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Assessing Gender Differences in Prison Rule Enforcement: A Focus on Defiance

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ABSTRACT

This study focuses on gender disparities in defiance prison infractions—an understudied and highly discretionary type of rule violation—which have important implications for individuals’ prison experiences and outcomes. Using administrative data on a release population in a large western state ($N=23,818$), we employed multilevel modeling techniques to test whether (1) women were more likely than men to receive defiance infractions; (2) whether women received a greater number of defiance infractions than men, and (3) whether the gender differences observed for defiance were unique from other types of infractions (e.g. any infraction, non-violent, violent) net of individual- and prison unit-level controls. Results confirmed that defiance infractions are uniquely gendered, which subjects incarcerated women to harsh consequences for far less serious behavior than their male counterparts. Our work fills key gaps in the literature and contributes to recent policy reform efforts aimed at prison disciplinary reform.

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Defiance; gender; prison; misconduct

Introduction

In 2020, the U.S. Commission on Civil Rights submitted a Briefing Report to the White House and Congress following their investigation into the civil rights of women incarcerated in state and federal prisons. A primary takeaway was that women are disciplined and sanctioned differently from men. Women were found to be cited more often for minor infractions involving defiance—which include acts such as “disrespect” and “talking back”—and these citations were often behind the in-prison punishments women receive, including solitary confinement (U.S. Commission on Civil Rights, 2020). This report came on the heels of an earlier multi-method investigation by researchers at the Medill School of Journalism at Northwestern University, in collaboration with NPR, regarding the disparate discipline of incarcerated women across 15 states (Shapiro et al., 2018). Findings revealed vast discrepancies in minor infraction rates between men and women. Interviews with prison officials and incarcerated persons shed light on the pervasive gendered enforcement of defiance in which women were routinely

cited for “insolence,” “disobedience” and even “reckless eyeballing,” leading to the conclusion that women could essentially “get a ticket for anything” (Shapiro et al., 2018). Despite high-level policy attention paid to disparate disciplinary enforcement, the empirical literature on defiance remains limited, particularly studies that assess disparities using rigorous methods that control for key confounders (e.g. criminal histories, mental health, gang affiliation, security-level) (Bales & Miller, 2012).

Defiance refers to the breaking of minor prison rules that are distinct from other types of violations, such as violence, threats, property/contraband, and drug misconduct. Common violations are often “verbal” in nature, including disrespect, being disruptive, or disobeying or refusing an order (Aranda-Hughes et al., 2021; Celinska & Sung, 2014; McClellan, 1994; Simes et al., 2022). Other infractions that fall under the umbrella of defiance include acts such as disorderly conduct, horseplay or other consensual contact, littering, unauthorized altering of one’s physical appearance, and failing to adhere to hygiene requirements (Drury & DeLisi, 2010; Jiang, 2005). Accumulating defiance tickets—like other types of infractions—shapes prison life in meaningful ways. Contemporary prison management strategies rely heavily on internal risk classification schemes, which, in turn, dictate conditions of confinement. The classification process is dynamic and highly dependent upon disciplinary infraction histories (Kreager & Kruttschnitt, 2018). Individuals who are found guilty of defiance may be reclassified and moved to a higher-security unit—including segregation or solitary confinement—they may also lose privileges related to work assignments, recreational activities, and phone calls and visits with loved ones (Aranda-Hughes et al., 2021; Benedict et al., 2015; Casey-Acevedo & Bakken, 2003). Defiance infractions can affect good-time credits or parole board decisions as well (Bales & Miller, 2012; U.S. Commission on Civil Rights, 2020). Therefore, even seemingly low-level violations can lead to steep consequences for those incarcerated, and these consequences are exacerbated when individuals accumulate multiple infractions during their incarceration terms.

The few studies within the misconduct literature that include both men and women and differentiate defiance from other forms of rule-breaking, indicate women are cited for defiance more often and receive harsher sanctions for these infractions than men (Bales & Miller, 2012; Celinska & Sung, 2014; Jiang, 2005; McClellan, 1994; Shapiro et al., 2018). The literature also overwhelmingly shows that women are less likely than men to engage in serious rule-breaking, especially violence (Butler, 2022; Kreager et al., 2021; Kruttschnitt & Gartner, 2005; Wooldredge, 2020). Theoretical explanations for these patterns center on differences in how men and women cope and adapt to prison life and the disparate use of staff discretion (Crewe, 2007; Haggerty & Bucerius, 2021; Kreager & Kruttschnitt, 2018; Owen et al., 2017). These disparities should also be situated against broader correctional management goals emphasizing security, order, and control (McCorkel, 2013). Staff achieve these aims differently in male and female institutions, given gendered risks, needs, and cultural norms, which can manifest in differential rule enforcement.

While prior research has established a critical foundation of knowledge on gender differences in prison rule enforcement, the small number of existing studies vary widely in the rigor of the methods used (Bales & Miller, 2012; Celinska & Sung, 2014; McClellan, 1994). A next step in this line of inquiry is to explore the nexus between

gender and defiance in additional prison systems, using rigorous methods, to determine whether gender effects remain above and beyond theoretically relevant controls. Accordingly, we draw from the full population of men and women released from a large western state prison system between July 1, 2010 and June 30, 2013 to examine the relationship between gender and defiance, considering both the prevalence and incidence of defiance infractions. We expect women to be at greater risk of being cited for defiance and to receive a greater number of defiance violations than men, independent of individual- and institutional-level covariates. We also expect these gender effects to be exclusive to defiance and not present in other types of infractions. Our work here advances scholarship on gendered prison experiences, which have important implications for individuals' trajectories and well-being during and after incarceration.

