



AMERICAN
BANKRUPTCY
INSTITUTE

2020 Consumer Bankruptcy Forum

Racial Disparities in the Bankruptcy System

Presented by the Hon. Eugene R. Wedoff
Seventh Circuit Consumer Bankruptcy
Conference

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Bankruptcy, Race, Filings & Chapter Choices

*based on research and papers by
Jean Braucher, Dov Cohen, Pamela Foohey, Bob Lawless,
Angela Littwin, Katherine Porter & Deborah Thorne*

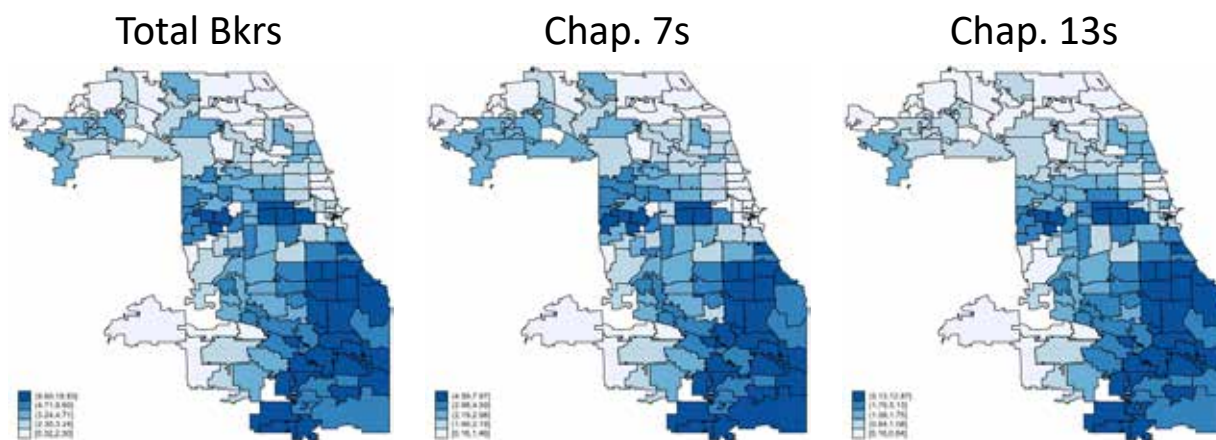
Annual Filing Rates per 1,000, by Quartiles of Percentage Residents in Zip Code Who Identify as Black

	Total Bankruptcies	Chapter 7s	Chapter 13s
Lowest quartile	1.76	1.31	0.45
2nd quartile	1.83	1.36	0.47
3rd quartile	2.02	1.38	0.63
Highest quartile	3.07	1.51	1.56

from AO, FJC, and Census data

Cook County, IL, 2014-2018

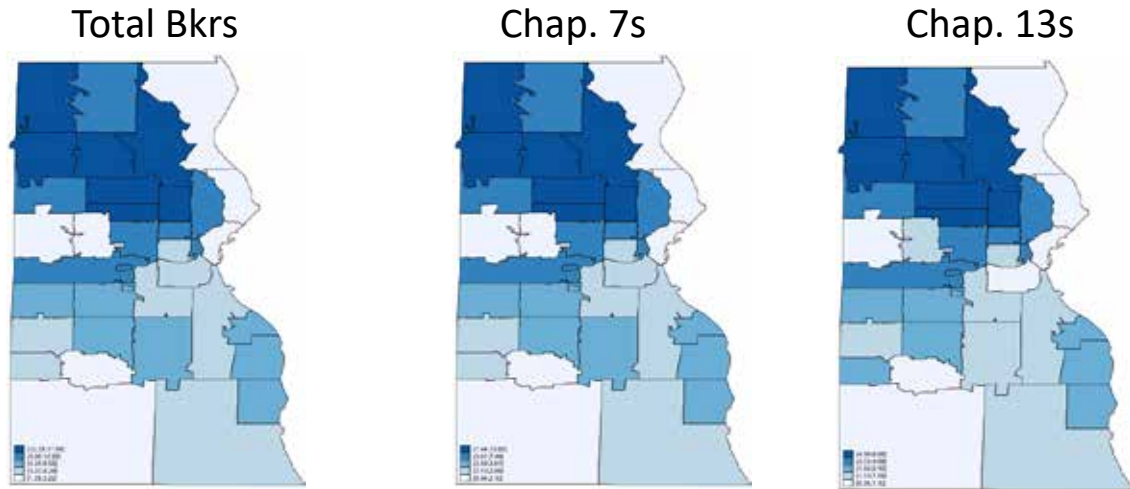
annual rates, per 1,000 persons, by quintiles



from AO, FJC, and Census data

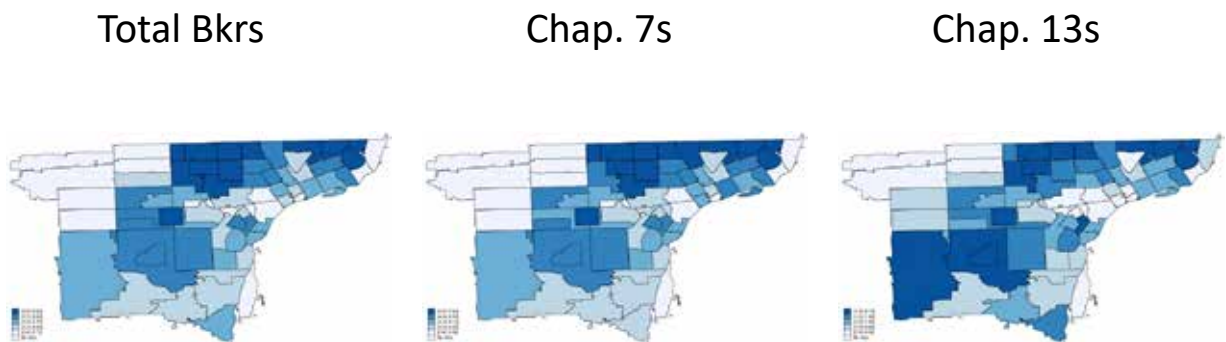
Milwaukee County, WI, 2014-2018

annual rates, per 1,000 persons, by quintiles



Wayne County, MI, 2014-2018

annual rates, per 1,000 persons, by quintiles



Chapter 13 Rates, 2014-2018

Districts with Lowest Chapter 13 Ratio

1.	Iowa, ND	6.7%
2.	New Mexico	9.0%
3.	South Dakota	10.4%
4.	Okla., ED	10.9%
5.	North Dakota	10.9%
6.	Iowa, SD	11.1%

Districts with Highest Chapter 13 Ratio

85.	Georgia, MD	65.4%
86.	Alabama, SD	71.2%
87.	Tennessee, WD	74.1%
88.	Alabama, MD	75.9%
89.	Louisiana, WD	77.6%
90.	Georgia, SD	77.7%

National average = 31.7%

from FJC/AO Data

Chapter XIII Rates, 1964

Judicial district

Chapter XIII Percentage

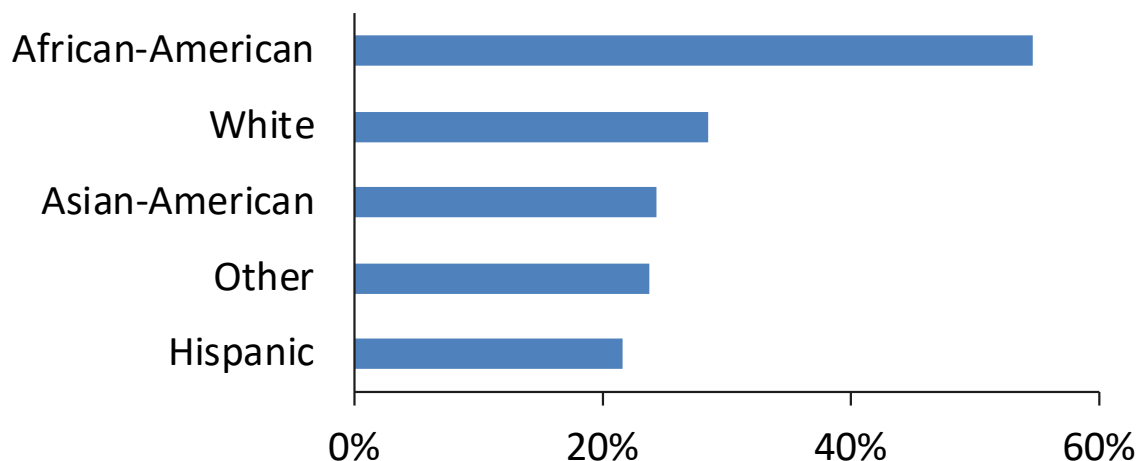
Alabama, ND	76%
Maine	52%
Texas, WD	28%
California, SD	11%
Ohio, ND	7%
Oregon	5%
Illinois, ND	4%
Nation as a whole	17%

from Stanley & Girth (1971)

