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YOUNG, OLD, AND IN BETWEEN: WHO FILES FOR BANKRUPTCY?¹

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Who are these people who are seeking protection from their creditors in bankruptcy court? No single question drives inquiries about the bankruptcy system more than this one. From that starting point, the questions multiply and take on a variety of normative shadings. Are these filers young people hooked on credit cards? Old people drowning in prescription drug debt? Boomers struggling to keep up with the mortgage, car payment, and the costs of raising a family? In the first half of 2001, during Phase III of the Consumer Bankruptcy Project, we collected extensive demographic data about the debtors filing for bankruptcy. We make the first report of those data here, focusing on an analysis of the ages of the petitioners. Because we collected similar data in our 1991 study, Consumer Bankruptcy Project II, we are able to deliver not only a snapshot of the debtors in bankruptcy today, but we can also offer longitudinal data that provide a moving picture of how the population of debtors has changed over a decade.

Petitions versus Petitioners

Like all good numbers people, we begin this analy-

sis with an observation about the complexity of the data. Namely, the statistics published by the Administrative Office of the United States Courts are overwhelmingly reported in terms of *petitions* filed, rather than numbers of *petitioners* filing for bankruptcy. For example, when a couple files for bankruptcy, one petition is counted. In reality, of course, two people have actually filed. The number of petitions filed is an important benchmark for research and debate, of course, but it under-reports the number of adult Americans whose legal rights are altered through the bankruptcy system. When we discuss individual characteristics of the debtors such as age and sex, it is appropriate to look at *all* petitioners, not just those individuals who are listed as the "primary debtor."

The difference can be significant. During the twelve-month period ending June 30, 1991, the Administrative Office of the United States Courts reported that 820,208 *petitions* had been filed.⁵ In fact, 38.7% of those were filed jointly,⁶ 432,211 + 1,354,893 = 1,787,104 (total number of primary and secondary petitioners) which means that the total number of petitioners in bankruptcy was 1,137,629,

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a number already in excess of a million long before the politicians seized on the magic “one million” in discussing bankruptcy filings. (See Table 1.) Similarly, during the twelve-month period ending June 30, 2001, the total number of *petitioners* was 1,787,104 because 31.9% of the 1,354,893 *petitions* filed had been filed jointly. In terms of raw numbers, the difference between *petitions* and *petitioners* is substantial; indeed, when we use the more inclusive statistics, we see that the number of Americans involved in the process of bankruptcy is much greater than typically reported.

Age distribution of petitioners

In order to make comparisons among age groups, we classified the debtors from both the 1991 and 2001 studies into six age categories: debtors under 25, 25-34, 35-44, 45-54, 55-64, and those 65 and over and determined the proportion of debtors in our sample in each subgroup.⁷ We projected the number of total filers in each age group by multiplying those percentages times the filings data published by the Administrative Office of the U. S. Courts. The result is the estimated number of petitioners by age.⁸

A summary of these calculations is shown in Table 1. The data presented on the left half of the table show the percent of *primary petitioners* in each age category and the corresponding raw numbers for 1991 and 2001. Because married couples overwhelmingly list the husband as the “first petitioner,” the resulting figure reports far more males than females. The right half of Table 1, which summarizes the same statistics but for *all petitioners*, corrects the primary petitioner bias. In the case of married couples filing jointly, we used age data for both husbands and wives. For purposes of this paper, the remainder of the discussion will focus exclusively on the data for all (primary and secondary) petitioners.

A quick review of Table 1 reveals that the greatest number of bankrupt debtors are consistently in the middle-age categories. Specifically, 60% of all petitioners in both 1991 and 2001 are between the ages of 25 and 45, with younger and older debtors much less likely to file. Fig. 1 presents the numbers of total petitioners, by age, in graphic form.

