ANECDOTES ON THE DATA IN *DEBT'S GRIP*

by

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Introduction

Having the American Bankruptcy Law Journal review your book is an honor, and its editors have done us a double honor with two reviews. We thank Professors Janger and Sickler for their engagement with Debt's Grip: Risk and Consumer Bankruptcy and their thoughtful (and generous) reviews.[1] Both Professors Janger and Sickler rightly highlight Debt's Grip's focus on drawing on data about the people who file bankruptcy.[2] The primary goal of Debt's Grip is to provide a thick description of what it means to live in financial precarity in the United States, thereby documenting the systemic barriers to financial stability faced by individuals and families.[3] As both Professors Janger and Sickler detail, we continue in the tradition of prior Consumer Bankruptcy Project (CBP) co-investigators by combining data from bankruptcy court records with data from written surveys of bankruptcy filers, including the stories that people write, taken verbatim.[4] We agree that the data "is the book's greatest strength."[5]

In this response, we focus on Professors Janger's and Sickler's engagement with three aspects of that greatest strength. Debt's Grip spends significant time detailing people's struggles to deal with unmanageable debt. Both reviews emphasize aspects of these findings. The findings are striking, and we first spend a bit more time highlighting the data by drawing on

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[1] Ted Janger, *Consumer Bankruptcy, Household Debt, and the Big Picture*, 99 AM. BANKR. L.J. 606 (2025); Alexandra Sickler, *Surviving on the Financial Edge: A Review of* Debt's Grip *by Pamela Foohey, Robert Lawless, & Deborah Thorne*, 99 AM. BANKR. L.J. 569 (2025).

[2] Janger, *supra* note 1, at 607; Sickler, *supra* note 1, at 569–70.

[3] PAMELA FOOHEY, ROBERT M. LAWLESS & DEBORAH THORNE, DEBT'S GRIP: RISK AND CONSUMER BANKRUPTCY 1–9 (2025).

[4] Starting with Teresa Sullivan, Elizabeth Warren, and Jay Westbrook, CBP co-investigators have studied the consumer bankruptcy landscape for more than forty years. The CBP's origins have been detailed elsewhere, such as Robert M. Lawless & Angela K. Littwin, *Local Legal Culture R2D2 to Big Data*, 96 TEX. L. REV. 1353, 1353–56 (2018) (cataloging the early days of the CBP as part of a symposium tribute to Professor Westbrook). *See also* Janger, *supra* note 1, at 607–10; Sickler, *supra* note 1, at 570–74.

[5] Janger, *supra* note 1, at 607.

Professors Janger's and Sickler's reactions to the data.

This response then turns to the place of data in policy discussions, particularly engaging with and expanding on Professor Sickler's insights about the role of bankruptcy data in law reform.[6] Although Debt's Grip recommends policy reforms, broad and small, focusing inside and outside the bankruptcy system, we recognize that our data come from the people who file bankruptcy. Third, we take up Professor Janger's reflections on our data source,[7] likewise reflecting on what drawing on data about bankruptcy filers means for the observations in Debt's Grip about financial precarity, risk shifting onto individuals and families, and policy prescriptions. As a preview, we conclude that our recommendations remain valid, and we end by reiterating our policy prescriptions.

I. Consequences of Precarity and Risk Shifting

Writing a book means lots of panel discussions, podcasts, and interviews. We find it useful to start those events by overviewing *Debt's Grip*. The book is both organized as a story and around stories of people's financial distress. As established by CBP data, people's financial distress originates from unexpected life events such as job loss or persistent underemployment, health problems, and changes to family structure, such as divorce. To make ends meet and cover the unplanned expenses, people put basic expenses on credit cards or take on other debt. They also may fall behind on longer-term debts, such as home loans and car loans. For people already living on a strict budget—often from populations subject to historical and continued discrimination in credit markets, the workplace, and in education—these unexpected life events are likely to throw them into a financial tailspin. The CBP data bear out this reality.

