Graying of U.S. Bankruptcy: Fallout from Life in a Risk Society

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Abstract

The social safety net for older Americans has been shrinking for the past couple decades. The risks associated with aging, reduced income, and increased healthcare costs, have been off-loaded onto older individuals. At the same time, older Americans are increasingly likely to file consumer bankruptcy, and their representation among those in bankruptcy has never been higher. Using data from the Consumer Bankruptcy Project, we find more than a two-fold increase in the rate at which older Americans (age 65 and over) file for bankruptcy and an almost five-fold increase in the percentage of older persons in the U.S. bankruptcy system. The magnitude of growth in older Americans in bankruptcy is so large that the broader trend of an aging U.S. population can explain only a small portion of the effect. In our data, older Americans report they are struggling with increased financial risks, namely inadequate income and unmanageable costs of healthcare, as they try to deal with reductions to their social safety net. As a result of these increased financial burdens, the median senior bankruptcy filer enters bankruptcy with *negative* wealth of $17,390 as compared to more than $250,000 for their non-bankrupt peers. For an increasing number of older Americans, their golden years are fraught with economic risks, the result of which is often bankruptcy.

Keywords: bankruptcy, older Americans, risk, economic insecurity, debt, wealth, safety net

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For much of the United States' history, older Americans were viewed with contempt and treated as outcasts (Fleming, Evans and Chutka 2003:916). Many spent their final years homeless or in an equally awful poorhouse. By the early twentieth century, attitudes toward older Americans shifted and the risks of aging diminished. Rather than discarding them, Americans began to accept elderly's welfare as their collective responsibility. The social safety net for seniors evolved to include Social Security, Medicare, Medicaid, and defined-benefit pension programs. Consequently, aging became less of a high-risk proposition.

National concern for the well-being of older Americans soon declined, beginning in the early-1980s, especially as the cost of funding their social safety net strained state and federal budgets. This financial tension and emerging ideological shifts promoted an intergenerational war (Estes 1991). Conservatives, free market advocates, and media promoted the image of older Americans as "a threat to economic viability" (Sassoon 2001), as thieves of our children's futures, and as "responsible for the nation's economic problems" (Estes 1991). In just a few decades, norms of privatized citizenship and individual responsibility upstaged the ideal of America's social welfare system. Financial risks were shunted off onto individuals, regardless of age (Hacker 2006, 2012). Many older Americans suffered greatly because of this movement toward "private responsibility," with their Social Security, retirement, and healthcare, among other protections, coming under attack.

Since the early-1990s, scholars on the Consumer Bankruptcy Project (CBP) have collected data on the age of bankruptcy filers. These data are used to determine the percent of older Americans *within the U.S. population* who file bankruptcy, and the percent of older filers *within the bankrupt population*. Comparing CBP data between 1991 and now shows significant increases in both categories. The changes are so great that the broader trend of an aging U.S.

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population can explain only a small proportion of what is happening in the bankruptcy courts. Older Americans' reported reasons for filing strongly suggest that they are experiencing the fallout from our current individualized risk society and the corresponding shrinkage of their social safety net.

Using a sociological perspective, we seek macro and structural-level explanations for this social trend. Specifically, we ground our findings in the *risk society perspective.* Our data suggest that financial crises associated with living in America's high-risk society are highly correlated with older Americans' increasing use of the bankruptcy system.

BACKGROUND

Reduced Risk for Older Americans: From Poorhouses to Pensions

One of the more romantic assumptions of the American backstory is that families lovingly cared for their elders as they aged and died. This is, however, more myth than reality. During the nineteenth century, only the wealthy could count on familial care in their final years. Most others were shunted off to poorhouses, which were "dreary, vermin-infested, and laden with human waste" (Fleming, Evans and Chutka 2003:916). Elderly poor were regarded as "a burden on the local taxes" and were "despised and often treated as outcasts" (Fleming, Evans and Chutka 2003:914). In some communities, despite their advanced age, they were auctioned off for farm labor. Toward the end of the nineteenth century, contempt for older Americans climaxed—old age was considered a disease and old people were obsolescent.

On the heels of the Great Depression, approximately two-thirds of older Americans were in poverty (Fleming, Evans and Chutka 2003), living "the stark terror of penniless, helpless old age" (Eliot 1961). With these dismal circumstances as a catalyst, President Franklin D. Roosevelt

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signed the Social Security Act of 1935. Older people were also living longer, thanks to various medical advances. As such, hospitals were overwhelmed by the high costs of their medical care, and began lobbying for an old-age health insurance program to help offset expenses. In 1965, President Lyndon B. Johnson, signed Medicare and Medicaid into law. During the economic expansion following World War II, workers received public pensions with defined benefits, providing them with guaranteed income during their retirement years. Structural protections for older Americans expanded until spending on the aged was "the single largest item in national budgets" (Quadagno, Kail and Shekha 2011:321). In short, America transitioned from "pauperism and the poorhouse" to "pensions and retirement" (Fleming, Evans and Chutka 2003:918). Ellis, Munnell and Eschtruth (2014:8) maintain that by the late twentieth century, these "collective efforts culminated in a brief 'golden age,' when many American workers retired with confidence in their financial security."