The raw numbers in Table 1 and Fig. 1, however, do not reflect the changing age structure of the United States population. In 1991, for example, the largest single age group in the population was 25-34. Ten years later, this same large age group was 35-44. Consequently, an increase in the total number of filings in 2001 for the 35-44 group might have resulted solely from the growth in the numbers of Americans in that cohort. To control for changes in population,

we need to convert these raw numbers into filing rates per thousand of the population in that same cohort. In that way it is possible to compare the likelihood that someone in a particular age group will declare bankruptcy and how it has changed over time—while controlling for growth in the population generally and changes in the age composition of that population. This has been done with Fig. 2 and Fig. 3.⁹

Fig. 2 shows how, on average, the rate of bankruptcy filings has increased from 6.08 to 8.55 per 1,000 adult Americans. Over the past ten years, this represents a 40.6% increase in the rate at which American debtors file for bankruptcy. That is, of course, substantial growth, although not nearly so large as the growth that is usually cited that fails to account for increases in the general population.¹⁰

In contrast, notice that the bankruptcy filing rate of young petitioners, those under 25, has actually declined somewhat, from 3.76 to 3.49 per 1,000 young people.¹¹ This constitutes a 7.2% *decrease* in the rate at which debtors under 25 file for bankruptcy. It appears that this group of debtors has not kept pace with the national average. The decline is very small, and we urge caution in interpreting changes when the initial filing rate is low. Nonetheless, these findings challenge the assumption that young people have fueled the increases in bankruptcy filings.

These data suggest another important trend: The rate at which older Americans, those 65 and over, are filing for bankruptcy is definitely increasing. Although the initial rate in 1991 was very low, only about .75 per 1,000 older Americans, this rate jumped to 2.35 per 1,000 older Americans ten years later. But just how much of an increase is this? Data from Fig. 4 indicate that this change represents an increase of 213%, which is clearly the largest rate growth within any age group. Not only is this a large percentage increase, but it occurred during a decade in which the number of older Americans rose from 31.8 million to 35 million people. That means that the absolute number of older Americans in bankruptcy climbed even faster than the growth in the population among that group. Again, we urge caution in interpreting these data because the initial number of older Americans in bankruptcy is small, which necessarily inflates the proportional size of any increase. Even so, the fact remains that over the past decade, the rate at which older Americans sought the protection of the bankruptcy courts has more than doubled.

The shifts in filing rates among the young and old are interesting, but the overwhelming fact that emerges from this study is that most of the activity in the bankruptcy courts comes from middle-aged debtors. In ten years, the median age of bankrupt debtors, according

to our studies, has risen from 36.5 to 40.6. Despite their self-images to the contrary, these are people firmly in the years that most life-course researchers describe as “middle-aged.” In 1991, the largest age group of petitioners were aged 25-34. These petitioners were born between 1957-1966. Because the baby boom is usually described as the generation born between 1946 and 1964, this group of petitioners could fairly be called the younger Boomers. The younger Boomers accounted for 418 thousand bankruptcies in 1991, and their filing rate of 9.74 was the highest recorded in the study. Ten years later, these younger Boomers were aged 35-44, and both their numbers of bankruptcies and their rates of bankruptcy had risen. In the year ending June 30, 2001, an estimated 602 thousand younger Boomers have declared bankruptcy. They are still the largest single group in bankruptcy in 2001, and their rates are still the highest: 13.34 per thousand.

The older Boomers, those born 1947-1956, were those aged 35-44 in our 1991 study. They had the second highest number of filings and the second highest filing rates in 1991. By 2001, when they were aged 45-54, they were still well-represented in bankruptcy. Nearly a quarter of all bankrupt debtors were in this age group, and their filing rate of 11 per thousand was the third highest in 2001. The rate of filing for older Boomers was higher than any rate that had been observed in 1991. These two groups of Boomers—older and younger—accounted for 766 thousand petitioners in 1991 and for 1.02 million petitioners in 2001. Whether overall numbers of bankruptcy filings will continue to rise depends in large part on the behavior of this population group as it ages.