We built the first part of *Debt's Grip* around the credit products that people use or default on following these life events, namely home loans, auto loans, student loans, and credit cards. For example, medical debt typically shows up as credit card debt.[8] *Debt's Grip* then tackles how financial fault lines in the economy and society manifest around race, gender, and age,

[6] Sickler, *supra* note 1, at 599–605.
[7] Janger, *supra* note 1, at 619–21.
[8] Chapters 3, 4, and 5 are built around credit products. DEBT'S GRIP, *supra* note 3.

including these populations' unique experiences with credit products.[9] A persistent theme across people's financial distress is how long they will struggle to pay back their debts and the lengths to which they will go to make good on their obligations, even in the face of dogged debt collection. *Debt's Grip* begins and ends with these themes, opening with pre-bankruptcy struggles, and closing with the place of debt collection in bankruptcy and people's potentially strategic use of the bankruptcy system.[10]

Professors Janger and Sickler organize their discussions of *Debt's Grip*'s lessons about the reality of people's financial precarity differently. But they focus on similar themes about the value that people place on keeping homes and cars; the continued prevalence of medical debt as a precipitator of filings and an indictment of the United States' healthcare system; how student loan debt can drain people's income; the reasons for the overrepresentation of Black households in bankruptcy; the growing filing rates of senior Americans (people sixty-five years and older); the roots of the shift over the past forty years in the gender demographics of bankruptcy such that now women comprise almost sixty percent of filers; how caring for children fits with single women's prevalence in bankruptcy; people's proclivity to take out more credit during the years they struggle to pay their debts; and the sheer lengths people will go in terms of what they will go without in hopes that they will be able to pay their debts.[11]

These themes reflect what we similarly bring out when we discuss *Debt's Grip*. As Professor Janger writes, "[t]he picture painted by [us in *Debt's Grip*] is dark."[12] The three of us have our go-to pictures to paint—the anecdotes that we call on to spotlight the data lessons about the consequences of precarity and risk shifting. We gathered these anecdotes from the stories of real people who turned to bankruptcy for help. As Professor Sickler writes, these stories are examples that "reveal how the long-term shift of systemic risk onto individuals and households contributes to rising financial insecurity across the population."[13] A few of our go-to anecdotes are worth spotlighting again here to illustrate why we chose to frame *Debt's Grip* around drawing

[9] Chapters 6, 7, and 8 discuss these populations. DEBT'S GRIP, *supra* note 3.

[10] Chapter 2 details people's pre-bankruptcy struggles, and chapters 9 and 10 discuss debt collection and people's filing strategies. Chapter 1 provides bankruptcy law background. DEBT'S GRIP, *supra* note 3.

[11] Janger, *supra* note 1, at 610–15; Sickler, *supra* note 1, at 578–99.

[12] Janger, *supra* note 1, at 616.

[13] Sickler, *supra* note 1, at 570.

out what it means to live in financial precarity.

The fastest growing group of bankruptcy filers is older Americans.[14] Those seniors who responded to our survey wrote most commonly about health problems and declines in income, which sometimes were brought on by health problems. A seventy-three-year-old widow, whose husband of nearly four decades passed away from a long illness, shared her struggle. After his passing, her husband's pension reduced from $1800 to $160 per month. She scraped by as long as she could but eventually turned to bankruptcy. She closed her story by asking us to send the gift card we offer respondents as acknowledgment and thanks for their help "ASAP as I will use it for Pet (cat) food."[15]

Although bankruptcy will discharge most of her unsecured debts, one must wonder, post-discharge, how she will continue to scrape by through her final days with the same income situation that led her to file bankruptcy in the first place. How long until she is once again searching for a way to afford cat food? Her story displays the United States' failure to provide for its seniors, including crafting an employment and retirement system that allows people to save enough money and be allocated enough money upon retirement so that they can make ends meet through their final years.

The United States also has allowed its higher education system to saddle students with unmanageable debt, while proclaiming the virtues of striving to attain a college education. Black and women students are more likely than other students to take out loans to fund their education, to take out more in student loans, and default on student loans. Research links these disparities to a lack of access to generational wealth to fund higher education, a need to care for family, lower earnings and higher job instability when in the workforce, and disproportionate enrollment in for-profit institutions.[16] The story of a twenty-seven-year-old Black student who had enrolled in a for-profit college in hopes of earning a nursing degree is emblematic of the problematic confluence of the cost of for-profit higher education and job instability. "I am black male, not a thug, not a gangsta. I am a nursing student. I lost my job. I've been without lights, gas and money. I filed bankruptcy not

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[14] DEBT'S GRIP, *supra* note 3, at 161–62.

