. However, when considering a defendant's potential for future crime, their SES is considered to be directly relevant as it is known that most individuals in the US criminal justice system are economically poor.

Irrespective of any potential truth presented by the notion that the economically disadvantaged are more likely to be convicted of criminal behavior, it is problematic to suggest that the economically poor should be sentenced more severely than the economically rich. Furthermore, regardless of an individual's present circumstance, it is impossible to predict their future SES with absolute certainty. There are simply too many variables that comprise an individual's SES to suggest that an individual's future SES can be known. While general trends are clear, and it has been shown that those convicted of crimes in the US tend to have worse economic outcomes than those who have not been convicted of crimes, outliers to these trends do exist. Suggesting that an individual's present SES is representative of their future SES is therefore a baseless and discriminatory presumption—future SES of an individual cannot be accurately determined. The use of such a variable in determinations of appropriate criminal sentencing terms in the present is akin to making up false evidence to justify a randomly determined sentencing

length. Forbidding the use of future predictions of criminal behavior will help to remedy the presence of such biases.

### ***Suggestions for Future Research***

Present research regarding the topic of hierarchy-legitimizing myths, punitive attitudes and criminal sentencing decisions is limited in several key areas. Future research could thus focus on filling in those present gaps in knowledge. On the topic of meritocracy, current research focuses only on the descriptive belief that present society generally works as a meritocracy—whereby those who work the hardest and in the smartest ways will be the most rewarded and everyone has an equal opportunity for success. This belief represents attitudes such as the Belief in the Just World (BJW) and Protestant Work Ethic (PWE) in that those who have attained greater levels of success have earned that success through personal virtue and those who face poor circumstances deserve their negative outcomes. However, the prescriptive belief in meritocracy—the belief that the present society should work as a meritocracy—is both distinctive from these beliefs and understudied. Very little is known about how such an attitude influences one’s beliefs generally, and their punitive attitudes more relevantly.

In research regarding bias in criminal sentencing decisions and punitive attitudes, knowledge about the prescriptive belief in meritocracy is important. The prescriptive belief in meritocracy is an ever-present ideal in American culture, following in line with the American Dream and the push towards an ever-more equitable and traditionally liberal society. Because of this common presence, the belief in prescriptive meritocratic ideals has a widespread influence on those within American society. It is therefore important to understand how such an ideal actually influences attitudes within the criminal justice system, if such an ideal actually promotes greater justice therein, and if not, how to counteract the effects of the belief in prescriptive meritocracy to

promote greater justice.

Such research would do well to focus directly on the topic of criminal sentencing decisions, as few studies hold the direct focus of hierarchy-legitimizing myths on punitive attitudes and criminal sentencing decisions. To complete this research well, it is suggested that researchers create a questionnaire that appropriately assesses individuals' belief in various hierarchy-legitimizing myths directly without influencing their responses to other sections of the research. In post-research data examination, it has been found that this direct form of questionnaire is the most valid in accurately gauging the effects of belief in hierarchy-legitimizing myths. Randomizing the order of research sections would do well to examine and mitigate the influence of questioning as well. For example, some participants could examine various case information to determine their opinions as to defendant guilt and appropriate sentencing (alongside various factors related to these such as belief in defendant culpability and severity of crime) and then answer questionnaires regarding their belief in various hierarchy-legitimizing myths, whereas other participants could be given the questionnaires first and then review the various case information.

### **Limitations**

Direct research on the topic of hierarchy-legitimizing beliefs as they relate to bias in criminal sentencing decisions is uncommon and varied in approach. The different approaches to methodology and the contradictory findings of studies makes it difficult to parse a clear picture without hefty interpretation or conjecture. This area of bias in criminal sentencing decisions is under-researched, and not all of the findings of the research that have been done are valid. Many of the studies discussed found difficulties in measuring the effects of their priming methods. There is further research needed to discuss the impact of the prescriptive belief in meritocracy on the



connections between different hierarchy-legitimizing beliefs and criminal sentencing heuristics. Because it has not been studied, research concerning these areas may have inaccurate findings that could be explained by this variable. The studies that have attempted to answer the questions of the belief in meritocracy's influence on criminal sentencing decisions have as of yet been unable to run a valid test. Without conducting original research in this essay, and due to the many limitations of present research, any conclusions are therefore theoretical in nature.

Research regarding attitudinal bias in criminal sentencing decisions are inherently limited by the nature of how criminal sentencing decisions are made. Criminal sentencing decisions are a multi-person process completed within many layers of bureaucracy. Systemic bias is innately difficult to quantify. Criminal sentencing decisions are not even simply a matter of how many years in prison one receives. They are impacted by how crimes are defined within law, the budget of police districts, and how many public defenders are available to work with low-income defendants. To suggest that criminal sentencing decisions are only made by one or a few individuals is incorrect more than it is simplified. Any biases found may stem from any of these sources of influence on criminal sentencing decisions, and any research studying individual bias regarding criminal sentencing may not be applicable to real criminal sentencing decisions. There are simply too many factors to consider in a single study to come to a completely adequate answer. Further, most criminal sentencing decisions are made by legal experts, and they may respond differently to hierarchy-legitimizing beliefs than the average person. The present research is therefore limited in terms of relevancy because of the differences in studied populations and relevant populations.

Studies researching current examples of bias in criminal sentencing decisions that have already been made are limited to the United States of America and Canada. Both of these countries

are incredibly large, and the studies of bias have taken place in many different areas across many different years. This may give the research contradictory results and results that are no longer relevant. Bias in criminal sentencing decisions may be entirely different in one county during a certain time as compared to another county during a different time. New research regarding real criminal sentencing decisions would have to match that of any studies measuring the effects of attitudinal bias on criminal sentencing decisions to maintain the most relevancy.

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