Study 1: Real-world Debtors in 2007

- Consumer Bankruptcy Project (2007)
- National random sample
- 5,000 individual chapter 7 and 13 cases
 - Written questionnaires (50% response rate)
 - Court records
 - Telephone interviews

Debtors Filing Chapter 13 (2007)



Debtors Filing Chapter 13 (2007)

African-Americans (N = 511)	54.6%
All other races (N = 1,754)	28.2%

Chi-square = 122.40*

* -- statistically significant at 5% level

Controlling for Other Things (2007)

Variable of interest: African-American debtor(s)

Controls:

Percent 13's in district	Prior bankruptcy	Home owner
Income (ln)	Total assets (ln)	Total debt (ln)
Priority debt (ln)	Foreclosure reason for bkr.	Secured debt/total debt
Credit card debt/total debt	Represented by attorney	Bachelor's degree (or higher)
Occupational prestige score	Number of dependents	Live with spouse or partner
Female head of household	Tried to consolidate/credit card	Tried to consolidate/home eq.
Tried to "work with" creditors	Tried to refinance mortgage	Non-Af/Am chapter 13 Rate

Controlling for Other Things

(2007)

Variable of interest: African-American debtor(s)

Controls:

Percent 13's in district	Prior bankruptcy	Home owner
Income (ln)	Total assets (ln)	Total debt (ln)
Priority debt (ln)	Foreclosure reason for bkr.	Secured debt/total debt
Credit card debt/total debt	Represented by attorney	Bachelor's degree (or higher)
Occupational prestige score	Number of dependents	Live with spouse or partner
Female head of household	Tried to consolidate/credit card	Tried to consolidate/home eq.
Tried to "work with" creditors	Tried to refinance mortgage	Non-Af/Am chapter 13 Rate

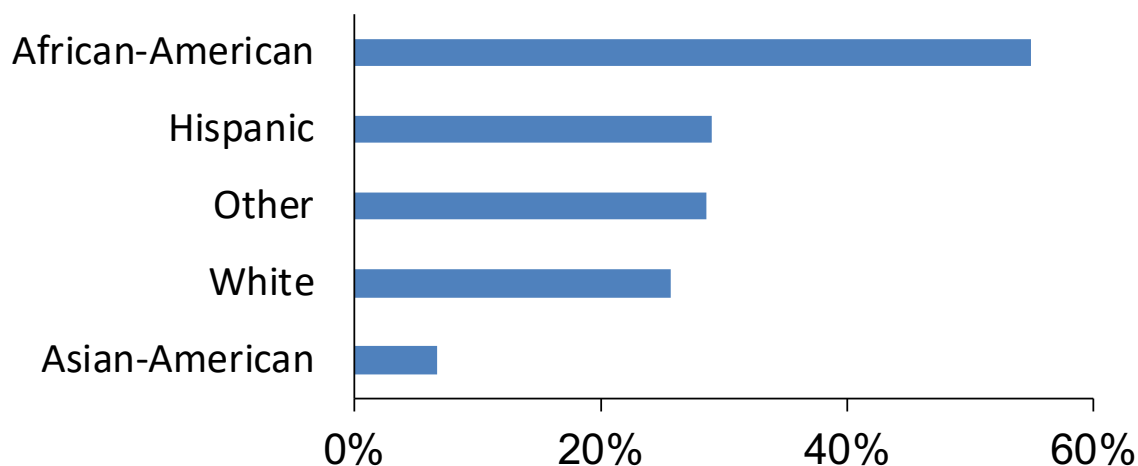
More likely to file chapter 13
and statistically significant (5%)

Less likely to file chapter 13
and statistically significant (5%)

Study 2: Replication in 2013-14

- Consumer Bankruptcy Project (2013-14)
- National random sample
- 1,600 individual chapter 7 and 13 cases
 - Written questionnaires (29% response rate)
 - Court records

Debtors Filing Chapter 13 (2013-14)



Debtors Filing Chapter 13 (2013-14)

African-Americans (N = 170)	55.0%
All other races (N = 341)	26.1%

Chi-square = 33.22*

* -- statistically significant at 5% level

Controlling for Other Things

(2013-14)

Variable of interest: African-American debtor(s)

Controls:

Percent 13's in district	Prior bankruptcy	Home owner
Income (ln)	Total assets (ln)	Total debt (ln)
Priority debt (ln)	Foreclosure reason for bkr.	Secured debt/total debt
Credit card debt/total debt	Represented by attorney	Bachelor's degree (or more)
Occupational prestige score	Number of dependents	Live with spouse or partner
Female head of household	Tried to consolidate debts	<i>Sold house/gave to lender</i>
Tried "work with" creditors	Tried to refinance mortgage	<i>Chapter 13 rate in district</i>


Controlling for Other Things


(2013-14)

Variable of interest: African-American debtor(s)

Controls:

Percent 13's in district	Prior bankruptcy	Home owner
Income (ln)	Total assets (ln)	Total debt (ln)
Priority debt (ln)	Foreclosure reason for bkr.	Secured debt/total debt
Credit card debt/total debt	Represented by attorney	Bachelor's degree (or more)
Occupational prestige score	Number of dependents	Live with spouse or partner
Female head of household	Tried to consolidate debts	<i>Sold house/gave to lender</i>
Tried "work with" creditors	Tried to refinance mortgage	<i>Chapter 13 rate in district</i>

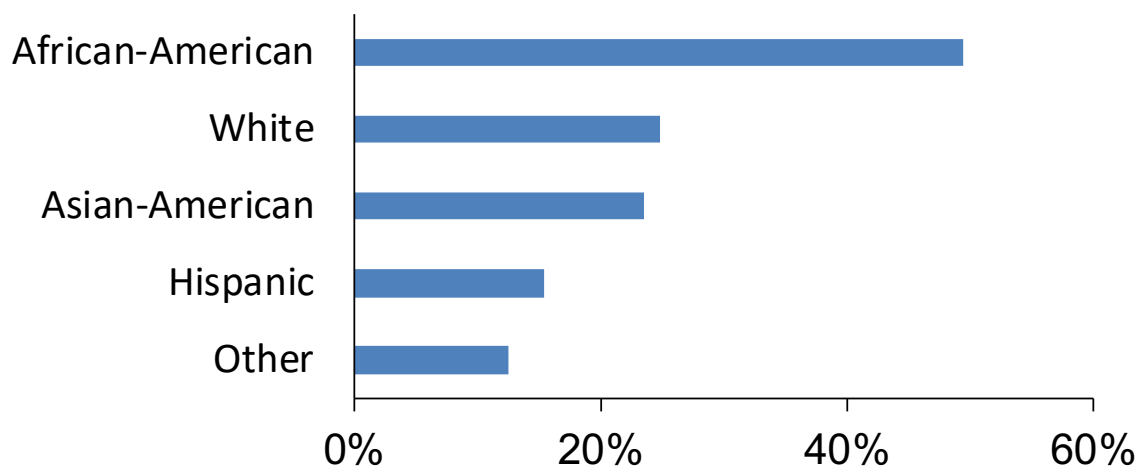
 More likely to file chapter 13
and statistically significant (5%)

 Less likely to file chapter 13
and statistically significant (5%)

Study 3: Replication in 2017-19

- Consumer Bankruptcy Project (2017-19)
- National random sample
- 2,400 individual chapter 7 and 13 cases
 - Written questionnaires (25% response rate)
 - Court records
- Done for this presentation

Debtors Filing Chapter 13 (2017-19)



Debtors Filing Chapter 13

(2017-19)

African-Americans (N = 180)	49.4%
All other races (N = 407)	23.6%

Chi-square = 38.66*

* -- statistically significant at 5% level

Controlling for Other Things

(2017-19)