[15] *Id.* at 169.

[16] *Id.* at 127; 139–40; *Who Experiences Default?*, PEW CHARITABLE TRUSTS, March 1, 2024, https://www.pew.org/en/research-and-analysis/data-visualizations/2024/who-experiences-default.

out of pity but because I had no other road to go down."[17]

He will emerge from bankruptcy most likely still owing on his student loans because of the current barriers to discharge of student loan debt.[18] Even if student loan debt was more easily dischargeable, it would not change higher education's core problem. Undergraduate and graduate programs are expensive, beyond the capability of many to afford without significant indebtedness. Academic programs at for-profit institutions and in two-year programs are particularly likely to leave students, like this nursing student, without a meaningful bump in income to justify the costs.[19]

Two-thirds of bankruptcy filers list a medical precipitator for their filings—either a medical expense or a medical problem that caused them or their spouse or partner to miss work.[20] What now is termed "medical bankruptcy" pervades bankruptcy courts. In *Debt's Grip*, we link medical debt in bankruptcy to the cost of health insurance and the medical system as well as the challenges people face in the employment market when juggling their and their loved ones' health issues.[21] One man who answered our survey wrote about how he had become the full-time caregiver of his partner of thirty-two years. "[Partner] fell and hit his head. Severe brain trauma. He also had a seizure and had to have CPR 2 times. The last time he was gone too long and suffered brain trauma. His kidneys and liver shut down, produced a poison in his system, which damaged the brain. . . . He can't be left alone. He falls a lot, is dizzy, and can't remember minute to minute. I have to do what I have to do to keep him safe."[22]

People are fragile and as people age, the likelihood that they will face injury and chronic illnesses increases. Yet the United States has an insufficient structure in place to support people when they are injured and

[17] DEBT'S GRIP, *supra* note 3, at 127.

[18] *Id.* at 105.

[19] *See* Stephanie Riegg Cellini & Nicholas Turner, *Assessing the Employment and Earnings of For-Profit College Students Using Administrative Data*, 54 J. HUM. RES. 342, 364–66 (2019) (presenting data showing an average effect of no financial gain of for-profit college as compared to no college attendance at all); *see also* Adam Looney & Constantine Yannelis, *What Went Wrong with Federal Student Loans?*, 38. J. ECON. PERSPS. 209, 223 (2024) ("In our view, the concentration of borrowing at for-profit schools, community colleges, and other less-selective institutions—and among the relatively disadvantaged students they enroll—is the principal cause of the deterioration in student loan outcomes.").

[20] DEBT'S GRIP, *supra* note 3, at 76–77.

[21] *Id.* at 77–84.

[22] *Id.* at 87.

during what might be an extended period of recovery. Although bankruptcy discharged this man's unsecured debt and dealt with his home mortgage, it did not and cannot give him a steady source of income. This reality leaves him and his partner with an uncertain financial future.

Finally, one of the more striking findings in *Debt's Grip* is the connection between women's bankruptcy filings and financial abuse from domestic partners. Financial abuse is coercive control by an intimate partner centered around money, such as taking out debts in a partner's name, without permission or because doing so is presented as the only viable option.[23] One woman wrote that she "got separated from an abusive husband. . . . Everything [all the debts] was in my name cause he did not have good credit so I had no choice but to file. My aunt gave me the money to pay for a lawyer."[24]

Financial abuse is one among the many reasons that women stay or return to abusive relationships.[25] Not every woman will have the courage and support to abandon an abusive relationship—or an aunt to give her money so she can file bankruptcy to discharge the debt her partner has either convinced her to put in her name or simply put in her name.

As we often say during panel discussions, podcasts, and interviews, we wrote a book about bankruptcy that is not all that much about bankruptcy. Each of these anecdotes has as an undercurrent of how and for what people use debt and the burden of overindebtedness on American families, which is a theme that Professor Janger draws out in his review. Each story also shows how policy, the economy, and society need to change so that Americans may survive without many perpetually teetering on the financial edge. Although *Debt's Grip* is not all that much about bankruptcy, it is still about bankruptcy. Each story has advice for changes to the bankruptcy law to make it work better for the people who use it.