Differences in Coping and Resistance Strategies among Men and Women in Prison

Prior work has explored the balance between power and resistance in carceral systems (Bosworth & Carrabine, 2001; Carrabine, 2004; Crewe, 2007, 2009, 2011). Bosworth and Carrabine (2001) explain that incarcerated persons do not adapt to prison life passively, but instead demonstrate agency through their ongoing interactions with prison staff and peers as they interpret and respond to the justness of their treatment and their conditions of confinement, including the controls placed upon them. Strategies of resistance fall along a continuum of severity ranging from minor acts (e.g. verbal dissent, refusing to comply with an order or rule) to major acts (e.g. violence, riots) (Bosworth & Carrabine, 2001; Crewe, 2007; Silberman, 2007; Useem & Reisig, 1999). Styles of coping and resistance are gendered as they are influenced by different lived experiences and cultural norms on the inside (Aranda-Hughes et al., 2021; Bell, 2017; Kreager et al., 2021; Skarbek, 2014; Toman, 2022; Wooldredge, 2020).

An extensive body of research documents the unique histories and characteristics of the female prison population (Belknap, 2014; Kruttschnitt & Gartner, 2005; Kruttschnitt, 2016; McCorkel, 2013; Owen et al., 2017). Incarcerated women are at greater risk for experiencing the "triple threat" than men—a term encompassing the co-occurring histories of abuse, addiction, and mental health problems (Arditti & Few, 2008). Women are also more likely to have served as the primary caregivers of minor children before incarceration, having navigated these parental responsibilities against the backdrop of severe poverty and strain (Glaze & Maruschak, 2008). Research indicates that histories of trauma and unmet needs are primary pathways to incarceration for women, as evidenced by the fact that most women are in prison for drug, property, and other non-violent crimes (Belknap, 2014; Bloom et al., 2003; Carson, 2021; Cho & Tasca, 2019). Pre-prison experiences subsequently shape how women cope and respond to daily life on the inside (Butler, 2022; Houser et al., 2012; Kruttschnitt & Gartner, 2005; Toman, 2022). The processes within and features of the prison environment, including loud sounds, extreme temperatures, limited outside light, isolating confinement conditions, and strip searches, have been shown to trigger stress responses among women, including verbal defiance, given high rates of preexisting

trauma within this population (Benedict et al., 2015; U.S. Commission on Civil Rights, 2020). In their work inside female facilities, Owen and colleagues (2017) found that women frequently experienced disrespect from staff in the form of cursing, verbal harassment, and insults that were gendered in nature, as staff comments often centered on women's physical appearances and perceptions of them as "bad mothers." Some women react defensively when correctional staff uses aggressive and demeaning tactics, leading them to shut down or argue with authorities, resulting in write-ups (Benedict et al., 2015; Shapiro et al., 2018). Scholars posit that defying prison staff through talking back or refusing an order can serve as a means for incarcerated women to regain a sense of personal power in response to the longstanding oppression they have commonly been subjected to before and during confinement (Aranda-Hughes et al., 2021; Owen, 1998; Owen et al., 2017).

Early studies discovered unique social structures in women's prisons in which priorities were placed on affective—rather than instrumental—relationships, leading to the creation of "pseudo-families" (Kreager et al., 2021; Owen, 1998; Ward & Kassebaum, 1965). Women rarely organize and segregate along racial lines or through gangs, which is a primary explanation for the relatively low levels of violence in female correctional institutions (Greer, 2000; Kreager & Kruttschnitt, 2018; Skarbek, 2014; Wooldredge, 2020). Scholars have argued that the socialization of women within society more broadly, combined with a decreased fear of experiencing physical violence while incarcerated, also contributes to the unique coping and resistance responses observed among women on the inside (Kreager et al., 2021; Kruttschnitt & Gartner, 2005). Research suggests that incarcerated women rely heavily on their personal relationships with a close set of peers to reduce hardships inherent in prison life through offering emotional support to one another and by sharing resources (Crewe, 2007; Kruttschnitt & Gartner, 2005; Owen et al., 2017). Aranda-Hughes and colleagues (2021) found that incarcerated women in pseudo-families often stand up for each other when a member is perceived as having been unfairly treated by staff. This is typically accomplished through talking back and disobeying orders which can lead to disciplinary infractions. In fact, this scenario, which resulted in citations for defiance, was a primary pathway into solitary confinement for women in their study.

In contrast, the normative social structures that exist within male prisons give rise to different forms of adaptation and resistance. Incarcerated men have been shown to highly value physical toughness and hypermasculine/machismo identities (Trammell, 2009; Wooldredge, 2020). They often segregate by race and gang affiliation and organize in a vertical rather than horizontal fashion (Goodman, 2008; Gundur, 2022; Walker, 2016). These forms of prison adaptation are intended to serve protective and governance functions, given the high rates of violence and the omnipresence of organized black markets in male institutions (Roth & Skarbek, 2014; Skarbek, 2014). While this social order can ease the pains of imprisonment for men in some ways—through offering instrumental support, protection by way of numbers, and access to goods and services (both legal and illicit)—the operation and enforcement of this normative structure lead to widespread negative consequences as well, including violence in response to conduct deemed unacceptable within the population, and drug, property, and contraband infractions (Goodman, 2008; Skarbek, 2014; Walker,

2016). Since men are more likely than women to organize in large groups (by race and/or gang) and show resistance through collective action (e.g. protests, riots, group violence, and litigation), they maintain greater leverage in (re)negotiating the balance of power on the inside (Carrabine, 2004; Bosworth & Carrabine, 2001; Crewe, 2011; Useem & Reisig, 1999). This can result in staff overlooking minor rule violations in male institutions, including defiance, as they must “pick their battles” when executing their authority (Crewe, 2007; Haggerty & Bucerius, 2021; Poole & Regoli, 1980). As will be discussed in the following section, acts of defiance are highly discretionary, which increases the likelihood that women will be ticketed, and receive a greater number of tickets, for these violations relative to men.