There is evidence to suggest that the Boomer phenomenon has been an important driver of the rise in filings. United States birth rates fell sharply beginning in the late 1960s, giving rise to the “baby bust.” The filers aged 25-34 in 2001, who were all born during the baby bust, accounted for 26% of all bankruptcies in 2001. Ten years earlier, in 1991, the Boomers who had been aged 25-34 had filed nearly 37% of all bankruptcies. So the younger age group, despite a higher rate of filing in 2001, may end up filing fewer bankruptcies simply because there are fewer of them. Similarly, the group of filers who are

older than the Boomers, those who were 45-54 in 1991 and 55-64 in 2001, had filing rates that declined from 6.98 per thousand in 1991 to 5.3 per thousand in 2001. As a result, their proportion of bankruptcy petitioners fell from 15.8% in 1991 to 7.2 in 2001.

What happens to bankruptcy filings in the next decade will depend upon many things, including legal and economic changes in the country. But one demographic fact is predictable: the current population will age, and the aging Boomers will make a big difference in the number of filings. If they follow the pattern of previous older age groups, their rates may fall below the current 2001 levels but their large numbers may keep total filings elevated. If they follow their own previous patterns—driving up filing rates in every age group they enter—then the number of bankruptcies may reach new heights. Another imponderable will be what happens to the Baby Bust generation. Although their numbers are much smaller than the numbers of Boomers, if their bankruptcy rates continue to rise, the number of bankruptcies will continue to rise as well.

The Boomers have, of course, faced substantial economic difficulties. The very size of their age cohort fueled intense competition for jobs and housing. They are now in their “sandwich” years, caring for both younger and older dependents. It is not clear that their economic troubles have ended, as the nation faces difficult issues of how to finance their medical care and social security in their older years.

Summary

The debtors’ ages give one perspective on who are the people who find themselves at the doors to the bankruptcy courthouse. These data suggest that, even as we adjust for changes in the population, the Boomers—both older and younger—remain the most financially stressed generation. The data also signal a potentially serious problem among older Americans, with sharply higher growth among the over-65 group than with any other group. The age data suggest that the economic security of an aging population may be even more problematic than we have recognized.

Please turn to next page for further information and figures...

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TABLE 1

Estimated numbers of primary and all (primary and secondary) bankruptcy petitioners, by age and percent, 1991 and 2001

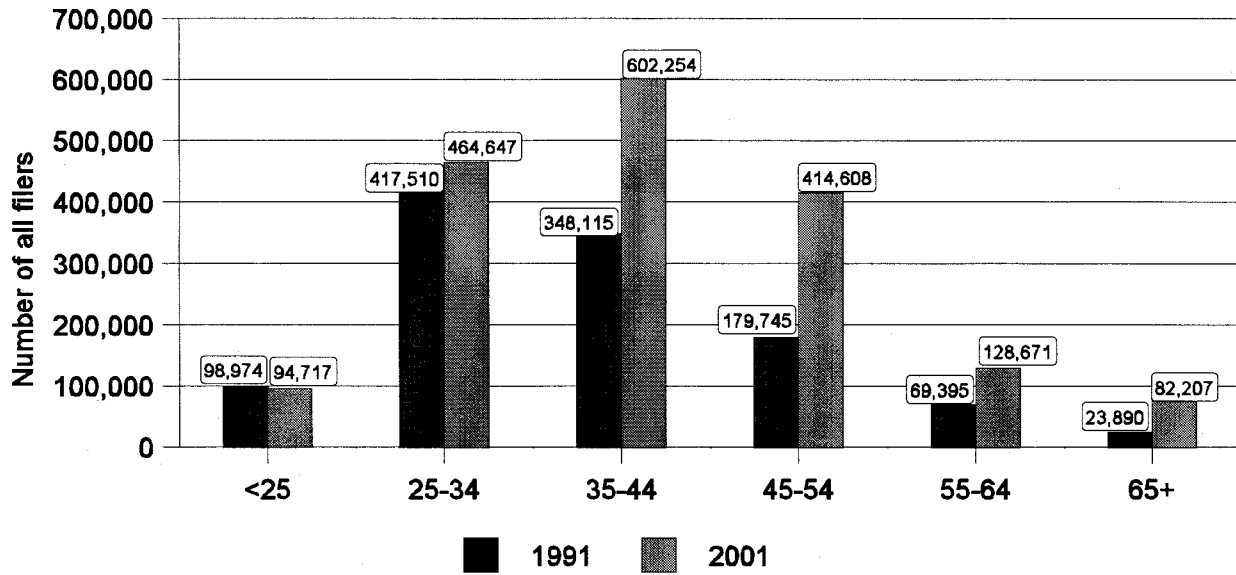
Age	<u>Primary Petitioners</u>				<u>All (primary and secondary) Petitioners</u>			
	<u>1991</u>		<u>2001</u>		<u>1991</u>		<u>2001</u>	
	Percent	Number	Percent	Number	Percent	Number	Percent	Number
< 25	7.9%	64,796	5.5%	74,519	8.7%	98,974	5.3%	94,717
25-34	35.7	292,814	25.9	350,917	36.7	417,510	26.0	464,647
35-44	31.0	254,265	32.5	440,340	30.6	348,115	33.7	602,254
45-54	16.2	132,874	23.4	317,045	15.8	179,745	23.2	414,608
55-64	6.8	55,774	7.6	102,972	6.1	69,395	7.2	128,671
65+	2.4	19,685	5.1	69,100	2.1	23,890	4.6	82,207
Total	100.0	820,208	100.0	1,354,893	100.0	1,137,629	100.0	1,787,104
N	2297		1192		3298		1506	

