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Juveniles in Jail: ALEC Membership and Juvenile Incarceration Throughout the States

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Abstract

The state of Hawaii has every sociological factor that contributes to high juvenile incarceration rates: high poverty, large economic gaps, high levels of substance abuse, and poor education. What is puzzling about this is that Hawaii has some of the lowest juvenile incarceration rates in the United States. What explains juvenile incarceration rates across the states? This paper explores the political factors that contribute to juvenile incarceration; in particular, the focus is on state participation in the American Legislative Exchange Council (ALEC). This organization is a council between legislators and corporations, many of which are in the private prison industry. ALEC incentivizes legislators to increase incarceration rates through funding, networking, and electoral support. States, such as Pennsylvania, have had over forty representatives in ALEC, and also have incredibly high rates of incarceration, especially among juveniles. In contrast, Hawaii's legislators have little to do with the organization, and low levels of juvenile incarceration. The tie between this council and crime could be the answer to Hawaii's crime rate, and should provide insights on mass juvenile incarceration in the United States. The results have shown that ALEC membership has a significant effect on juvenile incarceration rates. It is important to understand their heavy hand in creating legislation and how it affects state level incarceration rates, and those in the United States as a whole.

1. Introduction

Seventy three percent of Hawaiian residents are people of color, making it the most racially diverse state in the United States. Hawaii is also ranked 36th in the nation for education over all, 40th for pre-kindergarten-12th grade education, and the worst state for teachers[1] [2]. When accounting for regional cost of living and other factors, 1 in 6 Hawaiians live below the poverty rate, meeting Georgia's national rank at 14. It is no secret that there is an extremely large tie between poverty and crime, especially crime among children[3]. Children make up around 21% of the Hawaiian population, and 15% of children live below the poverty line[4]. This ranks Hawaii at number 6 in the nation in terms of childhood poverty[5]. What is particularly puzzling about these poverty statistics is that Hawaii is ranked just above Massachusetts and Vermont for the lowest juvenile incarceration rate in the nation (60 per 100k)[6]. With a minority-majority population, high poverty, and poor education, all factors that affect juvenile incarceration, one would expect Hawaii to have a high juvenile incarceration rate. Interestingly, it does not.

This paper will investigate what explains state level variation in juvenile incarceration rates. This study is important because the United States has the largest prison population in the world and some of the worst disenfranchisement of any democracy. The prison population is mainly made up of child offenders who grew up and continued to offend. If society can focus on some factors that are realistic to eradicate, it can possibly lower the incarceration rates for children, and in the long run decrease the financial burden the prison system puts on the country. Factors that can result in juvenile delinquency such as neglect, abuse, familial deaths, and anomic childhoods are difficult for the government to resolve.

One factor that studies of juvenile delinquency have overlooked are the incentives that motivate state legislators to increase incarceration rates of juveniles. In particular, members of the American Legislative Exchange Council

(ALEC) have such incentives. ALEC is a non-profit organization that is run and funded by corporations that acts as a liaison between corporations and state legislators. In return for funding, the council provides a forum for state representatives to draft and share legislation with each other. The donors can participate in this process and thus influence legislation. States, such as Pennsylvania, have had over forty representatives in ALEC, and also have incredibly high rates of incarceration, especially among juveniles.

This study will be analyzing the effect of ALEC membership on a state's juvenile incarceration rate, controlling for sociological factors. Most literature on juvenile incarceration studies sociological factors, however political factors have an effect as well. The measure is a ratio of ALEC members per state over the total number of state legislatures. The study has found a positive relationship between incarceration rates and the percentage of state legislators in ALEC. This means that participation in ALEC may affect legislative incentives to incarcerate youth. Rather than focus on sociological factors of delinquency that are difficult, or impossible, to completely resolve, the dismantling of this organization could have an impact in the future of juvenile incarceration. If legislators are no longer being paid to incarcerate, though it will not make juvenile delinquency disappear, it can certainly help the issue. The purpose of this research is to explain why legislators are choosing to be a part of this organization, and how effective it is in changing incarceration rates for juveniles in the United States. This paper works off previous literature on the sociological factors of juvenile delinquency, as well as off literature on corporate influence on American politics. Through the data and tests results, this study helps explain state variation in juvenile incarceration rates and ALEC's involvement.