II. Data and Policy

A common question we get at events discussing *Debt's Grip* is for

[23] *Id.* at 146.
[24] *Id.* at 146.
[25] Adrienne E. Adams, Angela K. Littwin & McKenzie Javorka, *The Frequency, Nature, and Effects of Coerced Debt Among a National Sample of Women Seeking Help for Intimate Partner Violence*, 26 VIOLENCE AGAINST WOMEN 1342 (2020).

our "normative takeaways." How do we think things should change? Indeed, the commentators for the webinar built around this issue of the journal challenged us to address that question.[26]

Policy discussions are fodder for panels, podcasts, and interviews. We readily and gratefully joined those conversations. We wrote the book, however, not to make grand policy pronouncements. *Debt's Grip* bears witness to the financial precarity in American households and the suffering it causes. The reasons for people's bankruptcies mirror the deep financial faultlines that exist in this country. We draw connections between government decisions and the financial problems discussed around the dinner table. We consider how lawyers shape the outcomes people see in bankruptcy court and what changes in debt collection technology mean for people before they turn to the bankruptcy system for help.

Although we resisted writing about policy for most of the book, we could not let the opportunity pass to provide our own normative takes at the end of the book. Besides, two of us are law professors where normative takes are the coin of the realm (although we are not entirely sanguine about that).[27] In addition, sprinkled throughout the chapters are nods to the policies, both outside and inside bankruptcy, that have led to the financial precarity that plagues households across the United States. The conclusion of *Debt's Grip* draws upon the evidence in the preceding chapters about policy drift and active rollbacks of policies designed to cushion people's financial falls during times of troubles to recommend policy changes, both large and small. We call for broad changes to social programs to pull back on the "great risk shift."[28] Half measures will not meaningfully alleviate the financial precarity that *Debt's Grip* documents. Drawing from the lessons of our go-to stories, *Debt's Grip* asks for changes in how we pay for health care, how we finance our education system, and how we help people prepare for retirement.

We are not naïve about the chances of large reform, especially when the party in power has slashed funding for government programs that help the most financially vulnerable. For that reason—but not only for that reason—

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[26] A video of this webinar is available at "ABLJ Roundtable October 15, 2025 'Debt's Grip, Risk and Consumer Bankruptcy (2025),'" https://vimeo.com/1127642542.

[27] *See* Pamela Foohey, Robert M. Lawless & Deborah Thorne, *Interdisciplinary Research Is Hard and Other Lessons from* Debt's Grip, __ BROOK. J. CORP. FIN. & COM. L. __ (forthcoming 2025), https://ssrn.com/abstract=5371216.

[28] JACOB S. HACKER, THE GREAT RISK SHIFT: THE NEW ECONOMIC INSECURITY AND THE DECLINE OF THE AMERICAN DREAM (2d ed. 2019).

Debt's Grip also lists smaller recommended changes. These changes primarily address the bankruptcy law. We recommend not only ways to expand the relief people can find there but also ways to make the system more accessible. It is these portions of our policy discussion and proposals for policy reforms that both Professor Janger and Sickler engage with most closely in their reviews.[29]

In her review, Professor Sickler characterizes the relationship between research and policymaking as labyrinthine.[30] We take that as a polite way to say "difficult" or "unavailing." Legal scholars have lamented that policymaking often does not follow from empirical studies, and Professor Sickler references this literature.[31] That Congress adopted the 2005 changes to the Bankruptcy Code in the face of research suggesting the changes were unnecessary and likely harmful may offer a salient anecdote of empirical research being ignored.[32] Still, although a straight line often cannot be drawn from particular empirical research to statutory change,[33] such research accumulates and leads to changes. The enactment of the Small Business Reorganization Act (SBRA) of 2019 provides a recent example of where research did influence Congress.[34] Prior to the SBRA's passage, scholars had documented how poorly suited chapter 11 is to the financial and operational realities of small businesses.[35] The SBRA is significant legislation: it covers approximately 40 percent of chapter 11 debtors.[36]

Currently, there are initiatives to revise the rules about how and when

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[29] Janger, *supra* note 1, at 618–19; Sickler, *supra* note 1, at 601.