> During the 1980s and 1990s, Social Security benefits replaced about 40 percent of preretirement income for the average worker, the age for full benefits was 65…. Medicare covered most healthcare spending; for the typical beneficiary in 1997, out-of-pocket health costs were only 12 percent of income. (Ellis, Munnell and Eschtruth 2014:22)

This multi-pronged social safety net insured economic security and physical health as Americans aged into their retirement and final years.

Risk Shifting and the Shrinking Social Safety Net

In 2006, Jacob Hacker described the risk shift as a situation whereby "a myriad of risks that were once managed and pooled by government and private corporations" shifted onto individuals and families" (2012; 2006:21). Americans are experiencing increasingly riskier lives—riskier

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employment, riskier retirement, and riskier healthcare—all of which may result in increased debt.

While many Americans confront these risk shifts, they profoundly affect older people. Simply because of their age, this group is less able to effectively respond to the shifting risks. Unstable employment is particularly problematic for older people. When they lose jobs, it takes them significantly longer to find new ones and when they do, they typically earn less than what they earned before (Hardy 2011). Retirement is a particularly precarious time of life. Full Social Security benefits now begin at 70, rather than 65 (Ellis, Munnell, and Eschtruth 2014). The penalty for early retirement increased from 20-30 percent (Quadagno, Kail, and Shekha 2011). Defined benefit pensions have been replaced with high-risk, employee-owned 401(k)s, the values of which fluctuate with the stock market. With the 401(k)-style of savings, payout during retirement is not defined or predictable, employees bear all of the market risks, and returns depend on employees' investment skills. In 2013, among working households, age 55-64, with a 401(k), the median amount in those accounts was $111,000 (Ellis, Munnell, and Eschtruth 2014). Despite the widespread belief that Medicare meets health needs of older Americans, for so many retirees, it is utterly inadequate. Out-of-pocket spending among older Americans with Medicare comprises about 20 percent of their income, and the estimated total of all noncovered medical expenses for a 65-year-old retired couple during their retirement years is $200,000 (Ellis, Munnell, and Eschtruth 2014).

Closely correlated with the shrinking social safety net among older Americans is the amount of debt that they carry. For example, in 2001, 50.2 percent of households headed by someone 60 or older had some debt; by 2013, that had climbed to 61.3 percent. Among these

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older adult households with debt, the median amount they owed more than doubled from $18,385 in 2001 to $40,900 in 2013 (National Council on Aging, 2015).

In short, over the past several decades, America has experienced a potent ideological shift that drastically revised and weakened our social contract with older citizens. Katz describes this shift as the pressure to "responsibilize a new senior citizenry to care for itself" (2003:26). This shift has cost our older citizens quite dearly.

Bankruptcy—A Last-ditch Effort to Manage Increased Financial Risk

Existing literature provides ample evidence that older Americans have been disproportionately harmed by the shift in this country away from a modest social safety net toward a market-based, responsibilized approach to aging, which often effectively forces older Americans to take on debt and then scramble to manage their deteriorating financial lives (Ellis, Munnell and Eschtruth 2014). The rapid increase of older bankruptcy filers is one consequence of this shift. When the costs of aging are off-loaded onto a population that simply does not have access to adequate resources, something has to give, and older Americans turn to what little is left of the social safety net—bankruptcy court.

Bankruptcy: A Very Brief Primer. Individuals, versus corporations or municipalities, file either chapter 7 or 13 bankruptcy. In 2016, 63 percent of filings were chapter 7 cases; the remaining 37 percent were chapter 13 (U.S. Courts (b) 2016). Chapter 7 bankruptcy is often referred to as "fresh start" or "liquidation" bankruptcy. These cases take four to six months to move from filing to debt discharge (Foohey, Lawless, Porter & Thorne, 2017; Lawless, Braucher, Cohen, 2012; Porter 2012). Most chapter 7 cases end in a discharge, erasing unsecured debts such as credit

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card and medical debt. Some unsecured debts, such as student loans, taxes, alimony, and child support, are nondischargeable, and the debtor remains responsible for those debts. For debts secured by collateral such as a home mortgage or car loan, a debtor must continue to make payments to be allowed to keep the property. According to data from the current CBP, 97 percent of chapter 7 cases end with a discharge, and the mean cost of filing chapter 7, including attorneys' and filings fees, is $1,257.