Gendered Control and Rule Enforcement within Carceral Settings

Prisons are unique spaces when it comes to the exercising of discretion. While policies that dictate prison rules and sanctions should fully guide decision-making, the reality on the ground is far more complicated (Benedict et al., 2015; Crewe, 2011; Freeman, 2003; Haggerty & Bucerius, 2021; Liebling et al., 2010; Simes et al., 2022). Unlike other criminal justice actors, prison staff work in spaces where they must interact daily with the populations they oversee and sanction. Correctional officers, particularly those working in men’s institutions, are responsible for managing large groups of people in often volatile and dangerous environments. As such, the use of “soft power” becomes invaluable in this context as it is impractical for correctional officers to write up every rule that is violated, and prisons cannot function under coercion alone (Bosworth & Carrabine, 2001; Crewe, 2007, 2009, 2011; Poole & Regoli, 1980). As Crewe (2011) explains, soft power replaces or precedes direct orders or force (e.g. hard power) in obtaining compliance among incarcerated persons and is accomplished through dialogue and negotiation. Soft power is most applicable when responding to low-level rule violations, such as defiance, as these types of violations are common and afford staff the broadest discretion in enforcement. At the same time, there are reasons to believe that staff may handle incidents of defiance informally more often for men than women, given organizational norms, the well-documented “male inmate preference,” and heightened fears of retaliation inside male institutions (Haggerty & Bucerius, 2021; Kreager et al., 2021; Rasche, 2000).

In a recent study by Haggerty and Bucerius (2021), which examined how correctional officers interpret and exercise discretion, it was determined that staff weigh whether to enforce minor rule infractions against the impact that these decisions will have on their relationships with incarcerated persons, peers, and supervisors, as well as the climate of the units they work in. Safety concerns were at the forefront of correctional officers’ decision-making in male institutions. Staff recognized that negotiating using soft power was a necessity to maintain a semblance of order, given that they were outnumbered in facilities that housed men willing to engage in violence. One officer put it this way, “These guys are warriors. They’re not going to kneel to every single rule. If you have a unit with a lot of gang members, you’re going to have to give them more leeway. Because if you start cracking down on them really hard, they’ll say it heats up the unit...And that’s not a situation anyone

wants to be in. With these hard-core criminals, it's a lot harder to rule with an iron fist." (p. 13). In men's prisons, staff use selective enforcement for minor rule violations to their benefit as overlooking some rule-breaking reduces the likelihood of collective disorder and retaliation, as well as strengthens their relationships with incarcerated men, which can prove fruitful in investigative and intelligence gathering efforts aimed at preventing and responding to more serious threats to prison order (e.g. assaults, drug, and contraband activity) (Liebling et al., 2010; Poole & Regoli, 1980; Pollock, 1986).

Findings from studies conducted in female prisons paint a far different picture of the use of control and discretion (McCorkel, 2013; Owen, 1998; Owen et al., 2017; Silberman, 2007). Kreager and Kruttschnitt (2018) note that "although women's prisons have always been imbued with distinctive programs and settings, reflecting society's changing views of women's criminality, they have not been impervious to the larger shifts in penal policy and the changes in discourse that stress risk, classification, and control." (pp. 274–275). Following the punitive turn, an emphasis was placed on the identity and emotional control of incarcerated women, often under the guise of therapeutic intervention (Haney, 2013; Kruttschnitt, 2016; McCorkel, 2013; Silberman, 2007). McCorkel (2013) describes how staff in her study would "break women down" during programming sessions to compel them to change their ways with respect to drug use, mothering, and other adverse life choices. Women who showed resistance would be cast as "incorrigible" and "manipulative" and would be hit with minor rule infractions. Research has documented how correctional officers commonly hold unfavorable attitudes toward incarcerated women as they are often described as "emotionally needy," prone to complaining, argumentative, and generally "harder to work with" than men (Pollock, 1986; Kruttschnitt & Gartner, 2005; Rasche, 2000; Shapiro et al., 2018). Other work reveals similar themes of gendered stereotyping and control in which women are monitored and scrutinized more closely and in different ways than men, resulting in weakened autonomy and a greater likelihood of being punished for acts of defiance (Aranda-Hughes et al., 2021; Bell, 2017; Benedict et al., 2015; Freeman, 2003; McClellan, 1994; Owen et al., 2017).

Despite the longstanding push for gender-responsive approaches where staff recognize and respond to the unique needs of incarcerated women, correctional systems remain largely focused on managing high-risk men and do so within the larger context of hypermasculine prison culture (Benedict et al., 2015; Shapiro et al., 2018; U.S. Commission on Civil Rights, 2020). Women represent a small portion of the overall prison population, and violence, the presence of gangs, and organized illicit markets are rare in women's prisons, while they are targeted and prioritized by staff in men's prisons (Carson, 2021; Kreager & Kruttschnitt, 2018; Skarbek, 2014; Wooldredge, 2020). Consequently, the execution of broader correctional goals that emphasize security, order, and control can manifest into "gendered governance," resulting in men and women being cited for different types of infractions (McCorkel, 2013; Rowe, 2011). This disparity is important because women may face the same profound consequences as men (e.g. solitary confinement, loss of privileges, limited access to programming, employment, contact) for accumulating disciplinary infractions but for far less serious behavior.

Current Study

In this study, we examine gender disparities in prison rule enforcement for defiance, assessing both the prevalence and incidence of infractions. We also explore whether gender effects are unique for defiance relative to other types of violations (e.g. any infraction type, violent, and other nonviolent). We hypothesize that women will be more likely to receive a defiance infraction and accumulate a greater number of defiance infractions than men, net of relevant controls. We anticipate that this relationship will emerge solely for defiance and will not be observed in models for other types of violations. To carry out this study, we rely on data from a large western state prison system that includes the full population of individuals released between July 1, 2010 and June 30, 2013 ($N=23,818$). These data contain individuals' complete disciplinary infraction records and a host of covariates not consistently captured in prior work (e.g. mental health, gang affiliation, criminal histories and offense seriousness, security-level classification).

This study advances research and informs policy in meaningful ways. First, there has been relatively little attention paid to defiance specifically within the prison misconduct literature, and few studies on disciplinary rule enforcement include both men and women—let alone examine gender disparities across different types of infractions. Second, we build upon existing qualitative and descriptive research by testing whether gender disparities observed elsewhere remain when using rigorous analytical techniques and population data from a separate system. In so doing, our work can contribute to the knowledge of the pervasiveness of this problem. Infraction records alter individuals' prison experiences in profound ways, including their conditions of confinement and access to support, which have implications for well-being and reentry. Women subject to disparate rule enforcement for defiance face adverse consequences for relatively minor behavior. As such, this study can inform ongoing efforts aimed at prison disciplinary reform.