[30] Sickler, *supra* note 1, at 601–02.

[31] *Id.* at 603; *see also* Margaret Howard, *Bankruptcy Empiricism: Lighthouse Still No Good*, 17 BANKR. DEV. J. 425, 459 (2001).

[32] *See* Katherine Porter, *Bankrupt Profits: The Credit Industry's Business Model for Postbankruptcy Lending*, 93 IOWA L. REV. 1369, 1375–78 (2008) (overviewing the debates that led to the 2005 changes to the Code).

[33] *See* Teresa A. Sullivan, Elizabeth Warren & Jay Lawrence Westbrook, *The Use of Empirical Data in Formulating Bankruptcy Policy*, 50 LAW & CONTEMP. PROBS. 195, 196 (1987) (noting the use of empirical data in legislative change).

[34] Pub. L. No. 11654, 133 Stat. 1079 (2019).

[35] *See* Christopher D. Hampson & Jeffrey A. Katz, *The Small Business Prepack: How Subchapter V Paves the Way for Bankruptcy's Fastest Cases for Bankruptcy's Fastest Case*, 92 GEO. WASH. L. REV. 851, 859–63 (2024) (detailing the empirical studies and other reports that led to the framework for the SBRA).

[36] Bob Lawless, *How Many New Small Business Chapter 11s?*, CREDIT SLIPS (Sept. 14, 2019, 4:28 PM), https://creditslips.org/2019/09/14/how-many-new-small-business-chapter-11s/ (calculating based on a debt limit for a subchapter V cases of $2.7 million).

people pay attorney's fees in chapter 7.[37] Scholarship, including our own, about how people are locked out of the bankruptcy system or shuffled to chapter 13 because of the need to pay chapter 7 attorney's fees prior to the filing of their case inform these initiatives.[38] Likewise, bills to amend the discharge provision regarding education loans continue to be introduced in legislative sessions, evidencing the sustained salience of people's struggles with education debt.[39] Similarly, empirical scholarship about the burden of student loans informed these initiatives.[40]

The legislative process also is not the only game in town, even for a statutory area like bankruptcy law. Both chapter 7 attorney's fees and discharge of education debt provide good anecdotes of how other reforms can run parallel to attempts at statutory changes. As regards attorney's fees, the U.S. Trustee Program published guidelines about when it is appropriate to bifurcate fees into pre- and post-petition services, allowing bankruptcy filers to spread out the payment of a portion of fees over time. Some courts have adopted local rules about fee bifurcation.[41] In addition, bankruptcy courts have issued decisions about the practice.[42]

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[37] This proposal is included in the Consumer Bankruptcy Reform Act (CBRA) of 2024, S. 5577, 118th Cong. (2024). Nearly identical versions of the bill were introduced in 2022 and 2020. *See* Consumer Bankruptcy Reform Act of 2022, S. 4980, 117th Cong. (2022); Consumer Bankruptcy Reform Act of 2020, S. 4991, 116th Cong. (2020). Others have proposed modifying bankruptcy law to allow for the payment of chapter 7 attorney's fees post-petition, while also making them nondischargeable, akin to the CBRA's proposal. Robert J. Landry, III, *Reforming Attorneys' Fees in Chapter 7 Bankruptcy: Lessons from Proposed Chapter 10 Bankruptcy*, 32 AM. BANKR. INST. L. REV. 31 (2024).

[38] Pamela Foohey, Robert M. Lawless, Katherine Porter & Deborah Thorne, *"No Money Down" Bankruptcy*, 90 S. CAL. L. REV. 1055 (2017); Edward J. Janger, *Consumer Bankruptcy and Race: Current Concerns and a Proposed Solution*, 33 LOY. CONSUMER L. REV. 328 (2021).

[39] For instance, 2025 brought the introduction of the Student Loan Bankruptcy Improvement Act of 2025, H.R. 4444, 119th Cong. (2025).

[40] Much of this scholarship is discussed in chapters 6 and 7 of DEBT'S GRIP, *supra* note 3.