Source: Administrative Office of the United States Courts, 2001, “Total Bankruptcies Filed Rises in June,” Press release of August 24, 2001, available at <http://www.uscourts.gov/Press_Releases/601bk.pdf>; Administrative Office of the United States Courts, Tables F2F and F2E (twelve-month period ending June 30, 2001); Administrative Office of the United States Courts, Tables F2, F2F, and F2E (twelve-month period ending June 30, 1991); Consumer Bankruptcy Project 2001 and 1991 .

Note: Numbers of petitions for primary petitioners are based on all non-business filings plus Chapter 13 business filings. In 1991, this was for twelve-month period ending June 30, 1991; in 2001, this was for the twelve-month period ending June 30, 2001. Cases with missing values excluded.

FIGURE 1

Estimated numbers of all (primary and secondary) bankruptcy petitioners, by age, 1991 and 2001.

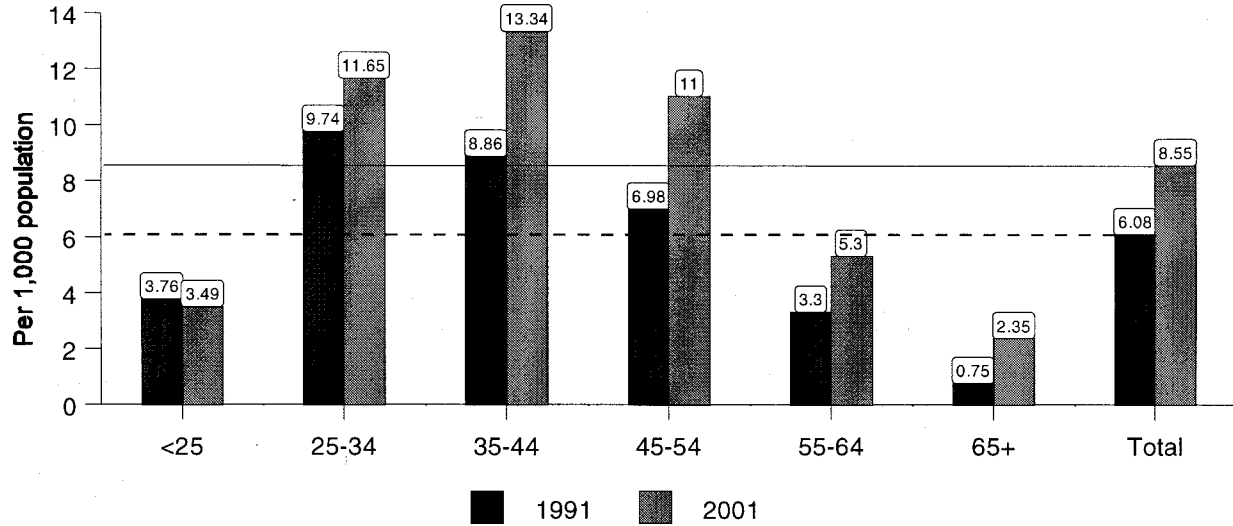


Source: Data from Table 1.

Note: Total number of all petitioners (primary and secondary) in 1991 was 1,137,629. In 2001, it was 1,787,104.

FIGURE 2

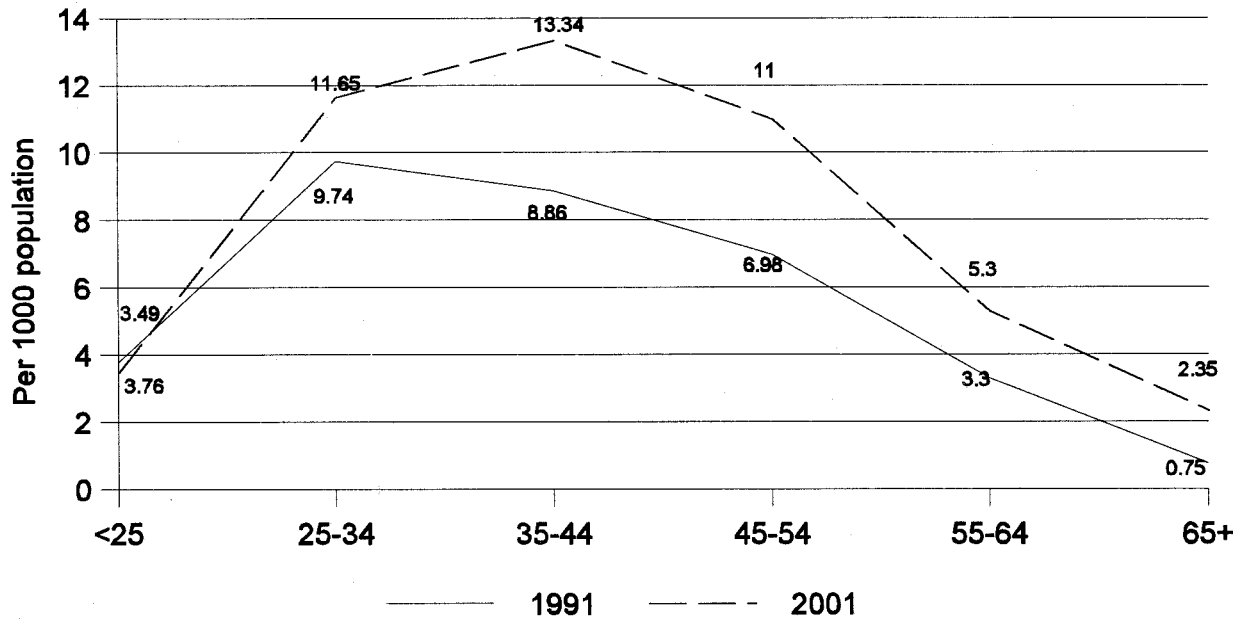
Estimated age-specific bankruptcy filing rates, per 1000 adult United States population, all (primary and secondary) bankruptcy petitioners, 1991 and 2001.



Source: United States Census, Annual Population Estimates by Age Group and Sex, Selected Years from 1990 to 2000, <<http://www.census.gov/population/estimates/nation/intfile2-1.txt>>; United States Census Bureau, 2000 Census of Population and Housing, Profiles of General Demographic Characteristics, DP-1, <<http://www.census.gov/prod/cen2000/index.html>>; Consumer Bankruptcy Project 2001 and 1991.