Data and Method

This study relies on administrative data on the population of individuals released from the Department of Corrections in a large western state between July 1, 2010 and June 30, 2013. These data are well-suited for this study because they include a complete history of individuals' disciplinary infractions, along with detailed information on their background characteristics, criminal and institutional histories, risks, needs, and security-level. Given contextual and situational differences in the prison system over time, we limited the analysis to individuals admitted to prison after July 1, 2005.¹ Our sample was further restricted to individuals who were incarcerated for a new offense and/or whose sentence on their original offense was for six months or longer.²

¹2,130 individuals (6%) who were admitted to prison before July 1, 2005, were removed from the analysis.

²To account for potential differences among individuals influenced by the length of time served (e.g., differences in motivation or opportunity to engage in misconduct; (See Cunningham & Sorensen, 2006), and accounting for differences in the risk of receiving infractions among individuals (Orrick & Morris 2015), the study excludes technical violators and individuals who served less than 6 months of a prison term ($n=9,713$). A majority of the technical violators served less than 6 months, which reflects the state

The data cleaning process resulted in a final sample of 23,818 individuals housed in 53 units for inclusion in the analysis.³

This state prison system has a unique organizational and classification structure, with prison units operating as standalone facilities, which are classified as minimum, medium, close, and maximum security. Each prison unit houses only individuals classified at the same security level (e.g. minimum-security units house only minimum-security persons). Prison units are clustered within defined geographic areas throughout the state (often miles apart), and these geographic clusters of units, which cut across levels of security, are referred to as complexes. There is only one female complex in this state that is comprised of minimum, medium, close, and maximum self-contained units (as security level is determined solely at the unit-level). As such, we included unit-level variables to account for variation across prison security-level. Given that individuals are often transferred between prison units over the course of their prison term for many reasons (Cochran, 2020), we captured the prison unit where individuals spent the longest amount of time during their entire incarceration period.

Dependent Variables

The primary dependent variable of interest is defiance rule violations which includes infractions in which individuals were found guilty. This is important because infractions with a determination of guilt result in a range of penalties, including disciplinary segregation, reclassification to a higher security level, restricted privileges, and the loss of earned release credits. This system does not categorize infractions by type. As such, the data contained specific infractions in which individuals were found guilty and these infractions were subsequently coded into categories that aligned with existing research. Defiance acts are considered to be the most minor of rule violations and are often “verbal” in nature, including disrespect, being disruptive, or disobeying or refusing an order (Aranda-Hughes et al., 2021; Celinska & Sung, 2014; McClellan, 1994; Simes et al., 2022). Other infractions considered as defiance in the literature include disorderly conduct, horseplay or other consensual contact, littering, unauthorized altering of one’s physical appearance, and failing to adhere to hygiene requirements (Drury & DeLisi, 2010; Jiang, 2005). Accordingly, specific infractions that were present in the data and categorized as defiance included refusing an assignment, disorderly conduct, disobeying an order, disrupting count or being out of place, being absent from work, consensual physical or sexual contact (e.g. kissing, masturbation,

sentencing policies that individuals only serve the remaining sentence of their original prison term when they are re-incarcerated for the technical violation.

³Less than one percent of cases in the original data file were coded as “other race” which led us to exclude these cases and retain cases where individuals were categorized as White, Black, Latino/a, and Native American. Five “units” were excluded from the analysis because they were mislabeled in the data and could not be deciphered or they were not actual units (e.g., hospitals, category for those transferred out-of-state as part of interstate compact). These designations included between 16 and 80 individuals, resulting in a total of 239 individuals excluded.

Table 1. Sample characteristics.

		%/Mean (S.D.)	Range
<i>Dependent Variables</i>			
Binary outcomes	1 = yes		
Any infraction		40.1%	0–1
Defiance infraction		19.9%	0–1
Nonviolent infraction		28.1%	0–1
Violent infraction		9.3%	0–1
Count outcomes	Number of infractions		
Any infraction		1.05 (2.05)	0–38
Defiance infraction		0.37 (1.05)	0–19
Nonviolent infraction		0.53 (1.19)	0–32
Violent infraction		0.14 (0.57)	0–14
<i>Level 1 Variables: Individuals</i>			
Female	1 = yes	12.1%	0–1
Race/ethnicity			
White	Reference category	44.1%	0–1
Black		14.0%	0–1
Latino/a		34.5%	0–1
Native Americans		7.4%	0–1
Age	In years	33.4 (10.6)	17–87
Low education	1 = no H.S. diploma/GED	30.1%	0–1
Married	1 = yes	15.1%	0–1
Dependent	1 = yes	57.8%	0–1
Time served	In years	2.2 (1.4)	0.5–7.95
Type of offense			
Violent	Reference category	32.7%	0–1
Property		31.8%	0–1
Drug		24.4%	0–1
Public order		11.1%	0–1
Crime seriousness			
Felony class 1–2	Reference category	9.0	0–1
Felony class 3–6		81.0	0–1
Prior incarceration	1 = yes	49.9	0–1
Visitation	Number of visits	19.5 (46.3)	0–1,116
Gang affiliation	1 = yes	23.9	0–1
Mental health	1 = yes	54.2	0–1
N ₁			23,818
<i>Level 2 Variables: Prison Units</i>			
Security level			
Minimum	Reference category	56.7	0–1
Medium		32.5	0–1
Maximum		5.1	0–1
Close		5.6	0–1
N ₂			53

or hand holding), tattooing/piercing, as well as violating “any minor written rule” that corresponds to published institutional directives (e.g. visitation protocols).⁴

Defiance is captured in two ways in the analysis. First, as a binary indicator, where 1 = an individual was found guilty of at least one defiance infraction, and 0 = no record of a guilty finding for defiance; and second, as a count of the total number of defiance infractions. As shown in Table 1, approximately 20% of individuals had a history