Chapter 13 bankruptcy is essentially a long-term repayment plan. Debtors retain all their property, and, in return, commit all their disposable income for the next three to five years towards paying down debts. Upon completion of the repayment plan, the debtor receives a discharge of the remaining amount of unsecured debts, subject to most of the same discharge exceptions as in a chapter 7. Debtors who file chapter 13 are legally *in* bankruptcy during the entire repayment period. Because chapter 13 plans require the debtor to devote all disposable income to repayment, even a slight financial setback like an unexpected auto repair can derail the plan. Only a little more than one-third (36.5 percent) of chapter 13 debtors complete their repayment plans and exit chapter 13 with a discharge (Greene, Patel, and Porter 2016). Data from the current CBP show that the average cost of filing chapter 13, including attorneys' and filing fees, is $3,457, or about 2.7 times the cost of a chapter 7.

METHODS

Data in this paper primarily are from the newest iteration of the Consumer Bankruptcy Project. The CBP is an ongoing, multi-researcher study that collects and analyzes data from bankruptcy court records and self-administered written questionnaires; these instruments create a comprehensive nationwide consumer bankruptcy dataset. Our primary goals are to identify the

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relevant demographics of people in bankruptcy, the leading reasons for bankruptcies, and the hardships and consequences that accompany bankruptcy. To the best of our knowledge, the CBP is the only project that draws from a nationally-representative sample of bankruptcy filings, and the only project to have collected historical data about people who file bankruptcy.

Past iterations of the CBP occurred in 1981, 1991, 2001, and 2007. Because of technological limits, data for the 1981, 1991, and 2001 studies relied on samples from bankruptcy courts in five states or judicial districts across the U.S. in urban and rural areas that were believed to be nationally representative. (For a complete discussion of the data collection methods used in the 1981, 1991, and 2001 studies, see Sullivan, Warren & Westbrook, 1989; Sullivan, Warren & Westbrook, 2000; Warren & Tyagi, 2003.) With the introduction of electronic court dockets, data for the 2007 CBP were collected for a national random sample of bankruptcy filers (Lawless et al. 2008).

We launched the CBP for a fifth time in 2013. Rather than collect data as a single snapshot in time, we generate a list every three months (February, May, August, and November) of the population of chapter 7 and chapter 13 bankruptcy filers from the fifty states and Washington, DC. From this population, a sample of 200 cases is randomly drawn. The sample excludes cases filed by a legal entity like a corporation or limited liability company. Only individual debtors are studied. Court records, which provide extensive financial information, are downloaded and coded.

Mailing addresses for the sample are gathered from court records. Debtors are sent a letter telling them they have been randomly selected into the study and that a written questionnaire will soon follow. If a debtor does not return the original questionnaire within a couple weeks, a reminder letter and replacement questionnaire are sent. Questionnaires can also be completed

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online. Debtors are offered a $50 gift card from Walmart or Amazon for participation. The questionnaires collect demographic and household information, reasons for filing bankruptcy, hardships experienced before filing bankruptcy, emotional responses to bankruptcy, and basic health information.

Court record and questionnaire data used in this paper came from the twelve samples collected February 2013 through November 2016—a total of 3,200 bankruptcy cases, combined with 910 completed questionnaires—a 28.4 percent response rate. To test for questionnaire response bias, we compared the court records of respondents and nonrespondents. Across a variety of key financial measures – including total assets, total debt, income, and debt-to-income ratio –no significant differences between respondents and nonrespondents were identified except that respondents' income is 9.2% lower.

Of the 910 questionnaires, 895 provided valid age data. Of the questionnaires with valid age data, 120 or 13.4 percent reported at least one head of household as age 65 years or over.

During data analysis, we relied on the following conventions. When a married couple filed a joint bankruptcy petition, there was one judicial case but two petitioners; 24.2 percent of the cases were joint petitions. With joint petitions, if *either* petitioner was 65 or over, their case was coded as an older debtor case. When reporting percentages of bankruptcy filers by age cohort, *we counted persons rather than cases*; when data were collected from a joint petition, data were collected from two people. In contrast, most items in the court records and on the CBP questionnaire collected information about the household unit as a whole.

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SAMPLE CHARACTERISTICS

In Table 1, household-level data are used to report the demographics of those who are 65 and over ("older debtors") and those who are under 65. The mean age of older debtors was 70 years. Among those who were under 65, mean age was 45. Our youngest debtor was 19; our oldest was 92.