[41] Ramona D. Elliott, *Guidelines for United States Trustee Program (USTP) Enforcement Related to Bifurcated Chapter 7 Fee Agreements*, U.S. DEPT. OF JUSTICE, EXECUTIVE OFFICE FOR UNITED STATES TRUSTEE (June 10, 2022), justice.gov/ust/page/file/1511976/download.

[42] Adam Herring & Scott Bomkamp, *Ensuring "Access" and "Justice": USTP's Enforcement Guidelines for Bifurcated Fee Agreements*, 41 ABIJ 9, 22–23, 48–49 (2022) (discussing cases).

In the realm of discharge of education debt, simultaneously with legislative initiatives to amend the Code, the Department of Justice, in conjunction with the Department of Education, considered and ultimately adopted internal guidance for Department attorneys litigating undue hardship discharge requests.[43] This guidance came after several papers advocating for changes to the Department's internal guidance based on empirical evidence.[44] Preliminary data suggests that this guidance has increased the willingness of debtors to seek an undue hardship discharge of education debt.[45]

Yet another example (dare we write, anecdote) comes from Professor Katherine Porter's study of more than 1700 chapter 13 cases filed in 2006 showing that most claims filed by mortgage lenders lacked some or all of the required documentation to prove the amount stated by the lender.[46] Three years after Porter published her study, the Judicial Conference Committee on Rules and Practice and Procedure enacted changes to Bankruptcy Rule 3001 to require more documentation for mortgage claims against a principal residence as well as giving the courts new tools to enforce it.[47] At the same moment, the Judicial Conference Committee also added Bankruptcy Rule 3002.1, which imposes requirements on mortgage lenders during the pendency of and at the end of a chapter 13 plan.[48]

Although the solutions to these examples may be imperfect, they nonetheless improved access to the bankruptcy system for thousands of people. They also are not an exhaustive list of changes prompted by empirical

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[43] *Student Loan Guidance*, U.S. DEPT. OF JUSTICE, EXECUTIVE OFFICE FOR UNITED STATES TRUSTEE, https://www.justice.gov/ust/student-loan-guidance.

[44] *See* Pamela Foohey, Aaron Ament & Daniel Zibel, *Changing the Student Loan Dischargeability Framework: How the Department of Education Can Ease the Path for Borrowers in Bankruptcy*, 106 MINN. L. REV. HEADNOTES 1 (2021); Matthew Brucker, Brook Gotberg, Dalié Jiménez & Chrystin Ondersma, *A No-Contest Discharge for Uncollectible Student Loans*, 91 U. COLO. L. REV. 183 (2020); Letter from Dalié Jiménez, Professor of Law, Univ. of Cal. Irvine Sch. of Law, et al. to Jean-Didier Gaina, U.S. Dep't of Educ. 21 (May 22, 2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3183893.

[45] Belisa Pang, Dalié Jiménez & Matthew A. Bruckner, *Full Discharge Ahead? An Empirical First Look at the New Student Loan Discharge Process in Bankruptcy*, 41 EMORY BANKR. DEV. J. 259 (2025).

[46] Katherine Porter, *Misbehavior and Mistake in Bankruptcy Mortgage Claims*, 87 TEX. L. REV. 121 (2008).

[47] *See* AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, H.R. Doc. No. 112-29, at 11–13 (2011).

[48] *See id.* at 13–18.

research. These changes demonstrate how the bankruptcy system specifically affects people's lives. They also demonstrate that change to the formal statutory bankruptcy law is not the only avenue for empirical research to affect the bankruptcy system. Rather, it is one of several avenues, which we have faith work in tandem, albeit incrementally.

Similarly, we believe in law on the ground. Significant policymaking happens on the ground, apart from the legislative process or formal rules and guidance. We (and Professors Janger and Sickler and many other scholars) regularly speak at conferences and CLEs whose main audiences are judges, trustees, and practitioners. The conversations at these events represent another type of policymaking. We present our findings in a way to start conversations among those within the system that will allow them to decide how best to incorporate the findings into their courtrooms and practice. We take our invitations to such events as an indication that our involvement is welcome and that these conversations move the needle on the practice of bankruptcy throughout the country in a way that helps the people who use the system achieve more from their cases.