⁴The most frequent defiance infractions for women included 1) disorderly conduct, 2) disrupting count or being out of place, and 3) disobeying an order. Over a quarter (29%) of the total infractions in the data among women were concentrated in these three rule violations. What is more, disorderly conduct and disrupting count or being out of place were the two most common infractions among women regardless of infraction type. For men, the most frequent defiance tickets were 1) disrupting count or being out of place, 2) refusal of an assignment, and 3) disorderly conduct. These tickets accounted for approximately 18% of all tickets given to men across infraction categories.

of at least one defiance infraction, with a mean of 0.37 defiance infractions during their incarceration term (descriptive statistics by gender can be found in [Appendix A](#)). To determine whether gender effects for defiance are different from other types of infractions, three additional models were run for any type of infraction, nonviolent, and violent infractions in which individuals were found guilty. The nonviolent infraction measure included property violations (e.g. theft, possession of stolen property, criminal damage), threats/intimidation, security violations (e.g. escape, conspiracy, promoting prison contraband, tampering with safety or security devices), and other nonviolent rule violations (e.g. forgery, false reporting, attempt to commit an offense).⁵ The violent infraction measure included any act of violence committed against another incarcerated person or staff (e.g. physical or sexual assault, fighting, taking of a hostage). Infraction codes were aggregated based on the nature of the rule violation (e.g. any infraction, nonviolent, violent), and both binary and count indicators were created following the same method as for defiance.

Independent Variables

Individual-Level Predictors. Our key independent variable, gender, was captured *via* administrative records as a dichotomous measure (0=male; 1=female). Approximately 12% of the sample are women.⁶ A series of individual-level controls were also incorporated into analyses, including individual demographics, criminal and institutional histories, and individual risks and needs.

Race/ethnicity was measured using a set of dummy variables that included Black, Latino/a, and Native American, with White serving as the reference category. Age at the time of admission was captured as a continuous variable.⁷ Dichotomous measures for low educational attainment (0=received high school diploma or GED; 1=no high school diploma or GED), marital status (0=not married; 1=married), and whether the individual had any dependents (0=no dependent; 1=one or more dependents) were also included.

Several criminal history covariates were also incorporated into the analysis. Specifically, the length of time served in prison was originally measured in days but presented here as scaled to years for interpretation, and a series of dummy variables represented individuals' most serious offense type, reflecting property, drug, and public order offenses, with violent offense as the reference category. Offense seriousness was measured using dummy variables representing the most serious felony class for which the individual was convicted (e.g. felony classes 1 and 2). The less serious felony class (e.g. felony classes 3–6) was included as the reference category.⁸ Criminal

⁵It is important to note that drug/alcohol violations were excluded from the nonviolent infraction measure since only three percent of women had a drug or alcohol-related ticket on their record.

⁶This state prison system considers individuals' gender identity preferences and how they believe they would be most safely housed, including placement in male or female housing units. As such, gender classification and where individuals are housed are not restricted to sex assigned at birth.

⁷Continuous measures of age and length of time served were centered around the grand mean to correct for skewness in the analysis. This changes the interpretation of these variables to be based on effects that are greater or less than the average.

⁸In the state, felonies are categorized into six classes, ranging from 1 to 6. Class 1 felonies are the most serious offenses (e.g., homicide) and Class 6 felonies are the least serious offenses (e.g., possession of drug paraphernalia).

history was captured as a dummy variable based on whether an individual had served a prior prison term (0=no; 1=yes).

Prison visits reflect the total number of visits that the individual received during their incarceration term. Gang affiliation represents whether an individual was officially documented by prison officials as being affiliated with a street or prison gang (0=no; 1=yes). Lastly, a dichotomous measure of mental health was included that indicates whether an individual was identified as having any mental health treatment needs (0=no; 1=yes).

Unit-Level Predictors. Based on the nested nature of the data and the organizational and classification structure of this state prison system, unit-level variables were included to account for the effects of security-level that may influence the likelihood and rate of disciplinary infractions. Unit security-level was included as a set of dummy indicators, reflecting medium, close, and maximum security, with minimum security as the reference category. As stated previously, security-level was captured using units where individuals spent the longest time during their incarceration term.

Analytic Strategy

Given the nested nature of the data, a multilevel modeling approach was employed. Hierarchical generalized linear models (HGLM) were estimated, which have several advantages over typical pooled regression models (Hox, 2010; Raudenbush & Bryk, 2002; Wooldredge et al., 2001). HGLM resolves potential collinearity problems among individual- and prison unit-level predictors by relaxing the assumption of independence of observations and allowing for error structures between cases to be correlated (Raudenbush & Bryk, 2002; Snijders & Bosker, 2011). In addition, HGLM incorporates a unique random effect for the unit-level and produces more robust standard errors by accounting for shared variance in individual-level observations, both within and between prison units (Morris & Worrall, 2014). We used hierarchical generalized logistic regression and Poisson models (i.e. Bernoulli models for the binary indicator outcome and Poisson models for the count outcome). The presented results are from population-averaged models with robust standard errors using HLM 7.0.

The analyses were carried out in several steps. The first step involved estimating unconditional models to calculate the intraclass correlation coefficient (ICC), which measures the amount of variance in the dependent variable that is attributed to Level 2 (prison unit) factors.⁹ The ICC ranged between .18 and .21 across the unconditional models, indicating that 18% to 21% of the total variance in the outcome was explained by the between prison-unit variance. The second step involved a series of models containing the individual-level predictors to identify any random effects in the Level 1 predictors. All models included Level 1 predictors with random effects that were significant across prison units. Thus, the final models allowed the slopes of these factors to vary between prison units. All other variables were included as fixed effects. For three of the four dichotomous outcome indicator models (any misconduct,

⁹Due to the fixed nature of the error variance in logistic regression models, the ICC was calculated using the following formula: $\rho = \tau_{00}/(\tau_{00} + \tau_{2/3})$ (Raudenbush & Bryk, 2002, p. 334).

defiance misconduct, and violent misconduct), Native American, age, gang affiliation, and time served were allowed to vary across prison units, while only gang affiliation and time served significantly varied across units for nonviolent misconduct and included as random effects. For the count outcome models, all predictors, with the exception of being female, had effects that significantly varied across prison units and were allowed to vary randomly in the model. For the defiance count model, only Native American, age, gang affiliation, and time served were allowed to vary between units. The nonviolent count model included all random effects, with the exception of female, education, and public order offenses. For the violent count model, Black, Native American, age, gang affiliation, and time served were significant random effects and allowed to vary between units. The final step included the prison unit variables (i.e. security level) in each of the models.