FIGURE 3

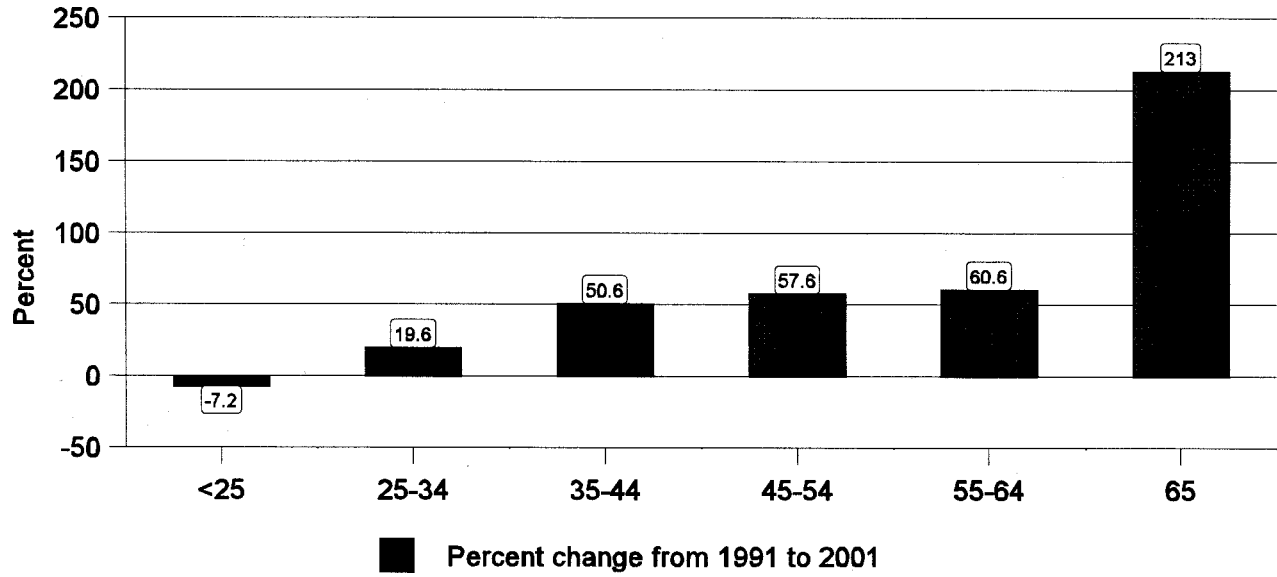
Estimated age-specific bankruptcy filing rates, per 1000 adult United States population, all (primary and secondary) bankruptcy petitioners, 1991 and 2001.



Source: Fig. 2

FIGURE 4

Estimated changes in rates of bankruptcy filings of all (primary and secondary) petitioners between 1991 and 2001, by age.



Source: Fig. 2

Appendix

The 1991 Sample
(Consumer Bankruptcy Project II):

The investigators used a one-page questionnaire to collect data from individuals filing in either Chapter 7 or Chapter 13 in sixteen federal judicial districts in five states. All four districts in California, all four districts in Texas, all three districts in Illinois, all three districts in Pennsylvania, and two of the three districts in Tennessee were included.¹² Questionnaires were distributed to debtors filing bankruptcy in Chapter 7 and Chapter 13; most were distributed and completed at the Section 341 meetings and collected by the Trustees. A cover sheet explained to debtors that their participation was entirely voluntary and guaranteed confidentiality for any information the subjects revealed. The debtors were asked for information concerning their sex, age, education, employment and marital status, race or ethnicity, and citizenship. In addition, debtors were given an opportunity to describe, in their own words, the reasons for their bankruptcy.¹³ In the case of joint filing, a single questionnaire was completed and questions about demographic information were asked of both petitioners. Debtors completed approximately 59,000 questionnaires, many more than were needed for an adequate statistical analysis. Consequently, 150 from each district were systematically sampled resulting in a sample size of 2,453.¹⁴

Of the total sample of 2,453, age data were unavailable for 155 primary petitioners, giving us a valid number of 2,297. Of 1,086 secondary petitioners, we were missing age data on 85, leaving us a valid number of 1001. Debtors who did not indicate their age were excluded from the analysis.