This paper will begin by discussing the previous literature written on sociological factors in juvenile incarceration, ALEC and corporate influence on legislation. Then, the theoretical argument on how ALEC may have a significant effect on juvenile incarceration will be explained. Following, will be the presentation of the research design and the measure that was developed to test the theory, and discuss the results on how the measures supported the hypothesis. The paper will conclude with a presentation of avenues for future research and the limitations the research had.

2. Literature Review

In looking at the literature, the consensus is that sociological factors have much to do with juvenile incarceration. The 1990's depicted juvenile delinquency as juveniles of color being "inexplicably" deviant, or more commonly quoted, a "Super Predator"[7]. Much of the literature was a response to the 1990's increase in juvenile incarceration, and the more punitive laws implemented in this time. Some of the literature explained that the laws enacted were to protect society from these super predators, rather than focus on the reasons why these children were acting deviant[8].

Later literature began to in delve into the factors that cause juvenile delinquency, and how these punitive laws were more detrimental than successful[9] [10]. Mann[11] discusses the importance of early childhood education, and how the earlier a child becomes deviant or delinquent, the more likely they will become repeat offenders. The article emphasizes the need for early childhood education programs in urban areas for low income families[12]. This builds from Willie[13] and Signell's[14] theories on economics and unemployment having an effect on juvenile delinquency and juvenile incarceration. The literature has focused on the theory that a child is being deviant by their own means, to various factors such as poverty and education.

3. Theory

The literature has largely overlooked the notion that state legislators may be incentivized to increase incarceration rates of juveniles. In particular, members of the American Legislative Exchange Council (ALEC) have such incentives. According to its website, ALEC is, "America's largest nonpartisan, voluntary membership organization of state legislators dedicated to the principles of limited government, free markets and federalism" (ALEC 2017). In return for funding the organization, the council provides a forum for state representatives to draft and share legislation with each other. The donors who participate in this process can thus influence legislation.

Hudson[15] explains how the American Legislative Exchange Council uses politicians to push for policies that involve mass incarceration, cutting smaller courts, and overall taking over the legal system at a state and county level. The representatives in ALEC, according to this article, argue that budget cuts to the state criminal justice system are necessary, whereas the author explains how this is detrimental. When the budget for justice is cut, other courts are overloaded with work, and unable to provide the proper due process each defendant deserves. This also causes inmates to be released on parole more often. The author explains that cutting the budget is causing problems on many levels, however the cost of incarceration is too high during this time which was the beginning of the 2008 recession. While

Hudson maintains that ALEC has a hand in supporting legislation, he does not focus on ALEC's drafting of legislation or explain why politicians are involved in this organization. This article treated ALEC like a small lobbying group, rather than the root of modern conservative legislation. This paper seeks to address these shortcomings.

To this point, there has been very little scholarship on the effects of ALEC on policy outcomes in the states. However there are media accounts. According to *The Nation*, a weekly political magazine, ALEC has "worked to pass state laws to create private for-profit prisons, a boon to two of its major corporate sponsors: Corrections Corporation of America and Geo Group (formerly Wackenhut Corrections), the largest private prison firms in the country"[16]. The American Bail Coalition and Prison Rehabilitative Industries and Diversified Enterprises (PRIDE) are also members of ALEC. ALEC produced legislation such as the Prison Industries Act, and a federal program known as PIE (the Prison Industries Enhancement Certification Program), the Truth In Sentencing Act, and the notorious immigration law, Arizona's SB 1070. Thus, it appears as though ALEC provides a venue for private prison industries and companies that benefit from incarceration, such as PRIDE who use prison labor to manufacture various products, to work in conjunction with state politicians to produce legislation that will benefit these corporations. Further, corporations who benefit from such legislation will continue to fund ALEC and possibly donate to campaigns for the politicians who introduced the bill. This also benefits the politician because they continue the to get "tough on crime" image that has gained popularity among constituents.