Results

Table 2 presents the results from the hierarchical logistic models for defiance, any infraction, nonviolent, and violent infraction outcomes. The hierarchical Poisson models for the count outcomes are depicted in Table 3. Coefficients and robust standard errors for all models are reported in the tables.

Our first research objective centered on determining whether females were more likely to be cited for a defiance violation relative to their male counterparts. Results confirmed that women had an increased likelihood of receiving a defiance infraction by 39.7% ($e^{0.334} = 1.397$) compared to men, all else constant (Table 2). Second, we examined whether women were cited for a greater number of defiance violations than men. Results revealed that females experienced a rate of defiance infractions that is 1.409 ($e^{0.343} = 1.409$) times greater than males, all else equal (Table 3).

Our final objective was to see if the gender patterns observed for the likelihood and rate of defiance infractions were unique from other types of disciplinary violations (e.g. any infraction, nonviolent, violent). Findings are in line with expectations in that women had a greater likelihood and rate of infractions for defiance violations only. Beginning with the binary models (Table 2), females were less likely than males to receive any infraction by a factor of 0.675 ($e^{-0.393} = 0.675$) and were less likely to receive a nonviolent infraction by a factor of 0.390 ($e^{-0.942} = 0.390$), all else equal. While the effect of gender in the violence binary model was negative, there was no statistically significant difference between men and women in the likelihood of being cited for violence. Turning next to the count models, rates for any infraction, nonviolent and violent infractions were significantly lower for females than males with decreased rate ratios by factors of 0.767 ($e^{-0.265} = 0.767$), 0.410 ($e^{-0.892} = 0.410$), and 0.631 ($e^{-0.460} = 0.631$), respectively, holding all else constant. Combined, these findings support our expectations that defiance infractions are uniquely gendered.

Other individual- and unit-level covariates were also found to be significantly associated with both the likelihood and rate of defiance infractions. Specifically, Black persons were significantly more likely to be ticketed and receive a greater number of tickets for defiance than Whites. Native Americans were marginally more likely to receive a defiance ticket relative to their White counterparts in the binary model.

Table 2. Hierarchical logistic model coefficients for binary outcomes of rule infractions.

	Any Infraction		Defiance		Nonviolent		Violent	
	<i>b</i>	SE	<i>b</i>	SE	<i>b</i>	SE	<i>b</i>	SE
<i>Level 1 Variables:</i>								
<i>Individuals</i>								
Female	−0.393**	0.147	0.334**	0.128	−0.942***	0.143	−0.182	0.209
Race/ethnicity ^a								
Black	0.139*	0.055	0.252***	0.042	−0.056	0.060	0.090	0.059
Latino/a	0.124***	0.029	0.015	0.043	0.144***	0.037	−0.066†	0.039
Native American	0.156*	0.062	0.127†	0.073	0.050	0.059	0.788***	0.074
Age	−0.055***	0.002	−0.055***	0.002	−0.045***	0.002	−0.013***	0.002
Low education	0.173***	0.032	0.305***	0.035	0.022	0.033	0.086*	0.036
Married	−0.052	0.039	−0.007	0.047	−0.070	0.043	0.023	0.034
Dependent	−0.025	0.033	−0.106**	0.035	−0.001	0.034	0.029	0.027
Time served	0.515***	0.022	0.320***	0.015	0.503***	0.020	0.388***	0.019
Type of offense ^b								
Property	0.140***	0.038	0.048	0.039	0.238***	0.042	−0.022	0.049
Drug	−0.043	0.046	−0.158***	0.047	0.092†	0.048	0.050	0.040
Public order	−0.073	0.049	−0.095	0.059	0.057	0.058	−0.098*	0.045
Crime Seriousness								
Felony 1–2 ^c	−0.194***	0.053	−0.201***	0.059	−0.152**	0.057	−0.183***	0.056
Prior incarceration	0.013	0.035	−0.085*	0.036	0.009	0.045	−0.083**	0.031
Visitation	−0.003***	0.000	−0.003***	0.000	−0.002***	0.000	−0.002***	0.000
Gang affiliation	0.107†	0.055	−0.017	0.048	0.039**	0.042	0.000	0.065
Mental health	0.376***	0.035	0.349***	0.043	0.289***	0.037	0.075*	0.035
N ₁	23,818							
<i>Level 2 Variables:</i>								
<i>Prison Units</i>								
Security level ^d								
Medium	0.676***	0.154	0.857***	0.127	0.535***	0.141	1.186***	0.136
Maximum	2.872***	0.225	2.060***	0.127	2.022***	0.140	4.097***	0.261
Close	2.762***	0.159	2.301***	0.097	2.094***	0.118	2.709***	0.203
N ₂	53							

Note. *** $p \leq .001$;** $p \leq .01$;* $p \leq .05$;† $p \leq .10$.

Reference categories:

^aWhite;^bViolent offense;^cFelony class 3–6;^dMinimum security.

Individuals with lower levels of education and those with documented mental health treatment needs were also significantly more likely to be cited for defiance and accumulate a greater number of defiance violations. Likewise, individuals who served a greater amount of time on average had an increased likelihood of receiving a defiance infraction, but this effect was exclusive to the binary model. In contrast, older persons, those with dependents, individuals who were in prison for more serious felonies, those who had served time in prison previously, and those who received a greater number of visits during their prison term, all had both a lower likelihood of receiving a defiance ticket, and a lower rate of defiance infractions. Documented gang affiliates had a lower rate of defiance infractions in the count model, and individuals who served time for a drug offense had reduced odds of being cited for defiance in the binary model. The bottom sections of [Tables 2](#) and [3](#) display the estimates for the unit-level controls. For both binary and count models, medium-, close-, and

Table 3. Hierarchical Poisson model coefficients for count outcomes of rule infractions.