There was no significant difference between older and younger debtors by race. However, compared to the U.S. population (Kaiser Family Foundation 2014), both black and white Americans were over-represented in our sample (12 percent and 62 percent of the U.S. population, respectively). Asian Americans (6 percent in the U.S. population) and Hispanic Americans (18 percent in the U.S. population) were under-represented.

Just over one in five younger debtors had earned a four-year college degree at the time of bankruptcy. Only one in seven older debtors reported the same level of education. These differences were significant. Differences in rates of employment were also significant, with younger debtors much more likely to be employed. Obviously, younger and older debtors were in very different stages of the life course, so while education and employment present statistically significant differences, neither were surprising nor particularly meaningful. Finally, younger and older debtors are similarly likely to be married, and they filed chapter 7 and chapter 13 bankruptcies at nearly the same rates.

[Insert Table 1 about here]

RESULTS

Older Americans and Bankruptcy

The Administrative Office of the United States Courts does not collect data on the ages of those who file bankruptcy. But the CBP has been collecting this data point for decades. For this article,

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we studied the relationship between aging and bankruptcy from two critical perspectives: the rate at which older Americans from *within the general U.S. population* file bankruptcy, and changes in the proportion of older Americans *within the bankrupt population.*

Within the General Population. A two-tailed bell curve is a fairly accurate historical representation of the rate at which Americans have filed bankruptcy. Since the early-1990s, filing rates have been lowest for the youngest and oldest Americans, and highest for those in middle-age. However, since 1991, there also has been an increase in the age of filers (Table 2). Since 1991, younger Americans' rates of filing have been steadily decreasing. In stark contrast, during that same time period, older Americans' rates of filing bankruptcy increased two- and three-fold (65-74 and 75 and over, respectively) (Table 2).

[Insert Table 2 about here]

The bankruptcy trend among older Americans is so robust that the broader trend of an aging U.S. population can explain only a small portion of what is happening in the bankruptcy courts. According to U.S. Census data, in 1991, persons age 65 and over made up 17.0 percent of the population age 18 and over. In 2015, it was 19.3 percent. Among Americans 18 and over, the share of people 65 and over is not growing as rapidly as conventional wisdom might have it.

Within the Bankrupt Population. Not only are the rates of older Americans filing bankruptcy on the rise, but in 2009, Thorne, Warren, and Sullivan, using data from past iterations of the Consumer Bankruptcy Project, reported an increased percent of older filers *within the bankrupt population*. Our current data suggest that this trend has not only persisted, but also that there has been exponential growth within the ranks of older filers. This pattern is reflected in Table 3. One

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in seven bankruptcy filers is of retirement age, 65 years or over. This is nearly a five-fold increase over just two and a half decades. This is a notable demographic shift.

Within the oldest cohort, those age 75 and over, there has been a near ten-fold increase since 1991. In 1991, this group constituted only 0.3 percent of filers, as compared to 3.3 percent now.

[Insert Table 3 about here]

The overall trend is clear. Bankruptcy filers in the youngest cohorts (18-24, 25-34, and 35-44) now comprise a much smaller segment of the bankrupt population than they did twenty-five years ago. During that same period, there has been a marked increase in the percent of filers among the older cohorts (55-64, 65-74, and 75 and above), those people who are approaching or are in their retirement years. For comparison, the mean age for filers in 2007 was 44.4 years and in the current CBP, less than 10 years later, the mean age is 48.5—a statistically significant difference. This is a striking change in a short period.

Older Americans' Reasons for Bankruptcy—Evidence of a Risk Shift

The leading reasons for bankruptcy have held fairly constant for some time—job loss or a decline in income, and medical problems (Porter and Thorne 2006; Sullivan, Warren and Westbrook 2000; Warren and Tyagi 2003). Using data from the 2007 CBP, Thorne (2010) reported that filers 65 and over were in bankruptcy because of credit card interest rates and fees, medical problems, a decline in income, and aggressive debt collection practices. Regardless of age, leading data suggest that income problems and medical costs top the list of events that push households into bankruptcy.

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Data from the current CBP suggest that financial struggles, namely a decline in income, was a leading reason for older Americans' bankruptcies—almost seven out of ten respondents (69.1 percent) reported that they "very much" or "somewhat" agreed that this was the reason for their bankruptcy. These financial problems may have resulted from inadequate retirement income, job loss, or from jobs that pay older people less—all risk shifts described by Hacker (2006). Consider this comment from a respondent describing both the consequences of inadequate retirement and employment income:

> *All things went up in price. Retirement never went up. Had a part time job that was helping to meet monthly payments. House payment kept going up. Was fired from my part time job that I had for over 10 years without any warning. Being 67 and having back problems, not many people will hire you even as part time worker.*

Another respondent's comment describes an additional financial risk that can be especially consequential for retirees—the popular defined-contribution plans, like 401(k)s, that individuals are left to manage on their own.