Variable of interest: African-American debtor(s)

Controls:

Percent 13's in district	Prior bankruptcy	Home owner
Income (ln)	Total assets (ln)	Total debt (ln)
Priority debt (ln)	Foreclosure reason for bkr.	Secured debt/total debt
Credit card debt/total debt	Represented by attorney	Bachelor's degree (or more)
Occupational prestige score	Number of dependents	Live with spouse or partner
Female head of household	Tried to consolidate debts	<i>Sold house/gave to lender</i>
Tried "work with" creditors	Tried to refinance mortgage	<i>Chapter 13 rate in district</i>



Controlling for Other Things

(2017-19)

Variable of interest: African-American debtor(s)

Controls:

Percent 13's in district	Prior bankruptcy	Home owner
Income (ln)	Total assets (ln)	Total debt (ln)
Priority debt (ln)	Foreclosure reason for bkr.	Secured debt/total debt
Credit card debt/total debt	Represented by attorney	Bachelor's degree (or more)
Occupational prestige score	Number of dependents	Live with spouse or partner
Female head of household	Tried to consolidate debts	Sold house/gave to lender
Tried "work with" creditors	Tried to refinance mortgage	Chapter 13 rate in district

 More likely to file chapter 13 and statistically significant (5%)
  Less likely to file chapter 13 and statistically significant (5%)

Study 4: Vignette to Attorneys

- Experimental vignette study with balanced facts on 7/13 choice
- Random selection of 594 consumer bankruptcy attorneys
 - Response rate = 44.0%

Scenario 1

A married couple is considering bankruptcy and has come to you for advice. The wife, L., has an associate's degree from a community college and has worked off and on as a teacher's aide in elementary schools. The husband, R., is a high school graduate who works as a custodian at the church he and L. attend regularly.

Scenario 2

A married couple is considering bankruptcy and has come to you for advice. The wife, Latisha, has an associate's degree from a community college and has worked off and on as a teacher's aide in elementary schools. The husband, Reggie, is a high school graduate who works as a custodian at Bethel A.M.E. Church, which he and Latisha attend regularly.

Scenario 3

A married couple is considering bankruptcy and has come to you for advice. The wife, Allison, has an associate's degree from a community college and has worked off and on as a teacher's aide in elementary schools. The husband, Todd, is a high school graduate who works as a custodian at First United Methodist Church, which he and Allison attend regularly.

Preference

In the intake interview _____ and _____ said their goals are to pay their creditors as much as they can, keep their home, and keep their car. . . . At the end of the interview, _____ and _____ expressed a preference for chapter 7/13/omitted.

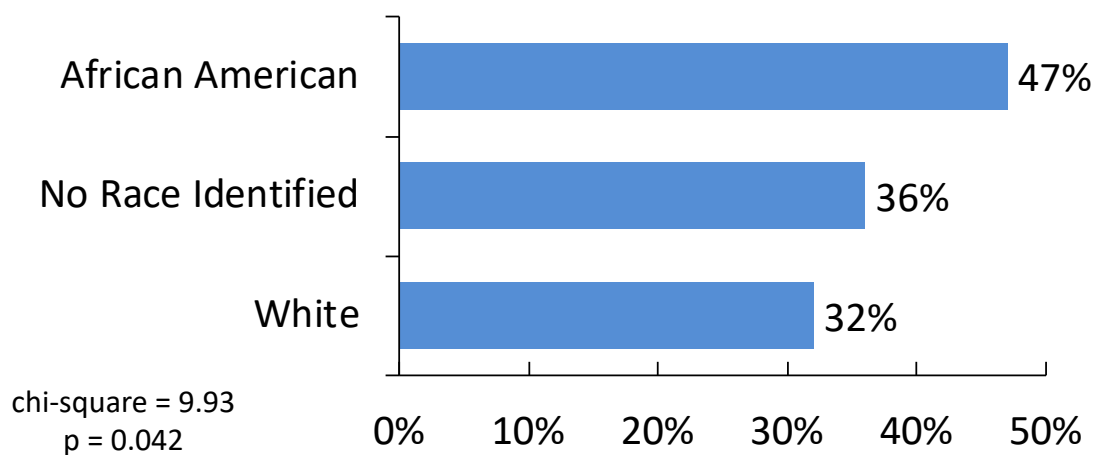
Survey Instrument

I would recommend that _____ and _____

Definitely *Definitely*
file chap. 7 1 2 3 4 5 6 7 8 9 *file chap.13*

- Also
 - Attitudinal questions about debtors
 - Attitudinal questions about bankruptcy
 - Basic demographic information about attorney

Percentage Recommendation for Chapter 13



Attorney Perception of “Competence”

- Reggie & Latisha:
 - Want to file chapter 7 = 4.89
 - Want to file chapter 13 = 5.31
- Todd & Allison
 - Want to file chapter 7 = 5.36
 - Want to file chapter 13 = 4.32

Attorney Perception of Values

- Reggie & Latisha:
 - Want to file chapter 7 = 5.38
 - Want to file chapter 13 = 6.12
- Todd & Allison
 - Want to file chapter 7 = 6.42
 - Want to file chapter 13 = 5.56

Study 5: What Do Attorneys Know?

- Groups
 - National random sample of consumer bankruptcy attorneys
 - All chapter 13 trustees
- “For each group below, please estimate the percentage of bankruptcies in that group that were filed as chapter 13s”

Attorney Errors

	<u>Atty Est. (mean)</u>	<u>Actual Ch. 13 Rates</u>	<u>Error</u>
Whites	46.3%	28.6%	+17.8%
Homeowners	54.5%	47.1%	+7.3%
Hispanics	14.0%	21.7%	-7.7%
Women filing alone	23.1%	31.4%	-9.3%
65 and over	14.7%	25.3%	-10.6%
Men filing alone	21.5%	33.3%	-11.8%
Southerners	34.1%	48.6%	-14.5%
Asian-Americans	9.9%	24.4%	-14.5%
Pro se debtors	8.6%	25.6%	-17.0%
African Americans	22.0%	54.6%	-32.6%
Prior bankrupts	35.2%	82.6%	-47.4%

Attorney Errors

	<u>Atty Est. (mean)</u>	<u>Actual Ch. 13 Rates</u>	<u>Error</u>
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African Americans	22.0%	54.6%	-32.6%
Prior bankrupts	35.2%	82.6%	-47.4%

Attorney vs. mTurkers

	<u>Attorney Est. (mean)</u>	<u>Actual Ch. 13 Rates</u>	<u>MTurk Est. (mean)</u>
Whites	46.3%	28.6%	43.0%
Homeowners	54.5%	47.1%	48.6%
Hispanics	14.0%	21.7%	23.2%
Women filing alone	23.1%	31.4%	25.1%
65 and over	14.7%	25.3%	30.5%
Men filing alone	21.5%	33.3%	32.8%
Southerners	34.1%	48.6%	30.2%
Asian-Americans	9.9%	24.4%	31.7%
Pro se debtors	8.6%	25.6%	25.1%
African Americans	22.0%	54.6%	25.4%
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Attorney vs. mTurkers

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Homeowners	54.5%	47.1%	48.6%
Hispanics	14.0%	21.7%	23.2%
Women filing alone	23.1%	31.4%	25.1%
65 and over	14.7%	25.3%	30.5%
Men filing alone	21.5%	33.3%	32.8%
Southerners	34.1%	48.6%	30.2%
Asian-Americans	9.9%	24.4%	31.7%
Pro se debtors	8.6%	25.6%	25.1%
African Americans	22.0%	54.6%	25.4%
Prior bankrupts	35.2%	82.6%	24.7%

Attys. better & statistically significant (5%)

Attys. worse & statistically significant (5%)