	Any Infraction		Defiance		Nonviolent		Violent	
	<i>b</i>	SE	<i>b</i>	SE	<i>b</i>	SE	<i>b</i>	SE
<i>Level 1 Variables:</i>								
<i>Individuals</i>								
Female	−0.265*	0.115	0.343**	0.132	−0.892***	0.146	−0.460***	0.119
Race/ethnicity ^a								
Black	0.080*	0.033	0.279***	0.039	−0.014	0.045	0.194*	0.075
Latino/a	0.060*	0.027	−0.018	0.037	0.110***	0.030	−0.007	0.057
Native Americans	0.108*	0.049	0.135 [†]	0.075	0.016	0.053	0.385***	0.095
Age	−0.037***	0.002	−0.037***	0.004	−0.032***	0.002	−0.033***	0.004
Low education	0.175***	0.023	0.368***	0.043	0.033	0.022	0.043	0.048
Married	−0.045	0.035	−0.067	0.056	−0.044	0.038	0.023	0.060
Dependent	−0.047 [†]	0.024	−0.105***	0.032	−0.015	0.029	0.036	0.043
Time served	0.357***	0.014	0.274	0.016	0.399***	0.012	0.628***	0.033
Type of offense ^b								
Property	0.121***	0.026	0.014	0.041	0.202***	0.034	0.080	0.073
Drug	0.033	0.042	−0.112	0.077	0.127*	0.049	0.103	0.111
Public order	0.076	0.047	0.084	0.072	0.049	0.053	−0.007	0.154
Crime Seriousness								
Felony 1–2 ^c	−0.155***	0.031	−0.192***	0.051	−0.082**	0.030	−0.094	0.058
Prior incarceration	−0.049*	0.024	−0.154***	0.034	0.018	0.032	0.106**	0.036
Visitation	−0.003***	0.000	−0.004***	0.000	−0.002***	0.000	−0.002***	0.000
Gang affiliation	−0.012	0.035	−0.110*	0.047	0.045	0.036	0.169*	0.065
Mental health	0.295***	0.031	0.355***	0.033	0.274***	0.032	0.156**	0.055
N ₁	23,818							
<i>Level 2 Variables:</i>								
<i>Prison Units</i>								
Security level ^d								
Medium	0.515***	0.084	0.833***	0.129	0.576***	0.093	0.898***	0.159
Maximum	2.000***	0.112	1.911***	0.105	1.462***	0.081	2.655***	0.123
Close	1.483***	0.119	2.086***	0.147	1.523***	0.084	1.913***	0.183
N ₂	53							

Note. *** $p \leq .001$;** $p \leq .01$;* $p \leq .05$;[†] $p \leq .10$.

Reference categories:

^aWhite;^bViolent offense;^cFelony class 3–6;^dMinimum security.

maximum-security units were significantly associated with an increase in both the likelihood and rate of defiance infractions, as compared to minimum-security units.

Discussion

Recent policy reform efforts have centered on disparate disciplinary practices in male and female prisons following investigations that found women to be cited more often than men for minor acts of defiance (e.g. disrespect, disobeying an order, being out of place, refusing an assignment) (U.S. Commission on Civil Rights, 2020). Defiance violations can be overly broad and open to interpretation, making these types of infractions relatively hard to avoid if strictly enforced. In practice, however, defiance is subject to inconsistent enforcement as a matter of practicality. As one correctional officer in a study by Haggerty and Bucerius' (2021) explained, "We just don't have time in the day...we could literally spend every minute on our feet running around,

chasing people down.” (p. 9). Prior work suggests that the high level of discretion applied by staff in defiance enforcement largely benefits men (Celinska & Sung, 2014; Jiang, 2005; McClellan, 1994; Shapiro et al., 2018). Although defiance infractions are considered less serious than other types of prison violations (e.g. violence, property/contraband, drug infractions), these write-ups still pose real-life consequences for individuals’ prison experiences and outcomes, which can disproportionately affect women (Benedict et al., 2015). Surprisingly little attention has been paid to defiance in the literature, however, and even less is known about gender disparities in these violations.

Accordingly, we set out to address these gaps in knowledge by using administrative data on a release population from a large western state prison system to test: 1) whether women were more likely to be ticketed for defiance than men, 2) whether women received a greater number of these tickets than their male counterparts, and 3) whether gender effects observed for defiance were unique from other types of rule violations (e.g. any infraction, nonviolent, violent), above and beyond a range of individual- and prison unit-level controls. Results were in line with expectations and also aligned with findings from recent investigations into gendered disciplinary practices in prison.

There are several explanations for our findings that confirm defiance infractions are uniquely gendered, in which women are disproportionately ticketed for these types of infractions. Research by Shapiro and colleagues (2018) suggests that gendered rule enforcement stems from how correctional authorities conceptualize and prioritize prison safety, security, and order. In the absence of serious threats (e.g. violence, riots, illicit market activity), other “problems”—like defiance—become elevated. Women’s prisons are characterized by less violence, gang activity, and organized illicit markets relative to male institutions (Kreager et al., 2021; Kruttschnitt & Gartner, 2005; Wooldredge, 2020). As such, correctional staff are focused on responding to more serious violations in male prisons and reduce their enforcement of minor rule breaking (Dilulio, 1987; Poole & Regoli, 1980). This “soft power” approach commonly used in men’s prisons—in which staff resolve minor violations through dialogue and negotiation as opposed to issuing tickets—is strategic as incarcerated men maintain leverage in the balance of power on the inside given their greater willingness to show resistance through violence and collective action (e.g. riots, protests/strikes, class-action lawsuits) than their female counterparts (Bosworth & Carrabine, 2001; Crewe, 2007, 2011; Skarbek, 2014). Research further suggests that incarcerated women more frequently engage in indirect or verbal aggression than men as a form of coping and resistance, which might also account for gender disparities observed in defiance infractions (Aranda-Hughes et al., 2021; Benedict et al., 2015; Owen, 1998; Owen et al., 2017; Shapiro et al., 2018). That is, women may be more likely to receive defiance tickets partly because they push back against staff in these ways more often than men.