> *Mismanaged my retirement savings due to depression. Invested in stock market but over-leveraged my account. Tried to restructure my debts but creditors refused. Unable to find suitable employment to pay my credit cards. Filed bankruptcy.*

Just over seven out of ten respondents (71.6 percent) either "very much" or "somewhat" agreed that they filed because of the stress of dealing with debt collectors. Collectors called their homes, their workplace, their families, and knocked on their doors. This couple's story illustrates the power of debt collectors to push debtors toward bankruptcy.

> *My wife developed medical problems and had to leave her job, resulting in a loss of income. About two years later, I developed medical problems and was not able to continue*

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working. We got to a point where we simply could not handle the debt load. The constant calls from bill collectors forced us to contact an attorney for help.

Medical expenses also were a catalyst for bankruptcy for more than six out of ten (62.2 percent) respondents. Comments from respondents suggest the inadequacy of the shrinking safety net of social security and Medicare to address the costs of healthcare.

My bankruptcy started with back surgery I had in 2011. I had several medical tests that my insurance did not cover. This caused me to fall behind in my medical payments. The next thing I knew, the bills began piling up. I got to the point I owed more than I was making on Social Security. To get out from under these medical bills I had to file bankruptcy.

I went without medical and dental. Even with Medicare and supplemental dental insurance, the co-pays were more than we could afford. I still need dental work. It will have to wait until I can save up the money. Our income is just over the limit to get [governmental] help.

Additionally, 40 percent of respondents reported that they "very much" or "somewhat" agree that missing work for medical reasons was a reason for their bankruptcies. When the variable "missing work" is combined with "medical expenses," 69.6 percent of respondents "very much" or "somewhat" agreed that this combination of reasons led to their bankruptcies.

Finally, respondents were asked to list the *single most important thing* that they or their family members were unable to afford in the year before their bankruptcies. Over half of older filers (52 percent) who responded indicated that the single most important thing they had to go forego was related to medical care—surgeries, doctor visits, prescriptions, dental care, and health/supplemental insurance. These responses continue to suggest that their health care coverage is inadequate.

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With few exceptions, the road to bankruptcy is long. Thirty percent of all bankrupt households, regardless of age, report that they seriously struggled with their bills for five years or more. Another 36 percent struggled for less than five but at least two years (Foohey et al., Forthcoming). Older filers describe a similar trend. Among older respondents, one-fifth (20 percent) seriously struggled for five years or more to manage their bills and avoid bankruptcy. Approximately four out of ten older Americans (42.6 percent) seriously struggled for two to five years. Combined, more than six out of ten older debtors struggled for at least two years to repay their debts before they turned to bankruptcy for help. Struggling for several years to repay one's debts is an unfortunate way to spend one's retirement years.

Financial Circumstances of Older Bankrupt Americans

Obviously, no one would expect bankruptcy petitioners to be financially sound—they are, after all, filing bankruptcy. Regardless, the degree of their financial collapse is often staggering. Table 4 presents financial data from younger debtors, older debtors, and non-bankrupt older Americans. There are two key takeaways from these data. First, the financial circumstances of the young (under 65) and the older (65 and over) bankruptcy debtor groups suggest that while both are seriously struggling, older filers are, overall, in worse financial shape than younger filers. Second, the financial differences between older debtors and older non-bankrupt Americans suggest two disparate later-life experiences that may reflect potential financial implications of the risk shift.

[Insert Table 4 about here]

Compared to Younger Filers. Younger and older bankruptcy filers owe similar amounts of median total debt ($91,964 and $101,560, respectively). However, most of the debt owed by

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older filers is secured; in comparison to younger filers ($19,964), they owe three-and-a-half times the amount of secured debt ($70,047). This likely reflects increased rates of homeownership—66.4 percent of older and 41 percent of younger filers own their homes. Median total assets of older filers ($90,476), which is about three times that of younger filers ($32,073), also likely reflect their higher rates of homeownership, as well as retirement or pension accounts, stocks, or savings. Compared to older debtors ($32,713), younger debtors owe significantly more unsecured debt ($42,115), which typically includes student loans and credit card debt.

Despite having higher *total* debt loads, older filers report less annual income than their younger counterparts, which is likely the result of retirement and living on fixed incomes ($30,575 and $38,101, respectively). The summary variable, debt-to-income ratio, is the most meaningful litmus test for financial health. Younger filers owe about two-and-a-half times their annual salary in total debt (ratio of 2.41); older filers owe more than three times (ratio of 3.2) their annual incomes in debt. Stated differently, older Americans who file bankruptcy *owe more than three dollars for every one dollar in income*.

