

AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Susan Choe

Bass Connections

Duke University

2020

PREFACE

The following Oral History is the result of a recorded interview with Susan Choe conducted by Braelyn Parkman on December 7, 2020. This interview is part of the Bass Connections American Predatory Lending and the Global Financial Crisis Project.

Readers are asked to bear in mind that they are reading a transcript of spoken word, rather than written prose. The transcript has been reviewed and approved by the interviewee.

Transcriber: Patrick Rochelle
Interviewee: Susan Choe
Interviewer: Braelyn Parkman

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Braelyn Parkman: I'm Braelyn Parkman, an undergraduate student from Duke University and a member of the Bass Connections American Predatory Lending and the Global Financial Crisis team. It is Monday, December 7th, 2020. I'm conducting an oral history interview with Susan Choe, who currently serves as Executive Director of Ohio Legal Help, and previously served as Section Chief for Consumer Protection within the Ohio Attorney General's office. Susan joins us via Zoom. Thank you for joining me today.

Susan Choe: Thank you Braelyn and thank you, Patrick. Appreciate the time to tell kind of my perspective and also my background with respect to predatory lending.

Braelyn Parkman: I'd like to start by just establishing a little bit about your background. I believe you received both your bachelor's and your J.D. from the Ohio State University. Is that right?

Susan Choe: That's correct. I'm a double Buckeye. That's what we call ourselves. That's right.

Braelyn Parkman: Did you grow up in Ohio?

Susan Choe: I did. I actually grew up in a little town up in Northwest Ohio, near Lake Erie. So I've spent most of my life here in Ohio.

Braelyn Parkman: Okay. And in the context of your work life, when and how did you first become involved with residential mortgages?

Susan Choe: Sure. So I actually right -- so I have an interesting career. I actually, right out of undergrad -- my degrees are in economics and I have a chemistry degree as well -- I actually was in corporate lending for a major bank here in Ohio. So not on the, what we call the residential or the retail side, but on the corporate. So I did have some banking experience. But I went to law school to do public interest work. And so I had a career prior to my law school. And then I actually post-law school started as a fellow working on community economic development and actually fair housing issues for an impact organization in Northwest Ohio. And that's actually when I first started on looking at home ownership issues and foreclosure. And that was 1997.

Braelyn Parkman: Okay. What was the name of that organization that you were working with?

Susan Choe: Sure. So I worked for the Impact Unit within Advocates for Basic Legal Equality in Toledo, Ohio.

- Braelyn Parkman: Okay. Then I believe you did some legal aid work as well with Legal Aid Society of Columbus and Legal Aid of Western Ohio. Could you talk a little bit about what your work was like with those organizations?¹
- Susan Choe: Sure. I worked primarily on housing and then with Legal Aid of Western Ohio, I was a supervising attorney and I had essentially housing – excuse me – housing, consumer, and also had oversight over our public benefits work.
- Braelyn Parkman: When you were working with those organizations, what were some of the more common problems that your clients were facing?
- Susan Choe: We saw a lot of evictions, and I think particularly in Columbus. It is a larger city, currently two million in the MSA [Metropolitan Statistical Area], so lots of residential evictions. But we started to see foreclosures as well, similarly with Legal Aid of Western Ohio. And that's actually when I first started my work with Truth in Lending and particularly with high-cost mortgages, at that point under the then version of a HOEPA [Home Ownership and Equity Protection Act]. [I also was]... learning about some of the mortgage broker activity in terms of some of the ways that I think folks didn't quite understand these complex financial instruments that they were executing. And so I would have to address them post – when they obviously got into trouble. So, adjustable-rate mortgages being one. I also had cases where folks who had FHA [Federal Housing Administration] loans unwittingly didn't understand and were convinced to refinance their home [loans] into more high cost mortgages.
- Braelyn Parkman: Okay. ... Did you engage with any decision makers in the state government in regards to these issues at all during this time? And what was that like?
- Susan Choe: Ohio I think was hit early. So in some ways ..., and especially in light of some of the fair housing work that I did, I always look at it as redlining ... redlining prevented communities of color from acquiring wealth. And then reverse redlining went in and stripped that same wealth from those communities.² So we saw some of that, [and I worked] with fair housing organizations in terms of trying to think through that and address that. But then in terms of the state government, there was emphasis in terms of thinking through some of the predatory activity. And so that ended up with – I can't remember the Senate bill number now – but that ended up with some protections then for individuals related to, in particular, mortgage broker activity and then also related to appraiser activity.