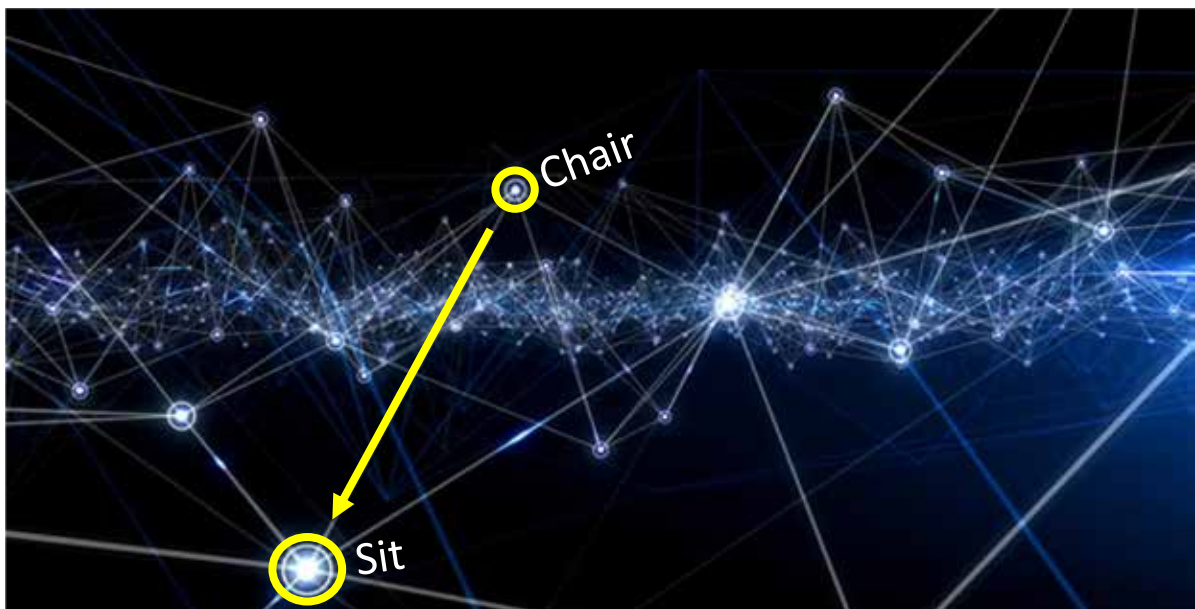
What is implicit bias?

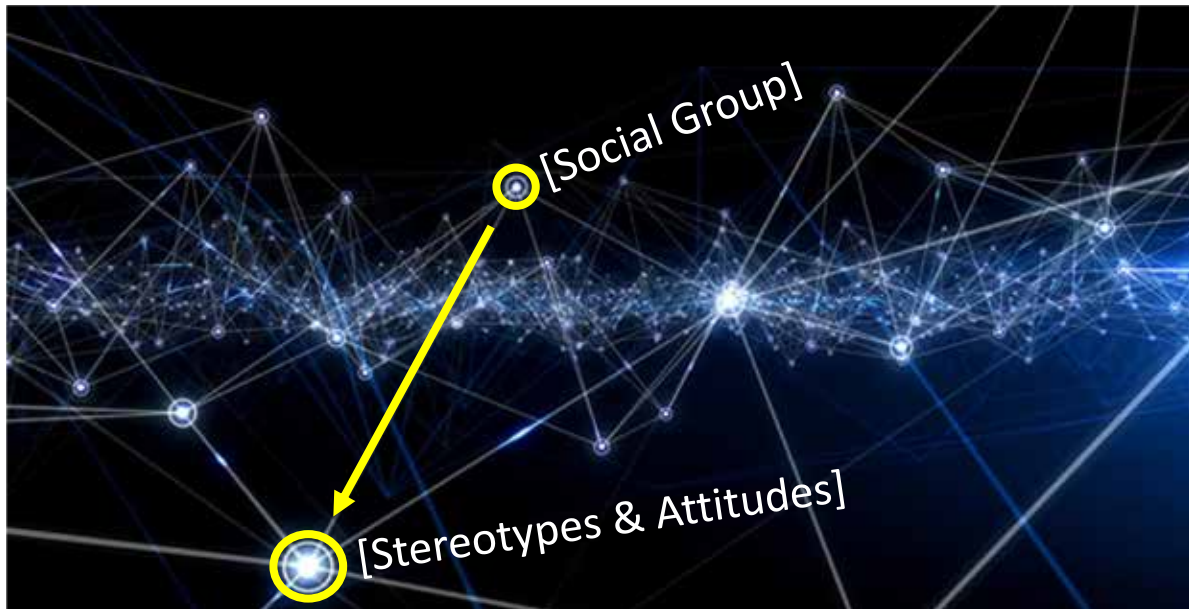
Implicit Racial Bias

- A decision that has been influenced by race automatically, unintentionally, and/or unconsciously



Where does implicit bias come from?





Where does implicit bias come from?

- Implicit stereotypes and attitudes form in memory through repeated exposure to group stereotypes in everyday life
- These implicit biases develop in memory even if you don't personally endorse them



When are we most vulnerable
to implicit bias?

Vulnerability to Implicit Bias

- Factors that increase the influence of implicit biases on decision-making:
 - Limited cognitive capacity
 - Habitual, intuitive, spontaneous decisions
 - Ambiguous or subjective decision criteria



What can we do about implicit bias?

Overriding Implicit Bias

- 1) Boost cognitive capacity
 - Get enough sleep
 - Don't work hungry
 - Don't multitask
 - Take breaks
 - Practice mindfulness

Overriding Implicit Bias

- 2) Limit habitual/intuitive decision-making
 - Slow down decision-making
 - Use checklists & flowcharts
 - Take notes

Overriding Implicit Bias

- 3) Clarify ambiguous or subjective decision criteria
 - Use a pre-planned list of questions to ask or factors to consider
 - Write out the reasons for your decisions

Conclusions: Implicit Racial Bias

- Everyone is vulnerable to implicit racial bias in decision-making
- Even though we are not to blame for implicit bias, we are responsible for addressing it
- With time and effort, it is possible to reduce the influence of implicit bias on our decisions

***Materials for
“Racial Disparities in the Bankruptcy System”
ABI Consumer Bankruptcy Forum***

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Robert M. Lawless, University of Illinois
Andrea Miller, National Center for State Courts/University of Illinois

To Conference Participants:

There are numerous studies discussing racial disparities in the consumer bankruptcy system. Generally speaking, these studies find that Blacks are overrepresented in the bankruptcy system and that, among persons who file bankruptcy, Blacks are overrepresented in chapter 13. The Final Report of the ABI Commission on Consumer Bankruptcy addressed these racial disparities. We have attached section 4.01 of that report, which summarizes the findings in these studies and has citations to the underlying research for those who wish to read in more detail.

Identifying the problem is only the start. Following the excerpt from the ABI Commission on Consumer Bankruptcy, Dr. Miller has assembled a bibliography built around three organizing principles on implicit and unintended racial biases.

IV: MAKING CHAPTER 13 WORK FOR ALL STAKEHOLDERS

A. Chapter 13 Practice

§ 4.01 Racial Justice in Bankruptcy

- (a) The empirical evidence establishes that African American bankruptcy debtors are both disproportionately more likely to file chapter 13 cases than debtors of other races and disproportionately less likely to obtain a discharge.
- (b) All professionals working in the bankruptcy system should strive to ensure that all persons have equal access to justice. Nothing beyond the applicable legal standards should affect a person's access to the bankruptcy system. No one should experience disparate treatment based on any nonlegal factor, including race, color, religion, sex, pregnancy, disability, national origin, ancestry, marital status, sexual orientation, or gender identity.
- (c) Insolvency organizations should develop and widely disseminate educational and training programs that can help bankruptcy professionals reduce implicit racial bias.
- (d) Congress should amend 28 U.S.C. § 159 to require both the collection of race and ethnicity information on the petition and the dissemination of that information by the director of the Administrative Office of U.S. Courts (AO).
- (e) In the absence of congressional action, both the Advisory Committee on Rules of Bankruptcy Procedure and the AO should consider the feasibility and practicality of collecting race and ethnicity information about bankruptcy filers through official bankruptcy forms, with appropriate privacy protections.