Compared to Non-bankrupt Counterparts. Compared to their non-bankrupt counterparts, the financial circumstances of older bankrupt Americans are abysmal. Older filers reported median total debt of $101,560. Their non-bankrupt peers owed $1,000. At the time of their bankruptcies, older people in bankruptcy have total debt that is *more than 100 times* that of their non-bankrupt counterparts. Further, those who filed have been servicing these large debts for years, if not decades, thereby further undermining their wealth.

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Older filers report $90,476 in assets; their nonbankrupt peers have more than two and a half times that amount ($252,500)—more than one-quarter of a million dollars in assets. Again, these assets include homes, savings, investments, and retirement funds, all of which fashion a strong safety net for aging persons. If necessary, the home can be sold and retirement and investment accounts can be liquidated to cover the expenses, such as substantial medical bills or costs associated with a care facility. Total assets are a financial measure whereby older bankrupt Americans fall terribly short, and are therefore at increased risk of needing to turn to bankruptcy as a last-ditch measure. Also, the median income of older filers ($30,575) is $6,000 a year less than their counterparts ($36,523). This difference could be the result of many things, not the least of which is retirement accounts that were tapped to pay other debts.

Recall that older bankrupt Americans have a median debt-to-income ratio of 3.2. In stark contrast, the median total debt-to-income ratio for older non-bankrupt Americans is negligible at .03. *For every dollar in annual income, non-bankrupts owe three cents to their creditors; older bankrupts owe three dollars*.

Subtracting total debts from total assets provides a rough calculation of one's wealth. Keister (2000) asserts that wealth is a critical measure of a family's well-being, "quite different from income (9). . . . Wealth implies a more permanent notion of security and an ability to secure advantages in both the short and long terms" (11). Non-bankrupt older Americans have approximately $251,500 in wealth; bankrupt older Americans have net ***negative*** wealth of $17,390 at the median. This severely undermines their financial security.

Across every relevant financial measure, older people in bankruptcy are considerably worse off than their non-bankrupt counterparts. Instead, the financial circumstances of older filers more closely mirror younger filers than their generational peers. Their advanced age and

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the corresponding limited time they have to financially recover raises concerns about their capacity to adequately fund their so-called golden years.

DISCUSSION

In 2009, when Thorne, Warren and Sullivan reported on the aging trends within bankruptcy, they concluded by stating, “For now, we focus on sounding the alarm about the shifting demographics of bankruptcy and the sharply declining fortunes of substantial numbers of seniors” (100). This article is in response to that alarm.

The demographic shift among seniors has continued full tilt. Older Americans are more likely than ever to find themselves in bankruptcy court, seeking protection from creditors. Depending on their age cohort, their rate of bankruptcy has increased between 200 and 300 percent since 1991. Further, bankrupt households are more likely than ever to be headed by a senior. The percent of bankrupt filers age 65-74 has increased almost 500 percent since 1991, growing from 2.1 percent of the bankrupt population to 12.2 percent in 2016. Even adjusting for increased numbers of older Americans, older people are still more likely to seek protection in bankruptcy courts than in prior decades.

At the same time that seniors are filing bankruptcy in record numbers, their financial circumstances are increasingly dismal. Between 1992 and 2016, the percent of nonbankrupt senior households with debt increased from 41.5 percent to 60 percent. During that same time, the amount of debt these households carried grew five-fold, from $6,000 to $31,300 (National Council on Aging, 2018). Bankrupt seniors are in even more dire straits. Their median total debt of $101,600 is three times their annual income, and their wealth is a *negative* $17,390. The

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obvious takeaway is that the financial stability of older Americans, bankrupt and otherwise, has deteriorated.

The number of senior households filing bankruptcy is not negligible. With 800,000 household filings annually, approximately 97,600 (12.2 percent) of those are households headed by seniors. The drivers of these bankruptcies were reported by our respondents. The most pressing was inadequate retirement and employment income. Respondents also reported that medical expenses pressed them into bankruptcy. While people 65 and over have access to Medicare, our results suggest that the coverage may be insufficient and the cost may be unmanageable for a large swath of the older American population.

Marshall and Bengtson assert that a risk society exists when “social institutions provide less ‘insurance’ against the vicissitudes of life, such as job loss or loss of one's health and individuals are expected to assume responsibility to navigate these risks” (2011:24). Our data suggest that older Americans’ financial decline and eventual bankruptcies can be linked to the dismantling of the United States’ social safety net and the corresponding financial risks placed on individuals. During the twentieth century, countries that embraced the modern welfare state assured their citizens “a wide range of individual protections, the most basic of which are retirement security and access to preventive and curative health care” (Angel and Settersten 2013:107). These policies of shared risk decrease the financial risks of aging citizens and obviate the need to take out unmanageable debt. The United States not only has not followed suit, but has also weakened many programs designed to help seniors through their retirement and final years (Ellis, Munnell and Eschtruth 2014).