Further, ALEC makes a legislator's job a lot easier. They have professionals who, on behalf of corporations and ALEC as a whole, write legislation to give to state legislators. On their website they even have legislation available for public access, in which the document actually states "insert state here" (ALEC 2008). This makes it very easy for a politician to "write" legislation to present to their state. Not only do legislators get their job done for them, but now they have to approval of very wealthy corporations. These corporations, as an act of gratitude, may donate money to said politician's campaign during the election year. Also, as mentioned before, being "tough on crime" is very popular in elections among voters. So the politician who is a member of ALEC receives legislation that is already written, and simply has to present it to their state, and if it passes, that politician may receive funding *and* voter support. For example, the Pre-Arrest Diversion Act is a model policy written by ALEC that argues for "Local communities and public or private educational institutions may adopt a pre arrest diversion program in which: (a) Law enforcement officers, at their sole discretion, may issue civil citations to certain adults who commit a qualifying non violent misdemeanor offense listed in Section 2" (ALEC 2016), in other words this means that those who can't pay countless civil citations will eventually be arrested, put in the criminal justice system, and that corporation reaps the benefits. There are other policies that also propose cutting the federal cost of courts and detention centers that ALEC had encouraged. There is evidence that members of ALEC believe budget cuts to the state criminal justice system are necessary, especially in smaller courts[15]. When courts get overloaded with cases, and the defendant cannot pay bail, they stay in jail, or the court and the defendant's representative pays no attention to the case, and the defendant goes to prison. Either way, the corporations that are involved in the criminal justice system will benefit from cutting costs.

In short, private prison corporations write legislation that benefit them, politicians pass said legislation, that state begins to incarcerate more people in general, including juvenile delinquents, and the rate on juvenile incarceration increases. As such, the hypothesis is that states with higher relative levels of ALEC membership will have higher juvenile incarceration.

4. Research Design

This study will examine ALEC involvement in state legislatures, and the juvenile incarceration rates in that state. The unit of analysis in this case will be states, because the testing takes place at this level. The independent variable will be the ratio of state legislators in ALEC to the total number of state legislators per state and dependent variable will be the juvenile incarceration rate of each state.

For the dependent variable, the study will be using the data provided by The Sentencing Project, an organization that focuses on state data for incarceration. They provide information on how many juveniles are incarcerated per 100,000 juveniles in each state. The average number is about 170 per 100,000, and the closest state to that number would be New Mexico, at 179. The state with the lowest number is Vermont, at 46 incarcerated juveniles per 100,00, and the state with the most is South Dakota, with 376 per 100,000.

For the independent variable, a variety of sources are being used. The total number of state legislators in each state is from each state's website. Data collection for this research has proven to be a bit difficult. ALEC does not release the names of its members, but their website claims it has over 1,200 members. Through the data collection for the state legislature members, the results have found roughly over 800 names. This collection was through wikis and other sources that attempt to expose the members of ALEC. Currently, there are no peer-reviewed sources on a list of the

members of ALEC. One issue with this data is that the ALEC membership numbers may be skewed. One simply does not know who is and is not apart of this organization. The data presented is likely biased and incomplete. ALEC Exposed is an organization that attempts to infiltrate ALEC and release the names of the members and corporations that are a part of it. ALEC Exposed has over 700 names that they claim are members of ALEC, whereas Wikipedia only claims around 300. The overlap between the two is around 230 names, so this makes the accuracy of this data a bit faulty. To address this problem, the test will use all three of these measures. Conducting the three different tests will ideally give the data some weight. The hypothesis is that the trend will be positive, showing that the more membership in ALEC, the higher the juvenile incarceration rate will be. The hope is that this trend will be in all three tests, proving that, though the data for ALEC membership may not be exact, the trend, no matter which source you look at, will be the same.