Background. Numerous academic studies establish that African American debtors are overrepresented among chapter 13 filers. Over half of African American bankruptcy debtors file chapter 13 cases, compared to just over one-quarter of other filers, a disparity that remains even after controlling for factors such as assets and income.¹ Chapter 13 can be the better choice for some debtors, but there is no apparent reason for a racial disparity after controlling for financial and personal circumstances. Because

¹ See Dov Cohen, Robert M. Lawless & Faith Shin, *Opposite of Correct: Inverted Insider Perceptions of Race and Bankruptcy*, 91 AM. BANKR. L.J. 623, 631, 633 (2017) (reporting a study where 55.0% of African American filers were in chapter 13 as compared to 26.3% for debtors from households where no debtor identified as African American); Jean Braucher, Dov Cohen & Robert M. Lawless, *Race, Attorney Influence, and Bankruptcy Chapter Choice*, 9 J. EMPIRICAL LEGAL STUD. 393, 398, 402 (2012) (reporting a study where 54.7% of African American filers were in chapter 13 compared to 26.7% for debtors from households where no debtor identified as African American).

chapter 13 is more expensive, requires repayment of income over a period of three to five years, and grants a discharge only after successful completion of the proposed payments, the racial disparity in chapter 13 filers raises concerns about equal access to justice.

Academic papers first noted the racial disparity in chapter 13 filers thirty years ago. The initial reports of racial disparity, however, were not widely noticed, likely because the racial disparity finding was a byproduct of a different research question or because the papers used procedures that limited their ability to draw statistical inferences. In a paper published in 1987, Professor Michelle White explored whether the increase in bankruptcy filings after the 1978 passage of the Bankruptcy Code was due to increases in exemptions or general economic factors. Using a data set of 75,000 cases provided by the AO, she found that the percentage of African Americans in a county increased the number of chapter 13 cases filed in that county.²

As part of her pioneering work on the concept of local legal culture, Professor Jean Braucher did in-depth qualitative interviews with bankruptcy professionals in Ohio and Texas. In these interviews, two chapter 13 trustees in Ohio said they thought African Americans were overrepresented in chapter 13, with one of the trustees commenting that he was worried these debtors were “being taken advantage of.”³

Several later papers, more specifically mentioning racial disparities in bankruptcy, were based on data from the long-running Consumer Bankruptcy Project (CBP).⁴ In a study using 2001 data from the CBP and using households as the unit of analysis, Professor Robert Chapman stated that over half of the African American debtors in the data filed for chapter 13.⁵ In a study based on the same 2001 data, Professor Rory Van Loo explored racial disparities in bankruptcy discharge rates. As part of that study, he found that 61.8% of African Americans “chose Chapter 13, compared to 28.4% of Hispanics and 20.5% of whites.”⁶

As technology changed, it became easier for researchers to create data sets that allowed for more robust statistical techniques. These techniques built on the earlier findings; evidence accumulated that the racial disparity in bankruptcy chapter choice in prior work was not an artifact of the earlier research designs. Professors Jean Braucher, Dov Cohen, and Robert Lawless used the nationally representative 2007 CBP data to explore more fully the overrepresentation of African Americans in chapter 13. They

2 Michelle J. White, *Personal Bankruptcy Under the 1978 Bankruptcy Code: An Economic Analysis*, 63 IND. L.J. 1, 45, 47 (1987).

3 Jean Braucher, *Lawyers and Consumer Bankruptcy: One Code, Many Cultures*, 67 AM. BANKR. L.J. 501, 559-60 (1993).

4 The CBP has collected data on U.S. bankruptcy filers in waves in 1981, 1991, 2001, and 2007, and began continuous data collection in 2013. The CBP collects court-record data and does surveys and telephone interviews with bankruptcy filers. Information about the CBP’s methodologies can be found at Robert M. Lawless, Angela K. Littwin, Katherine M. Porter, John A.E. Pottow, Deborah K. Thorne & Elizabeth Warren, *Did Bankruptcy Reform Fail? An Empirical Study of Consumer Debtors*, 82 AM. BANKR. L.J. 349, 387-98 (2008), and Pamela Foohey, Robert Lawless, Katherine Porter & Deborah Thorne, “No Money Down” *Bankruptcy*, 90 S. CAL. L. REV. 1055, 1072-74 (2017).

5 Robert B. Chapman, *Missing Persons: Social Science and Accounting for Race, Gender, Class, and Marriage in Bankruptcy*, 76 AM. BANKR. L.J. 347, 387 n.266 (2002) (finding that 42.6% of African American filers went into chapter 7 and therefore implying that over half filed chapter 13).

6 Rory Van Loo, *A Tale of Two Debtors: Bankruptcy Disparities by Race*, 72 ALB. L. REV. 231, 234 (2009). A limitation on the Chapman study and this study was that, because of the technology of the time, the CBP drew on five judicial districts that together were believed to be nationally representative but were not true national random samples. See Lawless, et al., *supra* note 4, at 389-90.

found that 54.7% of African American bankruptcy filers were in chapter 13, compared to 28.2% of filers of all other races.⁷ The differences remained even after regressions that statistically controlled for (1) legal and financial variables such as attorney representation, income, and assets; (2) prebankruptcy workout efforts such as attempts to consolidate debts, attempts to “work with” creditors, and attempts at refinancing; (3) demographic variables such as educational level, occupational prestige, and number of dependents; and (4) the rate at which non-African Americans filed under chapter 13 in the district.⁸ After controlling for these variables, the regressions estimated an African American bankruptcy filer was about twice as likely to be in chapter 13 compared to a similarly situated debtor of another race.

Braucher, Cohen, and Lawless also sent an experimental vignette to a random sample of consumer bankruptcy attorneys. The vignette described a couple who had come to an attorney for bankruptcy advice. The researchers designed the vignette to be a close question as to whether chapter 7 or chapter 13 was a better choice. The responding attorneys, without being told, each received one of several different versions of the vignette. In one version, the clients had names and church denominations that were stereotypically African American, while another version included stereotypically white names and church denominations. There also was a control group for which the vignette used only initials and gave no cues about the likely race of the client. Different versions also specified whether the clients stated a preference for chapter 7 or chapter 13 or, as a control condition, the clients did not state a preference.⁹

If the attorney had received a vignette with stereotypical African American names, the attorney recommended a chapter 13 filing 47% of the time while recommending that chapter only 36% of the time for the control condition and only 32% of the time if the vignette had stereotypical white names.¹⁰ Moreover, attorneys were more likely to override the stated preference of the client to file chapter 7 if the vignette used the stereotypical African American names.¹¹ Attorneys also viewed the fictitious African American couple as being more “competent” and having “good values” if the couple had expressed a preference for chapter 13 but had the opposite reaction for the fictitious white couple.¹²

Cohen and Lawless were joined by Faith Shin in a partial replication of their earlier work using 2013-15 data from the CBP. Again, African American bankruptcy filers were in chapter 13 at higher rates

7 Braucher, et al., *supra* note 1, at 400. Preliminary findings from this paper were published at Dov Cohen & Robert M. Lawless, *Less Forgiven: Race and Chapter 13 Bankruptcy*, in *BROKE: HOW DEBT BANKRUPTS THE MIDDLE CLASS* 175 (Katherine Porter ed., 2012). The American Bankruptcy Institute sponsored a symposium about the paper for which the authors shared their data with other researchers who confirmed the study’s findings. See Symposium, *Bankruptcy and Race: Is There a Relation?*, 20 AM. BANKR. INST. L. REV. 611 (2012) (publishing articles by A. Mechele Dickerson, Joseph W. Doherty, Theodore Eisenberg, Daniel Keating, and Stephen Lubben).

8 Braucher, et al., *supra* note 1, at 402.

9 *Id.* at 406-09. In research terms, the different versions of the vignette were two experimental manipulations of three possibilities that were “fully crossed” such that there were nine versions of the vignette.

10 *Id.* at 412.

11 *Id.*

12 *Id.* at 413-16.