From our findings, it might be tempting to conclude that a reasonable solution is to encourage financially distressed older Americans to file bankruptcy sooner rather than later. If

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nothing else, this would reduce the likelihood of wealth transfers from their retirement accounts to their lenders. Research shows that a stable retirement depends on "preserving retirement assets and benefits" (Twomey and Maynes 2016). Empty savings and stripped retirement accounts are unsustainable ways to approach and live one's retirement years.

But bankruptcy is not and never has been a panacea, especially for older people. As Porter and Thorne (2006) have shown, older chapter 7 filers were significantly more likely to continue to experience financial struggles post-bankruptcy. Compared to younger debtors, they were more likely to report that their financial situations were either worse than or as bad as when they initially filed bankruptcy.

Even when older debtors exit bankruptcy in relatively decent financial shape, there is still the issue of the practicality of full financial recovery (Pottow 2011). Given their age, how realistic is it to expect them to regrow their assets to sustain them during their retirement years? The likelihood of landing a well-paying job is slim—older debtors are fully aware of this Sisyphean struggle of overcoming the ageism of finding employment. And if they filed because of debts from chronic illness, bankruptcy does not improve their health or access to affordable healthcare or prescriptions. Realistically, when older Americans file bankruptcy, they are most likely to experience a long-term, probably permanent second-class economic status.

For those older Americans who nonetheless find themselves turning to bankruptcy for help, we must consider what counts as "success." Success in the bankruptcy of a 30-year old is not likely to be the same for a debtor over the age of 65 who does not have years of income production and wealth accumulation ahead. The "fresh start" of bankruptcy's discharge is designed to clean the financial slate such that debtors can rebuild their wealth. But for older

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individuals, their wealth already should have been built. At this point, older Americans need to rely on their wealth to survive, and there is not time to start their financial growth anew.

There are few solutions for older Americans in bankruptcy. For those older Americans who file chapter 7, broadening their exemptions likely is the most effective way to allow them to keep what little wealth they have accumulated prior to bankruptcy after their case ends. Enacting exemptions aimed at persons over 65 or indexed by age would help preserve assets for these debtors' remaining years. Only then might filing bankruptcy make financial sense for many older individuals. Short of legal changes, attorneys counseling older debtors should consider whether bankruptcy will provide the tools they need to get their lives back on track, or, rather, whether helping these people fend off debt collectors will allow them to better manage their financial lives.

Tweaking the relief available to older debtors in bankruptcy, however, will not solve the financial crisis that our data suggest is hitting older Americans with increasing force and urgency. Our data say much more about the United States' disintegrating social safety net and older Americans' resultant financial risk and accumulation of debt than the consumer bankruptcy system. The most effective solution to older Americans' increasing financial plight is a social safety net that obviates the need to take out debts that result in financial crises. In prior decades, Americans collectively decided that we have a responsibility to our older citizens to absorb the financial risks they face. But it appears that we have since abandoned that commitment. We can do better. Historically, we have.

At the core, the lessons of prior decades show that aid to older citizens must originate with our government. Community and charitable organizations, while having the best of intentions, are inadequate. Comprehensive policies led by our government will ensure financial stability for

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all elderly citizens. We appear to be in the midst of an old-fashioned game of tug-of-war. On the one hand, many Americans believe that providing a strong social safety net for our older citizens, a net that reduces their individual financial risks, is part of our collective responsibility. On the other hand, there are those who insist on policies that continue to unravel that safety net, leaving older Americans to fend for themselves.

CONCLUSION

How we manage the time called retirement, the span between when we stop working and when we die, is a social issue affecting the lives of tens of millions. America has come almost full circle in its attitudes toward its older citizens—from sending them to the poorhouse when they became a financial burden, to ameliorating their economic risks with pensions, a responsive social security program, and healthcare, and now to transferring financial risks to them that can drive them to financial collapse.

Absent significant policy changes that reassume the risks of aging and effectively insure the financial stability of older Americans, our data suggest that the trend of an aging bankruptcy population will continue. In 2015, almost 15 percent of the U.S. population was 65 and over. By 2050, almost a quarter of Americans, 88 million, will be over 65 (U.S. Census 2016). If current bankruptcy trends among seniors continue, our bankruptcy courts will be flooded with financially broken retirees. For older Americans, bankruptcy is too little too late. By the time they file, their wealth has vanished, and they simply do not have the enough years to get back on their feet. Our data expose the severity of the continuing financial decline of older Americans. Now that we can see the magnitude of the coming storm of broke elderly, it is time to renew our commitment to supporting our citizens as they age.