The average ratio for membership according to ALEC Exposed is .11; a few states such as Mississippi and Nebraska are near that average. New York has the lowest ratio, .01, and the state with the highest ratio is Arizona, .31. For the Wikipedia measure, the average ALEC membership is .04, the minimum is New York with 0.0, and the maximum is Oregon with .1. For the "Both" measure, which captures the overlap between ALEC Exposed and Wikipedia, the average is .03, the minimum is New York with 0.0, and the maximum is Oregon with .1.

The study will be taking into account sociological factors as the control variables, such as poverty rates, and minority percentage. This will give us a clearer picture and account for other possible factors that contribute to juvenile incarceration. Juvenile incarceration is incredibly complicated, and the causes of juvenile delinquency vary.

For the control variables, the data will be from the U.S Census for poverty rate and minority population. The data for poverty and minority is a ratio of how many people are minorities in the state or living below the poverty line. For poverty rates, the average rate is .12, the minimum is .6, from the state of New Hampshire, and the maximum is Mississippi with .21. For minority population, Hawaii has the largest population, with .78, the state with the lowest minority population is Idaho, with a .05 minority population, and the average is .21.

5. Results and Analysis:

To evaluate the primary hypothesis that ALEC membership in a state legislature influences the juvenile incarceration rate, a series of linear regressions are estimated. What follows is the results from three bivariate regressions according to the three ALEC measures this study utilizes. In addition, the researcher estimates and discusses three multivariate models which examine the effect of three ALEC measures when controlling for other factors that may influence juvenile incarceration.

The first regression is a bivariate model of the relationship between the ALEC Exposed variable and state juvenile incarceration rates. The results can be seen in Column 1 of Table 1. The y-intercept, or the expected incarceration rate when ALEC membership is at zero, is estimated to be 158 juveniles per 100,000 in this model. This can be due to our control variables and a variety of other factors that cause juveniles to be incarcerated. The coefficient on ALEC Exposed is 116; this means that for every additional percent increase of ALEC membership in state legislatures, on should expect the incarceration rate to go up by 116 juveniles per 100,000. This is a positive effect, which is what was expected. The p-value for this regression is 0.417, meaning it is not statistically significant, as seen in the slope shown in Figure 1. Rather than thinking about statistical significance, thinking of these results in terms of people show that one percent of state legislatures has an effect on 116 juveniles. This may not be statistically distinguishable from zero but is is an important effect.

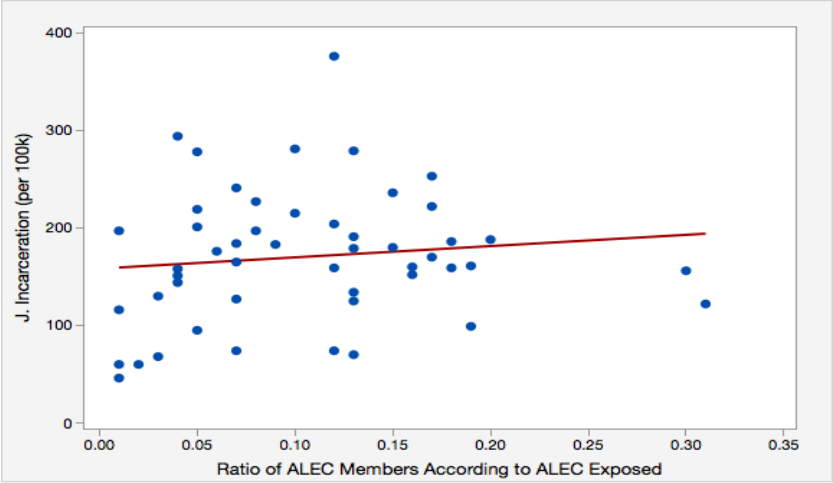

Figure 1: Bivariate Regression-ALEC Exposed Measure

This plot shows the effect of ALEC membership on juvenile incarceration rates when using the ALEC Exposed measure. Based on this measure, ALEC membership does not have a statistically significant effect on juvenile incarceration rates.