Qualitative research reveals how women’s rule following and verbal expression are often monitored and regulated more closely than men’s (Kruttschnitt & Gartner, 2005; Owen et al., 2017; Shapiro et al., 2018). Women are often cast as “manipulative and incorrigible,” and the punitive turn resulted in an emphasis on “breaking women down” through coercive interventions focused on their “poor life choices.” (Kreager & Kruttschnitt, 2018; McCorkel, 2013). Resistance is often met with tickets for defiance.

These disparities in rule enforcement align with McCorkel's (2013) "gendered governance," in which correctional goals to maintain safety and security are applied equally for men and women despite women posing far fewer security or safety risks (e.g. assaults, escapes, drug violations). In many states, a one-size-fits-all approach is used for prison management and supervision of incarcerated persons. This may lead to administrative strategies that are gender-neutral rather than responsive to the unique needs and problems of incarcerated women (Benedict et al., 2015). Consequently, greater scrutiny of women for minor infractions occurs because correctional staff are intolerant of malfeasance in the absence of violence and other serious threats to prison order. It may be that the disparities uncovered in this study are products of both social construction and prison management strategies.

There are major implications associated with our finding that women accumulated a greater number of defiance tickets than men. The accumulation of multiple tickets over the course of one's imprisonment leads to serious consequences that shape individuals' trajectories in meaningful ways (U.S. Commission on Civil Rights, 2020). This can include isolation in restrictive housing, limited access to programming, prison work assignments, and contact with loved ones. As well, an individual's rule violation history is a strong indicator of early release from prison, and the accrual of rule violations for even minor violations may jeopardize early release opportunities in many states (Bales & Miller, 2012; Benedict et al., 2015). Our results indicate that strict defiance enforcement is a common part of the management of women's prisons, which can result in women being subjected to an array of sanctions for far less serious behavior than men.

While this work is an important contribution to the literature, several limitations should be acknowledged. First, this study used data from one state, so findings may not be generalizable to other state prison systems. Second, we were not able to control for the type and severity of mental health disorders, whether individuals were on medication, or their histories of trauma and victimization. Unfortunately, this information is not consistently captured in administrative prison data. Researchers should attempt to obtain data on these measures and replicate this study in additional states. Further research—using both quantitative and qualitative methods—is also needed on gender disparities in prison rule-enforcement and the consequences associated with these decisions. Future studies should examine predictors of and the rationales behind staff decision-making regarding defiance for men and women, from writing the original ticket to disciplinary hearing decisions to disciplinary outcomes. Here, we have data on those who have been found guilty. While this matters for sanctions since consequences apply to those found guilty, understanding the decisions that lead to guilty tickets in the first place is important for informing policy and practice. It is necessary to next examine the sanctions resulting from defiance infractions, especially placement into restrictive housing. There is limited research examining the use of restrictive housing among women, but existing work finds that approximately 10% of incarcerated women reported serving time in restrictive housing, closely mirroring reports by men (Butler, 2019, 2022). These patterns deserve further inquiry as women's placement into restrictive housing could be heavily driven by defiance enforcement as opposed to more serious conduct leading to restrictive housing among men. Beyond restrictive housing, other consequences stemming from defiance violations that should be examined in future work include release decisions or length of

stay in prison, access to programming, and loss of privileges, including contact with loved ones.

Our study also informs policy and practice. These findings, coupled with results from prior investigations, suggest that a nationwide review and subsequent reform of disciplinary policies and practices is needed. Focus should be placed on improving dialogue between staff and women to attempt to avoid minor tickets when reasonable. Such dialogue will require training regarding developing rapport and improving communication as well as understanding the unique needs and histories of women. One promising reform recently implemented in several states involves greater oversight by administration to identify defiance tickets that could have been avoided and using this review process as a training tool for staff (Benedict et al., 2015; Shapiro et al., 2018). Future research should evaluate the impacts of these changes on the experiences and outcomes of both women and the correctional workforce. Toward that end, it is critical to continue to grow the evidence base as it relates to prison disciplinary enforcement to improve fairness and promote positive outcomes for those living and working in correctional systems.

Disclosure Statement

No potential conflict of interest was reported by the author(s).

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Appendix A. Sample characteristics across gender

	Women %/Mean (S.D.), Range	Men %/Mean (S.D.), Range
<i>Dependent Variable</i>		
Binary measures		
Any infraction	32.64%	41.22%
Defiance infraction	22.50%	19.49%
Nonviolent infraction	15.46%	29.82%
Violent infraction	4.67%	9.89%
Count measures		
Any infraction	0.85 (1.81), 0–23	1.08 (2.08), 0–38
Defiance infraction	0.43 (1.04), 0–9	0.36 (1.06), 0–19
Nonviolent infraction	0.25 (0.78), 0–12	0.56 (1.23), 0–32
Violent infraction	0.07 (0.39), 0–9	0.15 (0.59), 0–14
<i>Level 1 Variables: Individuals</i>		
Race/ethnicity		
White	50.0%	43.2%
Black	11.6%	14.3%
Latino/a	28.6%	35.3%
Native Americans	9.8%	7.1%
Age	34.1 (9.5), 18–65	33.3 (10.7), 17–87
Low education	36.1%	29.2%
Married	12.3%	15.5%
Dependent	62.0%	52.7%
Time served	1.9 (1.2), 0.49–7.36	2.2 (1.4), 0.49–7.95
Type of offense		
Violent	19.0%	34.5%
Property	41.4%	30.5%
Drug	30.1%	23.7%
Public order	9.4%	11.3%
Crime Seriousness		
Felony class 1–2	10.6%	8.8%
Felony class 3–6	89.4%	91.2%
Prior incarceration	36.4%	51.7%
Visitation	31.2 (64.8), 0–1,116	17.9 (42.9), 0–914
Gang affiliation	7.8%	26.2%
Mental health	71.0%	51.9%
N ₁	2,871	20,947
<i>Level 2 Variables: Prison Units</i>		
Security level		
Minimum	72.3%	54.6
Medium	18.5%	34.5
Maximum	9.2%	4.6%
Close	0.0%	6.4%
N ₂	7	46