¹ Choe served with the Legal Aid Society of Columbus from July 1998 – October 2000 and with the Legal Aid of Western Ohio from November 2000 – March 2004.

² “Redlining is the practice of denying credit to particular neighborhoods on a discriminatory basis. The flip side is reverse redlining, the practice of targeting these same communities or protected classes for predatory lending.” Definition pulled from, “Reverse Redlining, Discrimination, and For-Profit Education.” National Consumer Law Center. August 19, 2011. <https://www.studentloanborrowerassistance.org/reverse-redlining-discrimination-and-for-profit-education/#:~:text=Redlining%20is%20the%20practice%20of,protected%20classes%20for%20predatory%20lending>.

- Braelyn Parkman: Okay. And were those protections enough? Were those helpful to your clients?
- Susan Choe: They were helpful, but they weren't enough. Because ... by the time that it takes, the efforts of advocates, the state to address it, the damage has been done. And so when the Great Recession came in '08, it just made something that was bad like just horrible. I started with the Attorney General's office I think in '06-'07. I actually came in as Chief of Civil Rights. So my – most of my background is in fair housing. And so I actually came in and had done Title VII³ work along with the Title VIII work. So [I] came in with Chief of, actually, Civil Rights. And while we were, while I was Chief of Civil Rights actually led the statewide efforts on a program that was implemented called Save the Dream. And that's prior to the Great Recession. Right before.
- Braelyn Parkman: And one more thing I want to pick up before we get to your work with the Attorney General's office. I believe you also ran the Student Housing Legal Clinic at Ohio State University. Could you talk a little bit about your work there?
- Susan Choe: Sure. So that was a clinic that was run as a partnership between Office of Student Affairs and the Law School. And so it was a clinical program where I had about 15 students and what we did there was we addressed some of the eviction and conditions issues off campus. So it really didn't have a lot of foreclosure issues other than when a student would be impacted by a landlord's foreclosure. But primarily, it was obviously a skills-based clinic to address the eviction issues and really off-campus housing conditions issues off-campus at Ohio State.
- Braelyn Parkman: Okay. I believe you started working with the Attorney General's office in 2007. How would you describe the changes that you saw in the residential mortgage market from your early career until the start of the crisis?
- Susan Choe: ...By the time I ... joined the Attorney General's office and had, and I also had led that teaching clinic for about three years, it had gone from, I would say, seeing the problem to now it's just a full blown like foreclosure wave. Because again, it hit Ohio early and we started seeing the increases in foreclosures kind of slowly and then much faster. And by the time, I think that I had joined the Attorney General's office, we were probably, we had – our foreclosures had more than doubled. I bet it went from like [40,000] – I kind of remember the statistics now – to like 80,000. And I think during the height of the Great Recession, 100,000 foreclosures in Ohio. Something close to that. Residential foreclosures. And so we had seen how the activity, the predatory lending, and then also the activity of servicers, right? The – kind of the systemic way in which servicers did not

³ Title VII of the Civil Rights Act of 1964 “prohibits employment discrimination based on race, color, religion, sex and national origin.” Definition pulled from, “Title VII of the Civil Rights Act of 1964.” U.S. Equal Employment Opportunity Commission. [https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964#:~:text=Title%20VII%20prohibits%20employment%20discrimination,Rights%20Act%20of%201991%20\(Pu](https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964#:~:text=Title%20VII%20prohibits%20employment%20discrimination,Rights%20Act%20of%201991%20(Pu) b.

address the needs of consumers and how that impacted and how that ballooned foreclosures.

Braelyn Parkman: You had joined the Attorney General's office in 2007. Could you describe your official responsibilities and how they related to the residential mortgage market?