The next regression that was examined was the bivariate relationship between ALEC membership and juvenile incarceration using the Wikipedia data. The regression results are presented in Column 1 of Table 2. Shown Figure 2, this measure proved to have a stronger correlation than the previous. When ALEC membership is at zero, the expected juvenile incarceration rate is about 140 juveniles per 100,000. For every additional percent of the state legislature that is involved in ALEC, around 759 additional juveniles are incarcerated. This also is consistent with the hypothesis that the more ALEC membership in a state the higher the juvenile delinquency rate. The p-value for this regression is 0.041, so the researcher can say that with 95% confidence that ALEC membership has a positive effect of incarceration, and it is statistically significant. Speaking in terms of substantive significance, for every one additional percent of ALEC participation, 759 juveniles are incarcerated, which is a large effect, especially considering the mean of the incarceration variable is 170 people. Thinking in terms of children going to jail, and how a small proportion of the state legislature can skew their odds that significantly, is something to be concerned about.

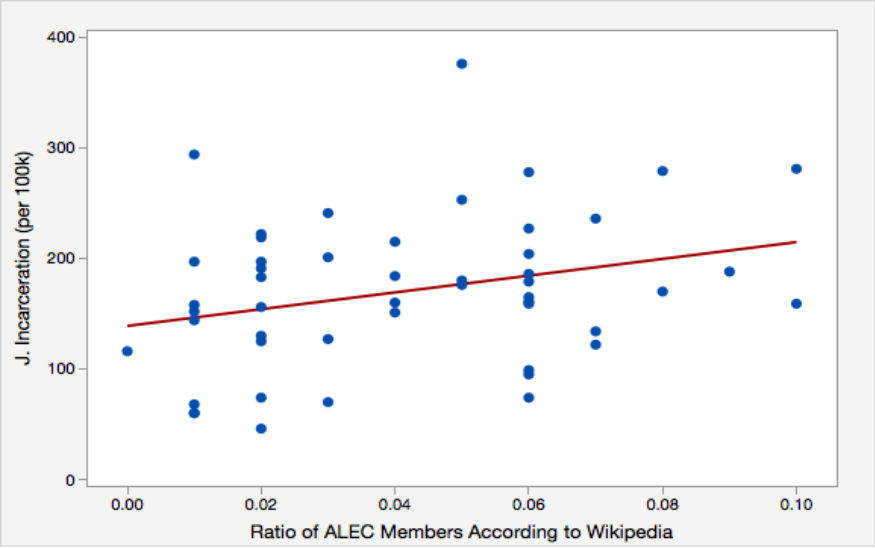

Figure 2 : Bivariate Regression-Wikipedia Measure

This plot shows the relationship between ALEC Membership using the Wikipedia Measure and state juvenile incarceration rates. As shown, this measure proved to be statistically significant, supporting the hypothesis that the percent of ALEC membership in state legislatures has an effect of juvenile incarceration.

The third regression examines the effect between the ALEC measure that considers the overlap between the previous measures and juvenile incarceration, as seen in Column 1 of Table 3. The y-intercept for this regression is around 143, meaning when x (ALEC membership) is zero, 139 juveniles per 100,00 incarcerated. For every additional percent of the state legislature that is in ALEC, the effect is around 827 juveniles per 100,000 are incarcerated. This gives us a statistical significance, p-value, of 0.041, using 95% confidence. This is also very substantively significant. Eight hundred and twenty seven juveniles per 100,000 being incarcerated for *one* additional percent of ALEC membership has a very large impact on juvenile incarceration in general.