The 2001 Sample
(Consumer Bankruptcy Project III):

Data for Phase III of the Consumer Bankruptcy Project were collected during the first half of 2001. A pretest was conducted in the District of Massachusetts. Data were collected from the same five states as in the 1991 study: California, Texas, Illinois, Pennsylvania, and Tennessee. Rather than collecting data from multiple districts within each state, the 2001 data were collected in a single district in which a single city dominated the bankruptcy filings. The data were drawn from the Section 341 meetings in Los Angeles, California; Dallas, Texas; Philadelphia, Pennsylvania; Chicago, Illinois; and, Nashville, Tennessee.

Individuals filing in either Chapter 7 or Chapter 13 were invited to complete the questionnaire. The same protocol was used to insure debtors' voluntary

participation and confidentiality. The same general demographic questions were asked in 2001 as in 1991, but the 2001 questionnaire, which was six pages in length, included questions on a number of additional topics. In total, approximately 3,000 questionnaires were returned; 250 from each state were systematically sampled resulting in a core sample of 1,250 debtor questionnaires. Interested parties may contact the authors for a copy of the questionnaire.

The age findings were calculated using data from the 1250 questionnaires. Of the 1250 petitions, we had age data on 1192 primary petitioners and 314 secondary petitioners for a total of 1506 petitioners. Debtors who did not indicate their age were excluded from the analysis.

In both questionnaires, debtors were asked for their age at their last birthday. An analysis of single years of age using Whipple's Index indicated little evidence of age-heaping.¹⁵ A negative finding with respect to age-heaping is usually interpreted as an indicator that the data are of relatively high quality.

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- 1 Consumer Bankruptcy Project II was funded by the Education Endowment of the National Conference of Bankruptcy Judges. Consumer Bankruptcy Project III was funded through grants from the Ford Foundation, Harvard Law School and New York University Law School. None of the sponsors is responsible for the content or the interpretation of this article. The enthusiastic support and assistance of many bankruptcy judges, bankruptcy clerks, Chapter 7 and Chapter 13 trustees, and attorneys also contributed significantly to this work. We express our sincere gratitude to the organizations that provided financial support and to each of the judges, clerks, trustees and lawyers who made this research possible.
 - 2 Dr. Sullivan is Professor of Sociology and Vice President and Dean of Graduate Studies, The University of Texas at Austin.
 - 3 Dr. Thorne is Project Director of the Consumer Bankruptcy Project, Harvard University.
 - 4 Professor Warren is the Leo Gottlieb Professor of Law, Harvard Law School.
 - 5 This number includes all non-business petitions (811,208 during the twelve-month period ending June 30, 1991) and all Chapter 13 business bankruptcy petitions (9,000 during the twelve-month period ending June 30, 1991). Because Chapter 13 is available only to live human beings, the Chapter 13 business petitions represented individuals, even if they were self-employed. The business/non-business classification remains somewhat ambiguous around the country, which makes the inclusion of all Chapter 13 cases as individual cases more reliable for comparative purposes. This number is also a better approximation of the petitioners who were the respondents to our studies, which were directed at individuals filing in either Chapter 7 or Chapter 13. We have also included in our filing data all non-business Chapter 11s, because they are filed by individuals. We assume that the age distribution of Chapter 11 individual filers is the same as that of other individual filers.