(55.0%) than persons of other races (26.3%).¹³ The differences again remained even after regressions controlling for legal and financial variables, prebankruptcy workout efforts, demographic information, and the overall chapter 13 rate in the district.¹⁴ Cohen, Lawless, and Shin also gave consumer bankruptcy lawyers a survey asking them to make estimates about bankruptcy chapter choice. The attorneys overestimated the propensity of whites to file chapter 13, guessing that 46.3% of the time they filed chapter 13, compared to the real-world rate at the time of the survey of 28.6%. At the same time, they underestimated the propensity of African Americans to file chapter 13, stating that the rate was 22.0%, compared to the real-world rate of 54.6%.¹⁵ Attorneys also made large overestimates for homeowners and large underestimates for prior bankrupts. In the authors' words:

The attorney estimates appear to line up with American stereotypes of who is a responsible person. Attorneys see homeowners and whites as more likely to attempt repayment to creditors through chapter 13 whereas they see African Americans and prior bankrupts as more likely to seek a full discharge in chapter 7. There is no reason to think that attorneys, as a group, should not hold prevailing American cultural biases about who is a responsible person. That the attorneys are the system's insiders and have a front-row seat to witnessing a 2:1 racial disparity is not enough to overcome the bias.¹⁶

Professor Edward Morrison and Antoine Uettwiller used a data set from Cook County, Illinois, to explore the relationship between the overrepresentation of African Americans in chapter 13 and parking fines. They find that in Cook County, African Americans not only are overrepresented among chapter 13 filers but also are overrepresented among bankruptcy filers with more than \$500 of government fines.¹⁷ Because governmental fines are dischargeable in chapter 13, Morrison & Uettwiller observe that such filers have a greater incentive to choose chapter 13. After excluding African Americans with more than \$500 in governmental fines, the disparity in chapter choice remains but is "substantially smaller."¹⁸ In a working paper, Morrison & Uettwiller joined Belisa Pang to look at African American debtors in Atlanta, Chicago, and Memphis. They find that African Americans with longer commuting times in those three cities are more likely to file chapter 13.¹⁹ Using a subset of their data for Chicago only, they find that the beginning of more aggressive parking enforcement and fines was more likely to lead to

13 Cohen, et al., *supra* note 1, at 631.

Given the publicity of the prior work, it was likely that many bankruptcy professionals were aware of it, and it was possible that practices had changed to erase the disparity. For example, the Braucher, Cohen & Lawless paper received substantial media attention, including a front-page story in the *New York Times*. See Tara Siegel Bernard, *Blacks Face Bias in Bankruptcy, Study Suggests*, N.Y. TIMES, Jan. 20, 2012, at A1. Thus, it was somewhat surprising that not only had the overall picture remained basically the same but also that the disparities remained almost exactly in the same percentages. See *id.* at 632 (commenting the results in the replication are "strikingly similar" to the results from the earlier paper).

14 *Id.* at 633.

15 *Id.* at 637.

16 *Id.* at 639.

17 Edward R. Morrison & Antoine Uettwiller, *Consumer Bankruptcy Pathologies*, 173 J. INSTITUTIONAL & THEORETICAL ECON. 174 (2017).

18 *Id.* at 185-86.

19 Edward R. Morrison, Belisa A. Pang & Antoine Uettwiller, *Race and Bankruptcy* (Columbia Law and Economics Working Paper), available at <https://ssrn.com/abstract=3137112>.

an increase in chapter 13 filings in zip codes with predominately African American residents. They summarize this line of research as saying, “Among those who file, African Americans are more likely than other debtors to select Chapter 13. This preference is due, at least in part, to systematic differences by race in the value of cars and driver licenses.” Whether this work generalizes beyond Chicago is yet to be explored. A *ProPublica Illinois* news story details the link between aggressive parking enforcement in Chicago and bankruptcy filings.²⁰

Professors Pamela Foohey, Robert Lawless, Katherine Porter, and Deborah Thorne used CBP data from 2007 and 2013-15 to examine the phenomenon of “no money down” chapter 13s where the bankruptcy filer funds the attorney’s fees through the chapter 13 plan. African American debtors were more likely to file a “no money down” chapter 13 than debtors of other races, a result that held up even after statistically controlling for other factors through regression analysis.²¹ Indeed, the two most important factors that determined whether a debtor filed a “no money down” chapter 13 were the debtor’s race and the percentage of chapter 13s in the district.²² The authors summarized their findings as follows: “[T]hese two characteristics align with prior research about bankruptcy attorneys’ role in creating regional and racial disparities in debtors’ chapter choice, further suggesting that attorneys play a very important, though likely unintentional, role in facilitating people’s use of bankruptcy.”²³

In an extensive piece of data journalism for *ProPublica*, Paul Kiel and Hannah Fresques matched zip code-level data with bankruptcy-filing data. They found that persons living in majority African American zip codes were twice as likely to file chapter 13 than persons of other races. They then used Census-tract data to drill down into the data for the Northern District of Illinois and the Western District of Tennessee, two districts with high chapter 13 rates where they found the pattern remained even after controlling for income and assets.²⁴

Most recently, Professors Robert Lawless and Angela Littwin used a similar methodology to Kiel & Fresques, matching the Federal Judicial Center’s (FJC) national bankruptcy petition database containing data on all bankruptcy filings to zip code-level data from the Census. Using all chapter 7s and chapter 13s filed across the country from 2012-2016, they find that case-level characteristics (e.g., assets and income) and zip code-level characteristics (e.g., mean income, presence of payday lending, and percentage of African Americans) drive chapter 13 rates. After controlling for judicial district, however, the only zip code-level variable that remained significant was the percentage of African Americans living in the zip

20 See Melissa Sanchez & Sandhya Kambhampati, *Driven to Bankruptcy: How Chicago Debt Sends Black Motorists into Bankruptcy*, PROPUBLICA ILL., Feb. 27, 2018, <https://features.propublica.org/driven-into-debt/chicago-ticket-debt-bankruptcy/>.

21 See Foohey, et al., *supra* note 4, at 1082, 1087 tbl.3.

22 See *id.* at 1089, fig. 4.

23 *Id.* at 1106.

24 See Paul Kiel & Hannah Fresques, *Data Analysis: Bankruptcy and Race in America*, PROPUBLICA, Sept. 27, 2017, <https://projects.propublica.org/graphics/bankruptcy-data-analysis>. A shorter narrative describing the data analysis and including interviews with bankruptcy filers and bankruptcy attorneys was simultaneously published. See Paul Kiel & Hannah Fresques, *How the Bankruptcy System Is Failing Black Americans*, PROPUBLICA, Sept. 27, 2017, <https://features.propublica.org/bankruptcy-inequality/bankruptcy-failing-black-americans-debt-chapter-13/> [hereafter, Kiel & Fresques, *How the Bankruptcy System Is Failing*].

code area.²⁵ Lawless & Littwin considered their findings significant because they were consistent with prior studies based on the CBP data set but used different, nonsurvey techniques.

Because a chapter 13 discharge comes only after completion of plan payments and with only 38.8% of chapter 13s having a completed plan,²⁶ the disparity in chapter choice means African Americans are less likely to receive a discharge. Even among chapter 13 filers, however, research suggests African Americans are less likely to receive a discharge. Braucher, Cohen, and Lawless noted that, in their data, African American chapter 13 filers were more likely to have their cases dismissed as compared to other debtors.²⁷ Using 2007 data from the CBP, Professors Sara Green, Parina Patel, and Katherine Porter looked at the determinants of successful completion for chapter 13 plans. Using regression analysis, they identified several variables that affect plan completion: the amount of unsecured and priority debt, housing affordability, dependents, prior bankruptcies, attorney representation, saving a home as a reason for the filing, the availability of health insurance, and household employment.²⁸ But race also mattered: “Blacks have less than half the chance of bankruptcy success as non-blacks. . . . More than amount of debt, prior bankruptcies, or having a job — all features that the bankruptcy system does account for in considering a person’s eligibility for chapter 13 — race matters.”²⁹

Recommendations. After considering the evidence on racial disparities in chapter 13, the Commission decided it was important both to acknowledge the empirical fact of the disparities and to make a strong statement regarding the issue. Although the studies have focused on the role of attorneys, the dramatic variation in racial disparities among judicial districts suggests that one group of actors cannot be driving the entire effect. It may be the complex interactions among debtors, attorneys, trustees, judges, and other system actors that are creating the context for the disparities.³⁰ The mechanisms that create the disparities are still being explored, and the Commission encourages scholars to continue to study the intersection of race and bankruptcy. Regardless of the precise causes, consumer bankruptcy professionals should do whatever they can to help to ensure that everyone has an equal opportunity to achieve a fresh start.

As part of its recommendations, the Commission has issued a statement of nondiscrimination in the bankruptcy system, not just against racial discrimination but against all forms of discrimination based on legally irrelevant factors. The Commission’s statement is consistent with lawyers’ professional duties to assist in providing access to the legal system and the administration of justice.³¹ The Commission’s commitment to nondiscrimination is the one recommendation that every reader of this report can

25 See Robert M. Lawless & Angela Littwin, *Local Legal Culture from R2D2 to Big Data*, 96 TEX. L. REV. 1352, 1368 tbl.1 (2018).