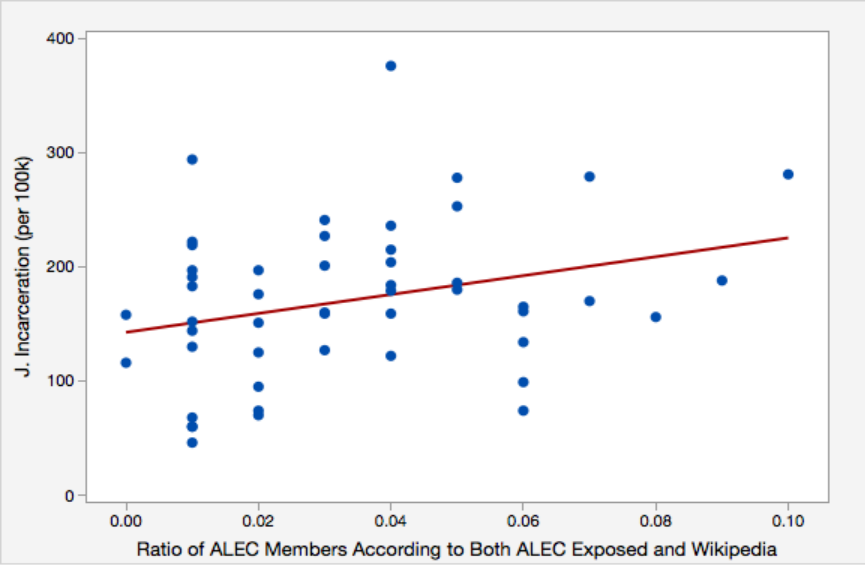

Figure 3: Bivariate Regression of Both the ALEC Exposed and Wikipedia Measure

This plot indicates that when using the measure that includes the overlap between Wikipedia and ALEC Exposed data set is a positive relationship with ALEC membership and juvenile incarceration. The effect is statistically significant.

For the next three regressions, the control variables, poverty and race are added Now, the y-intercept in these models represent the expected incarceration rate when all independent variables are zero. The first test will be with the ALEC Exposed data; these results are in Column 2 of Table 1. For this set, the y-intercept is around 156 juveniles per 100,000. Race seems to have a negative effect, meaning the higher the minority population the lower the juvenile incarceration. This is inconsistent with previous literature but holds for all three regressions estimated. The results show for every one percent higher minority population, juvenile incarceration goes down by 194 juveniles per 100,00; but, the effect is not statistically significant. For every additional percent in poverty in the state, juvenile incarceration goes up by 413 juveniles, but again the effect is not statistically significant. Finally, for every additional percent of ALEC membership, 31 juveniles are incarcerated per 100,000. The p-value for ALEC Exposed is 0.82, meaning it not is statistically significant. What is curious about this result is that the ALEC Exposed data was the most complete. In other words, ALEC Exposed had the largest list of names of legislators that are involved in ALEC out of the three measures. With the control variables, ALEC membership has less of an effect, which was expected, but it still has some substantive significance. Pondering the idea that if poverty and race was at zero in a state, hypothetically, ALEC membership would *still* put children in jail. This is a cause for concern.

Table 1: Results for the ALEC Exposed Measure

	Bivariate Model	Multivariate Model
Constant	Coefficient: 158.2 (17.8)	Coefficient: 155.9 (39.9)
ALEC Membership	Coefficient: 115.7 (141)	Coefficient: 31 (142)
Poverty		Coefficient: 413 (320)
Race		Coefficient: -194.0 (78.4)

The table above depicts all the results for the ALEC Exposed measure. The Standard Error is shown in the parenthesis in this and in the following tables. The constant for all the result figure stands for the number of juveniles incarcerated when all the other variables are zero. The ALEC Exposed measure does not have a statistically significant result in either model.

Column 2 in Table 2 shows the results from the multivariate model using the WIkipedia measure. Race still has a negative effect on incarceration, but less so than in the ALEC Exposed model. However ALEC's effect on incarceration significantly increased. The y-intercept is 140 incarcerated juveniles per 100,000 juveniles, and every additional percent of ALEC membership means 620 juveniles become incarcerated per 100,000. Thinking in terms of how many juveniles there are in a state, far more than 100,000, the ALEC variable really affect the lives of children. The p-value here is .08, meaning it is statistically significant when using 90% confidence, instead of the standard 95%. Given that the data set only has 50 observations, the researcher is willing to accept more uncertainty and to use a 90% confidence level. For every percentage increase in race, incarceration seems to go down by around 182 juveniles. Poverty in this model turned out not to be statistically significant.