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Table 1. Demographic Characteristics of Bankruptcy Filers, 65 or Older and Under 65, by Household

	65 years or older	Under 65
Age (mean)*	70	45
Race		
African-American	20.0%	26.2%
Asian	2.5%	2.9%
Hispanic	6.7%	12.6%
White	70.8%	64.0%
Other	4.2%	5.2%
Bachelor's degree or higher*	13.4%	21.6%
Employed*	29.4%	82.2%
Married	41.7%	36.7%
Filed chapter 7	65.8%	66.7%

Notes: Household-level data are reported in Table 1, as such, if a joint petition was filed, age is the average of *both* heads of household. A household belonged to a racial category if either head of household identified with that race. If a joint petition was filed and there were two heads of household, a bachelor's degree was coded as 0.5 if only one head of household had the degree. If a joint petition was filed and there were two heads of household, employment was counted if either head of household reported employment. Statistical significance was determined by a chi-square or t-test ($p < .05$) is indicated by an asterisk.

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Table 2. Bankruptcy Filing Rates per 1,000 U.S. Population, By Age Cohorts

	1991	2001	2007	2013-16	Relative percentage change: 1991-2016
	-------------------------(rate)------------------------------				
Age group					
18-24	3.9	3.7	1.7	0.9	-77.8%
25-34	10.2	12.7	5.8	3.7	-63.8%
35-44	9.3	14.4	6.7	5.6	-39.6%
45-54	7.3	11.4	5.8	7.1	-2.4%
55-64	3.5	5.5	4.9	5.8	+66.2%
65-74	1.2	3.1	2.9	3.6	+203.9%
75+	0.3	2.3	1.3	1.3	+345.1%
65+	*n/a*	*n/a*	2.5	2.8	
<65	*n/a*	*n/a*	5.2	4.8	

Notes: Table 2 shows the estimated filing rate per 1,000 persons, extrapolating the CBP data across the country using U.S. Census data. The 2007 and 2013-16 estimates are from national random samples and are directly computed. The 1991 and 2001 figures are taken from Thorne, Warren & Sullivan (2009). Estimates include an adjustment for the number of joint filings in each database.

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Table 3. Percent of U.S. Bankruptcy Filers by Age Cohort

Age group	1991	2001	2007	2013-2016	Relative percentage change: 1991-2016
	(percent)				
18-24	8.7	5.3	4.2	2.1	-75.8%
25-34	36.7	26.1	21.9	15.5	-57.7%
35-44	30.6	33.7	28.1	20.4	-33.4%
45-54	15.8	23.2	23.6	28.3	+79.3%
55-64	6.1	7.2	14.7	21.5	+252.1%
65-74	1.8	3.0	5.3	8.9	+392.6%
65+	2.1	4.5	7.6	12.2	+478.9%
75+	0.3	1.5	2.3	3.3	+996.9%

Notes: The percentages are based on total number of filers, not number of petitions. Thus, a joint bankruptcy petition from a married couple results in two filers.

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Table 4. Financial Characteristics of Younger and Older Bankruptcy Filers, and Older Non-Bankrupt Americans

	Bankrupt Under 65	Bankrupt 65 and Over	Non-Bankrupt 65 and over
Total debt	$153,173 ($91,964)	$202,592 ($101,560)	$50,231 ($1,000)
Secured debt	$79,969* ($19,572)*	$158,616* ($70,047)*	
Homeownership	41.0%*	66.4%*	83.2%
Total assets	$93,373* ($32,073)*	$186,928* ($90,476)*	$899,721 ($252,500)
Unsecured debt (incl. priority debt)	$72,947* ($42,115)*	$43,989* ($32,713)*	
Pretax annual income	$43,997* ($38,101)	$42,544* ($30,575)	$76,403 ($36,523)
Total debt/income	4.12 (2.41)*	4.94 (3.20)*	0.78 (0.03)

Notes: Medians are shown in parentheses. The bankruptcy data are from the 2013-16 CBP. Nonbankruptcy data are from the Survey of Consumer Finances (SCF) as computed from the SDA web-based tools available at http://sda.berkeley.edu/index.html. Statistically significant ($p < .05$) differences within the bankruptcy data are indicated by an asterisk and were computed using a t-test for the means, using a Wilcoxon rank-sum test for the medians, and using a chi-square test for home ownership. To be comparable with the SCF figures, the income levels for bankruptcy filers add back payroll deductions to the income reported on the bankruptcy schedules. Thus, the income reported in Table 3 for CBP filers differs from the income reported in some other studies using CBP figures.

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