As we wrote in *Debt's Grip*, we believe that "data can continue to suggest policy solutions that make the world a better place."[49] Indeed, we closed the book with a subsection titled "the power of data."[50] Bankruptcy scholars with legal training instinctively reach for legislative solutions. The two of us who are lawyers plead guilty to the same tendency. As the examples above illustrate, research data suggest and affect policy solutions in multi-faceted ways. We think those data support statutory initiatives like the sweeping changes to the Bankruptcy Code such as those in the Consumer Bankruptcy Reform Act (CBRA) of 2024.[51] We equally believe that data about people who file bankruptcy provide another view of the economic and systemic problems faced by households in the United States. The financial fault lines exposed by these data call for changes large and small, from broad policy actions that reduce the probability of financial distress to incremental steps that smooth the bankruptcy system for those who need to use it.

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[49] DEBT'S GRIP, *supra* note 3, at 228.

[50] *Id.*

[51] Among other reforms, CBRA proposes combining chapters 7 and chapter 13 into a new chapter 10, streamlining documentation requirements for debtors, and an immediate discharge. *See supra* note 37.

III. The Reference Group

The financial fault lines in *Debt's Grip* come from data about people who filed bankruptcy. From these observations, we propose broader policy solutions across a range of economic and social institutions—housing, transportation, education, employment, childcare, healthcare, retirement, insurance, and the provision of credit.[52] Professor Janger aptly points out that bankruptcy filers may not be representative of the general population dealing with the financial precarity emphasized throughout *Debt's Grip*.[53] "Worth adding," in his words, is his "strong intuition" that our "results are robust."[54]

We have this intuition too. We also recognize that the data in the book come from the people who file bankruptcy. Whether and how the people who file bankruptcy are different from non-bankruptcy filers is an empirical question. We suspect they are different in some ways and the same in other ways. We are less certain the differences are material for the sorts of policy discussions with which the book engages. A major theme of the book is that bankruptcy filers exemplify societal problems identified in other studies. The twenty-four-page bibliography at the end of the book is replete with references to other social-science studies about the problems identified in our bankruptcy filers.

For instance, job loss is one of the leading precipitators of people's bankruptcies, and bankruptcy filers wrote about how unemployment or underemployment chipped away at their savings and led them to fall behind on debts.[55] Research has linked job loss and sustained unemployment with negative health outcomes, both physical and psychological.[56] In *Debt's Grip*, we detail how policy changes and policy inaction have changed the nature of employment over the past decades and have shifted the risks of the labor market away from the government and employers onto workers. [57] Some workers caught in the consequences of job loss or underemployment will file

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[52] These policy prescriptions are summarized in the conclusion. DEBT'S GRIP, *supra* note 3, at 218–22.

[53] Janger, *supra* note 1, at 619–20.

[54] *Id.* at 621.

[55] DEBT'S GRIP, *supra* note 3, at 90–98.

[56] *See* Jennie E Brand, *The Far-Reaching Impact of Job Loss and Unemployment*, 41 ANN. REV. SOCIOL. 359 (2015). Our thanks to Tara Twomey for noting research making this connection.

[57] DEBT'S GRIP, *supra* note 3, at 91.

bankruptcy. Job loss and underemployment exemplify the many observations in *Debt's Grip* about how government policies shifting risk onto individuals shows up among bankruptcy filers. Given the research we rely on throughout the book, we expect risk shifting also shows up in very similar ways for people who do not file bankruptcy.

We also believe scholars should devote more attention to financially distressed people who do not turn to bankruptcy.[58] Given that our data show that the people who file bankruptcy are downwardly mobile and have some assets when they file,[59] these studies must not focus on those living in poverty, whose circumstances differ, including having access to social programs that supposedly are designed to provide at least some support for them.[60] Such empirical studies of people who are likely downwardly mobile and financially distressed exist or are in progress,[61] including a study that one of us is currently completing.[62]

Even if bankruptcy filers are a distinct population—and, again, we suspect they are not—that does not diminish the suffering of the people who ultimately file bankruptcy, does not make our findings any less significant, and does not change the relevance of how we framed *Debt's Grip*. Professor Janger writes: "*Debt's Grip* opens with a bracing number: one in 11 Americans will file for bankruptcy; approximately 34 million people will file

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[58] In her review of *Debt's Grip*, Susan Block-Lieb likewise suggests that attention should be paid to non-bankruptcy filers by sociolegal empirical scholars. *Myth Busters: A Review of* Debt's Grip, __ BROOK. J. CORP. FIN. & COM. L. __ (forthcoming 2025) (draft on file with authors).