Table 2: Results for the Wikipedia Measure

	Bivariate Model	Multivariate Model
Constant	Coefficient: 139.9 (17.7)	Coefficient: 140.2 (39.6)
ALEC Membership	Coefficient: 758.7 (361)	Coefficient: 620 (351)
Poverty		Coefficient: 339 (298)
Race		Coefficient: -182.4 (72.3)

This table shows the estimates for the bivariate and multivariate model when using the Wikipedia measure. Both models were more statistically significant. Here shows that race continues to have a negative effect on incarceration.

The last regression includes the ALEC variable which factors in the overlap between both previous measures and the control variables. The results are in Column 2 of Table 3. For every additional percent of ALEC membership in a

state, 647 additional juveniles become incarcerated per 100,000. The effect is statistically significant at the 90% confidence level. While race still had a negative effect, it was the least of all three regressions, with a coefficient value of roughly -179. Poverty had a weaker correlation in this test, with a p-value of 0.27. For every additional percent increase of poverty in a state, juvenile incarceration increases by 333 juveniles per 100,000.

Every test, besides regressions between the ALEC Exposed data and juvenile incarceration, ALEC membership has a substantive and statistical significance in its effect on juvenile incarceration. This is consistent with the hypothesis.

Table 3: Results for Both the ALEC Exposed and Wikipedia Measure

	Bivariate Model	Multivariate Model
Constant	Coefficient: 142.6 (16.2)	Coefficient: 144.5 (39.3)
ALEC Membership	Coefficient: 827.3 (394)	Coefficient: 647 (387)
Poverty		Coefficient: 333 (301)
Race		Coefficient: -179.4 (72.8)

The table above depicts the results for the bivariate and multivariate measures when using the "Both" measure. This measure is the overlap between the ALEC Exposed measure and the Wikipedia measure. Both models were statistically significant, and consistent with the hypothesis.

6. Conclusion

The hypothesis argued that states with a higher ratio of ALEC members in their state legislature will have higher juvenile incarceration rates. ALEC provides an incentive for state legislators to pass legislation that is incarceration-focused in order to benefit corporations that benefit from mass incarceration. After estimating regressions, the hypothesis did get partial support. Four of the 6 regressions supported the hypothesis, that states with a higher ratio of ALEC membership has an effect on juvenile incarceration. A simple one percent change in ALEC membership can result in up to 600 juveniles being incarcerated, per 100,000 juveniles. This will cause a massive effect in the future. Once juveniles have been incarcerated they are more likely to be incarcerated again, and the benefits of incarceration only apply to one entity: the prison corporations. Prison and incarceration in general is financially burdening, can lead to disenfranchisement, and ruins lives. Not only is possible disenfranchisement a threat to democracy, but the notion that corporations are having their hand at writing legislation is dangerous. Knowing that gun-related corporations, oil corporations, and pharmaceutical corporations are apart of ALEC (ALEC Exposed 2017), one could infer that they are influencing 2nd amendment related legislation, clean energy initiatives, and health care. ALEC gives corporations far too much of a seat and the legislative table.

That being said, for future studies the researcher would like to examine a more complete data set. One of the limitations in this study is that ALEC is a secretive organization, and the data presented does not have a clear count of state legislator membership. Having a total number of state legislators in ALEC would provide us a more accurate ratio, and therefore give us a more accurate view of ALEC's effects on juvenile incarceration. Further research could test with more control variables such as education, and political affiliation. ALEC is a more conservative organization, so factoring in political affiliation for each state may also help explain the poverty and race statistics from the previous measure. This means a state could be majority caucasian but have harsh sentencing laws because it is a conservative state, which is why in the previous measure race had a negative effect on incarceration. It would be interesting to take the ratio data and apply it to other political issues: clean energy, health care, gun control, privatization, and adult incarceration. ALEC is an organization that has been around for over 40 years, and has a variety of corporation thats are involved with it. With further research, one could find that ALEC has had its hand on almost every type of

legislation, supporting the hypothesis that ALEC provides incentives for legislators to pass bills that support corporations.

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