26 See Ed Flynn, *Success Rates in Chapter 13*, AM. BANKR. INST. J., Aug. 2018, at 38 tbl.1.

27 Braucher, et al., *supra* note 1, at 405.

28 See Sara S. Greene, Parina Patel & Katherine Porter, *Cracking the Code: An Empirical Analysis of Consumer Bankruptcy Outcomes*, 101 MINN. L. REV. 1031, 1087 tbl. 1 (2017).

29 *Id.* at 1036, 1087 tbl. 1.

30 See Braucher, *supra* note 3, at 503 (describing local legal culture as “the context created by” the local “administrative practices of judges and trustees, and prevailing professional attitudes” that varied “dramatically” across the four cities she studied).

31 See MODEL RULES OF PROF’L CONDUCT pmbl. ¶ 6.

implement on his or her own and indeed will only be effectively implemented through the individual commitment of bankruptcy professionals to equal access to justice.

At its most basic level, the Commission's recommendation is a call for a commitment to the rule of law that respects everyone's right to access the bankruptcy system and to have all the actors in the bankruptcy system base their decisions only on legally relevant factors.

None of the studies discussed above have identified conscious racism as the culprit for the disparities. Rather, implicit racial bias may lie beneath the disparities observed in the studies. Implicit bias refers to the unconscious attitudes and stereotypes that studies suggest are pervasive in the population. These biases are involuntary and can contradict a person's consciously held beliefs in equality. Studies suggest that implicit bias is associated with widespread discriminatory outcomes, including poor social interactions, constricted job opportunities, "a decreased likelihood of receiving life-saving emergency medical treatments,"³² and negative outcomes throughout the U.S. legal system.³³ The goal of the Commission is to provide equality-minded bankruptcy professionals with the opportunity to live up to their consciously held beliefs. Implicit biases are pervasive across all societies. The disparities in bankruptcy chapter choice give consumer bankruptcy professionals an opportunity to provide leadership across the legal profession by creating examples of how to combat implicit bias.

The Commission therefore recommends that bankruptcy organizations conduct sessions on implicit racial bias as part of their continuing legal education (CLE) offerings. State bars should approve such panels for ethics CLE credits and consider going further to require implicit racial bias training as its own class of CLE credit, similar to the rules in many states for ethics, mental health, or substance-abuse training. Sessions dedicated to implicit racial bias training already are occurring at bankruptcy CLEs. At the risk of omission, the Commission is aware of such panels at meetings of the American Bankruptcy Institute, the National Conference of Bankruptcy Judges, the National Association of Consumer Bankruptcy Attorneys, the National Association of Chapter 13 Trustees, and the FJC, as well as meetings of state and local bar associations. In addition to continuing legal education panels, the Commission recommends that bankruptcy groups offer training to their members to assist them in overcoming implicit bias.

Finally, the commissioners believe that the disparities in treatment based on race might have been less pronounced had the data cited here been more widely available. As the saying goes, sunlight is the best disinfectant. At the least, the availability of bankruptcy data on race and ethnicity (and perhaps other demographic information) would give researchers opportunities to better understand who files bankruptcy and how the system can be improved. The Commission therefore recommends that Congress amend 28 U.S.C § 159 to authorize the collection of race and ethnicity information as part of the bankruptcy petition process. Congress should require the AO to disseminate statistics on the race

32 Patricia G. Devine, Patrick S. Forscher, Anthony J. Austin & William T.L. Cox, *Long-Term Reduction in Implicit Race Bias: A Prejudice Habit-Breaking Intervention*, 48 EXPERIMENTAL SOC. PSYCHOL. 1267, 1267 (2012).

33 Jerry Kang, Mark Bennett, Devon Carbado, Pam Casey, Nilanjana Dasgupta, David Faigman, Rachel Godsil, Anthony G. Greenwald, Justin Levinson & Jennifer Mnookin, *Implicit Bias in the Courtroom*, 59 UCLA L. REV. 1124 (2012).

and ethnicity of bankruptcy filers. If Congress does not act, the Advisory Committee on Bankruptcy Rules of Procedure should work with the AO to consider implementation of the recommendation through the rules process.

The Commission recognizes that collecting race and ethnicity information may raise privacy issues. Race and ethnicity should not be relevant to the legal issues in bankruptcy cases, but putting such information in the bankruptcy filing might be understood as suggesting that these pieces of information somehow are considered in administering a case and perhaps might be especially confusing for pro se filers. It is not unusual, however, for many organizations to collect demographic information for statistical purposes, and the forms could simply state the information would not be used in the case and is being requested only to better track who comes into contact with the bankruptcy system. It would also be important that the statistical information on race and ethnicity be stored separately from the rest of the information in the case. The Commission decided it was best to leave the precise implementation of this recommendation to the expertise of the AO. The Commission does not intend to downplay the costs and risks of collecting race and ethnicity information, but in light of the evidence and history of racial disparities in the bankruptcy system, it believes that the benefits of collecting the information outweigh these costs and risks.

§ 4.02 Nonuniform Court Practices

- (a) Uniform practices reduce costs and facilitate access to justice for all parties. Courts should adopt local rules, standing orders, and practices that promote uniformity within their district and across the nation.
- (b) In multi-judge districts, judges should confer to reduce differences in courtroom procedures.
- (c) The ABI should work with the U.S. Trustee Program (USTP), the FJC, and other professional associations to promote uniformity in the bankruptcy system.

Background. Variations in local practices have many benefits, such as tailoring procedures to local needs and piloting innovations that can spread to other localities across the country and even prompt a change in national practice. Indeed, chapter 13 itself began this way.³⁴ By “local practices,” the Commission is referring to local court rules, standing orders, or even unwritten norms that “everyone” knows they must follow in the local bankruptcy court.

³⁴ See Teresa A. Sullivan, Elizabeth Warren & Jay Lawrence Westbrook, *The Persistence of Local Legal Culture: Twenty Years of Evidence from the Federal Bankruptcy Courts*, 17 HARV. J. L. & PUB. POL’Y 801, 842 (1994) (explaining that the origins of chapter 13 came from the Northern District of Alabama and judges who followed the innovations in that district).

**Additional Reading:
Implicit and Unintended Racial Biases**

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- I. Many of our thoughts, feelings, and behaviors happen outside of our conscious awareness and control. Although research using the Implicit Association Test (IAT) is more recent, the IAT is only one measure of implicit information processing. Psychologists have been studying thoughts, feelings, and behaviors outside of conscious awareness with a wide variety of methods for over a century.**

Allport, G. W. (1954). *The nature of prejudice*. Cambridge, MA: Perseus Books.

Amodio, D. M., & Devine, P. G. (2006). Stereotyping and evaluation in implicit race bias: Evidence for independent constructs and unique effects on behavior. *Journal of Personality and Social Psychology*, 91, 652–661.

Banaji, M. R., & Hardin, C. D. (1996). Automatic stereotyping. *Psychological Science*, 7, 136–141.

Banaji, M. R., Hardin, C., & Rothman, A. J. (1993). Implicit stereotyping in person judgment. *Journal of Personality and Social Psychology*, 65, 272–281.

Bargh, J. A. (1994). The four horseman of automaticity: Awareness, intention, efficiency and control in social cognition. In R. S. Wyer & T. K. Srull (Eds.), *Handbook of social cognition: Vol. 1. Basic processes* (2nd ed., pp. 1–40). Hillsdale, NJ: Erlbaum.

Bartlett, F. C. (1932). *Remembering: A study in experimental and social psychology*. London: Cambridge University Press.

Blair, I. V., & Banaji, M. R. (1996). Automatic and controlled processes in stereotype priming. *Journal of Personality and Social Psychology*, 70, 1142–1163.

Devine, P. G. (1989). Stereotypes and prejudice: Their automatic and controlled components. *Journal of Personality and Social Psychology*, 56, 5–18.

Devine, P. G. (2005). Breaking the prejudice habit: Allport's "inner conflict" revisited. In J. F. Dovidio, P. Glick, & L. A. Rudman (Eds.), *On the nature of prejudice: Fifty years after Allport* (pp. 327–342). Malden, MA: Blackwell.