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- 6 Calculated from filing data published by the Administrative Office of the United States Courts. See ADMIN. OFFICE OF THE UNITED STATES COURTS, tbl.F2F and F2E (for the twelve-month period ending June 30, 1991); ADMIN. OFFICE OF THE UNITED STATES COURTS, tbl.F2F and F2E (for the twelve-month period ending June 30, 2001) The percent and number of joint petitions, as well as total number of petitioners (all) were calculated in the following manner: The numerator in the equation is the number of joint nonbusiness petitions plus joint Chapter 13 business petitions. The denominator is the number of all nonbusiness petitions plus all Chapter 13 business petitions, which is also the number of primary petitioners. This equation produces the percent of petitions that were filed jointly. When this percent is multiplied by the denominator, the result is the total number of secondary petitioners. When this number is added to the denominator, we arrive at the total number of all (primary and secondary) petitioners.

Example for 1991 (12-month period ending June 30, 1991):

$$\frac{313,122 \text{ joint nonbusiness} + 4,586 \text{ joint Chapter 13 business}}{811,208 \text{ total nonbusiness} + 9,000 \text{ total Chapter 13 business}} = 38.7\% \text{ (joint petitions)}$$

811,208 total nonbusiness + 9,000 total Chapter 13 business

$$.387 \times 820,208 = 317,421 \text{ (number of secondary petitioners)}$$

$$317,421 + 820,208 = 1,137,629 \text{ (total number of primary and secondary petitioners)}$$

Example for 2001 (12-month period ending June 30, 2001):

$$\frac{429,543 \text{ joint nonbusiness} + 2,490 \text{ joint Chapter 13 business}}{1,349,471 \text{ total nonbusiness} + 5,422 \text{ total Chapter 13 business}} = 31.9\%$$

1,349,471 total nonbusiness + 5,422 total Chapter 13 business

$$.319 \times 1,354,893 = 432,211 \text{ (number of secondary petitioners)}$$

$$432,211 + 1,354,893 = 1,787,104 \text{ (total number of primary and secondary petitioners)}$$

- 7 The age range among our sample is extensive. Data from Consumer Bankruptcy Project II reveal that the youngest debtor was 17 (a secondary petitioner) and the oldest was 83. For Consumer Bankruptcy Project III, the range was from 19 to 80.
- 8 This analysis assumes that the national age distribution of bankruptcy petitioners, which is unknown, is similar to the distribution we have found in our multi-district studies.
- 9 This calculation is accomplished in the following manner:

$$\frac{\text{Estimated number of petitioners in age group}}{\text{United States population in that age group}} \times 1000 = \text{rate of filings in age group}$$

- 10 The percent change in rate of all bankruptcy filings was calculated in the following manner:

$$\frac{2001 \text{ filing rate} - 1991 \text{ filing rate}}{1991 \text{ filing rate}} \times 100 = \% \text{ change from 1991 to 2001}$$

A word of caution when reporting these statistics: Remember that this calculation is based on numbers of *all* petitioners, rather than strictly numbers of petitions filed.

- 11 In an earlier publication, Teresa A. Sullivan, Elizabeth Warren and Jay Lawrence Westbrook, *From Golden Years to Bankrupt Years*, 7 NORTON BANKR. L. ADVISER 1 (1998), we reported data suggesting that the proportion of primary filers under the age of 25 was increasing. This speculation was based on analysis of 1997 data for a single district. Our subsequent multi-district analysis indicated that the proportion of younger petitioners has not in fact increased. Our more substantive interpretation, *id.* at 9, was that bankrupt petitioners are getting older, a finding corroborated by the 2001 data.
- 12 The rationale for the selection of these states and districts may be found in TERESA A. SULLIVAN, ELIZABETH WARREN AND JAY LAWRENCE WESTBROOK, *THE FRAGILE MIDDLE CLASS: AMERICANS IN DEBT* 265-66 (2000).
- 13 The questionnaire used in this study was reproduced in *id.* at 270 and *Golden Years to Bankrupt Years*, *supra* note 11, at 12.
- 14 Further details concerning the sampling methods are available from *FRAGILE MIDDLE CLASS*, *supra* note 12, at 275-77.
- 15 COLIN NEWELL, *METHODS AND MODELS IN DEMOGRAPHY* 24-25 (1988).

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