[59] DEBT'S GRIP, *supra* note 3, at 9, 236, table A.1.

[60] *See* Victoria M. Esposito, *A Systemic Reimagining of Poverty Law*, 31 GEO. J. ON POVERTY L. & POL'Y 1 (2023) (discussing the systems that interact to regulate people in poverty); Sara S. Greene, *A Theory of Poverty: Legal Immobility*, 96 WASH. U. L. REV. 753 (2019) (detailing how law uniquely traps those people already in poverty in a cycle of poverty, making upward socioeconomic mobility exceedingly difficult).

[61] Professor Janger points to Dalié Jiménez, *Missing Strugglers: Debt's Reach, Bankruptcy's Limits, and a Proxy for Who's Left Out*, __ BROOK. J. CORP. FIN. & COM. L. __ (forthcoming 2025), https://ssrn.com/abstract=5377387.

[62] Professors Pamela Foohey and Angela Littwin, Charles Sapp Chair in Banking, Financial, Commercial and Corporate Law, University of Texas at Austin School of Law, are the co-investigators of this study. It assesses the finances and other characteristics of people sued by debt collectors and attitudes towards bankruptcy among people sued by debt collectors. Coincidentally, this study is supported, in part, by the National Conference of Bankruptcy Judges' Endowment for Education. The *American Bankruptcy Law Journal* is the academic journal of the NCBJ.

at some point in their lifetime."[63] (Technically, that figure is not a prediction about how many people will file in the future but a calculation about the current population.) During panels, podcasts, and interviews, we often open our comments with those figures. Nine percent of everyone in the United States is consequential. Household bankruptcies affect children and extended families. They reverberate through neighborhoods and broader communities. Even if we think we do not know someone (or more than one person) who has filed bankruptcy, we almost certainly do.

Conclusion

When we started out on the project that became *Debt's Grip*, the question we kept asking ourselves was "why?" Why write a book from our bankruptcy data? The question was particularly challenging in light of the foundational works that had preceded us.[64] What did we have to add? We suspected that people's circumstances had changed in some ways but also not in other ways. As it turns out, more women file bankruptcy now. Of that group, more single women with children are filing, and of that group, more single Black women with children are filing. Older Americans—people age 65 or over—are the fastest growing group of bankruptcy filers, which was not true 35 years ago. Changes in debt collection technologies seem to be bringing people into the bankruptcy system, people who may have categorized debt collection as financial problems a generation earlier and never turned to the legal system. Other aspects of people's lives have not changed. Medical debt, job loss, and household breakups remain common features of bankruptcy filers' lives. All these facts on the ground tell us about our society.

We draw lessons from these data, but mainly we wrote *Debt's Grip* because we wanted others to know what we knew. We wanted to present the facts on the ground knowing that others might draw different lessons from

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[63] Janger, *supra* note 1, at 606.

[64] We refer, of course, to TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, AS WE FORGIVE OUR DEBTORS: BANKRUPTCY AND CONSUMER CREDIT IN AMERICA (1989) and TERESA A. SULLIVAN, ELIZABETH WARREN & JAY LAWRENCE WESTBROOK, THE FRAGILE MIDDLE CLASS: AMERICANS IN DEBT (2000). We also include BROKE: HOW DEBT BANKRUPTS THE MIDDLE CLASS (Katherine Porter ed., 2012), which collected chapters from authors using CBP data but did not attempt a comprehensive portrait of bankruptcy filers.

those facts. Professors Janger's and Sickler's reviews honor us not only by the many places they agree with us but also by the places they have appropriately and correctly pushed back. We take their points but remain convinced in our data and our own conclusions. Their praise and criticisms, however, tell us we were right to undertake the not-small effort that went into writing *Debt's Grip*. The facts on the ground provoke. We hope they provoke all who read the book.

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