Devine, P. G., & Monteith, M. J. (1999). Automaticity and control in stereotyping. In S. Chaiken & Y. Trope (Eds.), *Dual-process theories in social psychology* (pp. 339–360). New York, NY: Guilford Press.

Dovidio, J. F., Evans, N., & Tyler, R. B. (1986). Racial stereotypes: The contents of their cognitive representations. *Journal of Experimental Social Psychology*, 22, 22–37.

- Dovidio, J. F., & Gaertner, S. L. (2004). Aversive racism. In Zanna, M. P. (Ed.). *Advances in experimental social psychology*. Vol. 36 (pp.1–52). San Diego, CA: Elsevier.
- Dovidio, J. F., Kawakami, K., & Gaertner, S. L. (2002). Implicit and explicit prejudice and interracial interaction. *Journal of Personality and Social Psychology*, 84, 754–770.
- Dovidio, J. F., Kawakami, K., Johnson, C., Johnson, B., & Howard, A. (1997). On the nature of prejudice: Automatic and controlled processes. *Journal of Experimental Social Psychology*, 33, 510–540.
- Ebbinghaus, H. (1885). *Memory: A contribution to experimental psychology*. New York: Teachers College, Columbia University.
- Eberhardt, J. L., Goff, P. A., Purdie, V. J., & Davies, P. G. (2004). Seeing black: Race, representation, and visual perception. *Journal of Personality and Social Psychology*, 87, 876–893.
- Fazio, R. H., Sanbonmatsu, D. M., Powell, M. C., & Kardes, F. R. (1986). On the automatic activation of attitudes. *Journal of Personality and Social Psychology*, 50, 229–323.
- Gaertner, S. L., & McLaughlin, J. P. (1983). Racial stereotypes: Associations and ascriptions of positive and negative characteristics. *Social Psychology Quarterly*, 46, 23–30.
- Greenwald, A.G. & Lai, C.K. (2020). Implicit social cognition. *Annual Review of Psychology*, 71, 419-445.
- Hebb, D. O. (1949). *Organization of behavior*. Wiley: New York.
- Higgins, E. T., Rholes, W. S., & Jones, C. R. (1977). Category accessibility and impression formation. *Journal of Experimental Social Psychology*, 13, 141–154.
- Kahneman, D., Slovic, P., & Tversky, A. (Eds.). (1982). *Judgment under uncertainty: Heuristics and biases*. New York: Cambridge University Press.
- Macrae, C. N., Bodenhausen, G. V., Milne, A. B., & Jetten, J. (1994). Out of mind but back in sight: Stereotypes on the rebound. *Journal of Personality and Social Psychology*, 67, 808–817.
- McConnell, A. R., & Leibold, J. M. (2001). Relations among the Implicit Association Test, discriminatory behavior, and explicit measures of racial attitudes. *Journal of Experimental Social Psychology*, 37, 435–442.
- Nisbett, R., & Ross, L. (1980). *Human inference: Strategies and shortcomings of social judgment*. Englewood Cliffs, NJ: Prentice Hall.
- Nosek, B. A., & Smyth, F. L. (2007). A multitrait–multimethod validation of the Implicit Association Test: Implicit and explicit attitudes are related but distinct constructs. *Experimental Psychology*, 54, 14–29.

Phelps, E. A., O'Connor, K. J., Cunningham, W. A., Gatenby, J. C., Funayama, E. S., Gore, J. C., et al. (2000). Amygdala activation predicts performance on indirect measures of racial bias. *Journal of Cognitive Neuroscience*, 12, 729–738.

Richeson, J. A., & Shelton, J. N. (2005). Brief report: Thin slices of racial bias. *Journal of Nonverbal Behavior*, 29, 75–86.

Richeson, J. A., & Trawalter, S. (2005). Why do interracial interactions impair executive function? A resource depletion account. *Journal of Personality and Social Psychology*, 88, 934–947.

Sekaquaptewa, D., Espinoza, P., Thompson, M., Vargas, P., and von Hippel, W. (2003). Stereotypic explanatory bias: Implicit stereotyping as a predictor of discrimination. *Journal of Experimental Social Psychology*, 39, 75–82.

Stangor, C., Sullivan, L. A., & Ford, T. E. (1991). Affective and cognitive determinants of prejudice. *Social Cognition*, 9, 359–380.

Stroop, J. R. (1935). Studies of interference in serial verbal reactions. *Journal of Experimental Psychology*, 18, 643–662.

Towles-Schwen, T., & Fazio, R. H. (2006). Automatically activated racial attitudes as predictors of the success of interracial roommate relationships. *Journal of Experimental Social Psychology*, 42, 698–705.

Zajonc, R. B. (1980). Feeling and thinking: Preferences need no inference. *American Psychologist*, 35, 151–175.

II. The effects of implicit racial bias on behavior are not limited to the laboratory. Studies that examine “real-world” outcomes find results that are consistent with the lab results.

Ayres, I. (2001). *Pervasive prejudice? Unconventional evidence of race and gender discrimination*. Chicago: University of Chicago Press.

Bertrand, M., & Mullainathan, S. (2004). Are Emily and Greg more employable than Lakisha and Jamal? *American Economic Review*, 94, 991–1013.

Correll, J., Park, B., Judd, C., Wittenbrink, B., Sadler, M. S., & Keese, T. (2007). Across the thin blue line: Police officers and racial bias in the decision to shoot. *Journal of Personality and Social Psychology*, 92, 1006–1023.

Green, A. R., Carney, D. R., Pallin, D. J., Ngo, L. H., Raymond, K. L., Iezzoni, L., & Banaji, M. (2007). Implicit bias among physicians and its prediction of thrombolysis decisions for black and white patients. *Journal of General Internal Medicine*, 22, 1231–1238.

Pager, D. (2003). The mark of a criminal record. *American Journal of Sociology*, 108, 937–975.

Plant, E. A., & Peruche, B. M. (2005). The consequences of race for police officers' responses to criminal suspects. *Psychological Science*, 16, 180–183.

Riach, P. A., & Rich, J. (2002). Field experiments of discrimination in the market place. *Economic Journal*, 112, F480–F518.

III. The path from implicit bias to discriminatory behavior is not inevitable. The motivation and opportunity to exert conscious control can determine whether biases will manifest in the final decision or outcome.

Amodio, D.M., Kubota, J.T., Harmon-Jones, E., & Devine, P.G. (2006). Alternative mechanisms for regulating racial responses according to internal vs. external cues. *Social Cognitive and Affective Neuroscience*, 1, 26–36.

Calanchini, J., Lai, C. K., & Klauer, K. C. (2020). Reducing implicit racial preferences: III. A process-level examination of changes in implicit preferences. *Journal of Personality and Social Psychology*. doi: 10.1037/pspi0000339

Devine, P.G., Forscher, P.S., Austin, A.J., & Cox, W.T.L. (2012). Long-term reduction in implicit race bias: A prejudice habit-breaking intervention. *Journal of Experimental Social Psychology*, 48, 1267–1278.

Devine, P.G., Plant, E.A., Amodio, D.M., Harmon-Jones, E., & Vance, S.L. (2002). The regulation of explicit and implicit race bias: The role of motivations to respond without prejudice. *Journal of Personality and Social Psychology*, 82, 835–848.

Forscher, P., Mitamura, C., Dix, E., Cox, W., & Devine, P. (2017). Breaking the prejudice habit: Mechanisms, timecourse, and longevity. *Journal of Experimental Psychology*, 72, 133–146.

Monteith, M.J., Ashburn-Nardo, L., Voils, C.I., & Czopp, A.M. (2002). Putting the brakes on prejudice: On the development and operation of cues for control. *Journal of Personality & Social Psychology*, 83, 1029–1050.

Moskowitz, G.B., Gollwitzer, P., Wasel, W., & Schaal, B. (1999). Preconscious control of stereotype activation through chronic egalitarian goals. *Journal of Personality and Social Psychology*, 77, 167–184.

Park, S.H., Glaser, J., & Knowles, E.D. (2008). Implicit motivation to control prejudice moderates the effect of cognitive depletion on unintended discrimination. *Social Cognition*, 26, 401–419.

Plant, E.A., & Devine, P.G. (1998). Internal and external motivation to respond without prejudice. *Journal of Personality and Social Psychology*, 75, 811–832.