Susan Choe: Sure. The primary responsibility there was to essentially act as counsel for the Ohio Civil Rights Commission. And the Ohio Civil Rights Commission has certain pillars under state law, but they obviously parallel federal law. So, employment, which would be Title VII. It's 4112 in Ohio, but essentially employment discrimination and then housing discrimination.⁴ ... Usually the number of cases are employment then followed by housing. And then we also had public accommodation. Essentially, if you think of all the federal laws related to civil rights, they fell under similar state law under the Civil Rights Commission jurisdiction. But in addition to that, there are certain powers that are given to the sovereign. And so, at that time, when I came into the Attorney General's office, the Attorney General at that time was looking to see if there was the ability of the state, the Attorney General, the sovereign, to bring actions on behalf of the state on behalf of its citizens. And so there had been some success and there've been some cases I think out of the first circuit. Eliot Spitzer, the then [New York] Attorney General, had actually brought some cases in the name of the sovereign in particular around fair housing. And so, we were looking at different issues.

Braelyn Parkman: Can you describe some of the earlier cases you participated in with the AG's office that might've involved some of these mortgage and consumer finance issues?

Susan Choe: Sure. So I can't, I can only talk in terms of what I would say are public cases, because of the confidentiality that still applies. But while I was with the Civil Rights Commission, we looked at a number of cases, some of them that we brought through the Civil Rights Commission through what we call citizens' complaints related to essentially where there had been a complaint filed and then there've been a for cause found related to whether or not a lender engaged in disparate treatment. And then the way that in terms of reverse redlining, the way it works is that ... some individual or neighborhood was

⁴ “It shall be an unlawful discriminatory practice: (A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment... (H) Subject to section 4112.024 of the Revised Code, for any person to do any of the following: (1) Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin”.

Definitions pulled from, “Chapter 4112: Civil Rights Commission”.

[http://codes.ohio.gov/orc/4112#:~:text=\(A\)%20For%20any%20employer%2C.conditions%2C%20or%20privileges%20of%20employment](http://codes.ohio.gov/orc/4112#:~:text=(A)%20For%20any%20employer%2C.conditions%2C%20or%20privileges%20of%20employment)

targeted for a particular type of high-cost loan based upon either the community, in terms of the – like is this where African-Americans live? Or was this person maybe steered to this loan because they were African-American? So they were kind of one-offs like that. And most of those cases resolved at the Civil Rights Commission level. Where essentially that individual was able to redress their loan. Maybe get a better rate as a result of that activity. But no large-scale cases. That work did not come until I was Chief of Consumer Protection.

Braelyn Parkman: Okay. In those early cases, how would you describe your legal strategy?

Susan Choe: Can you give me a little more in terms –

Braelyn Parkman: For these cases where you were working with reverse redlining, how were you seeking redress for those loans? Were there particular laws that were helpful or anything like that?

Susan Choe: Sure. So we're looking really at Title VIII, which is the Fair Housing Act. And then obviously looking at 4112H, which is the Ohio equivalent of the Fair Housing Act. But in terms of the strategy there, it really was trying to address behavior at a more systemic level. And also obviously ... the allegation is that they [the borrowers] have been damaged as a result of behavior, redressing the behavior, and putting them in a position that they should have been had the discrimination not occurred. And so the goal there would be to get an appropriate loan for them that they should have been put in in the first place. But then the idea – and this is why systemic cases are important – is then to work with the particular servicer or lender to put together safeguards.

But without a really large-scale effort, in terms of multiple states, it's harder to do that. Because you really want to think through a more large-scale strategy because what you want to do is you want to replace systemic behavior that has been – for whatever the reason, maybe it was cheaper to do it that way, maybe those are policies that folks have been doing over and over again, there's biases. ...[Y]ou can try to address through training. You can try to address through different behaviors. You can try to address through compliance. But you want to try to bring all of that kind of, arrows in your quiver to try to address the issue moving forward. But what you really do need is a coalescence of states and players to try to make true systemic change happen.

Braelyn Parkman: You then became Consumer Protection Section Chief in 2009. Can you talk a little bit about that role and maybe what was different about that role than your earlier one?

Susan Choe: ... [I]t's different because as the Civil Rights Chief, you have a client, which is the Civil Rights Commission. And when you're the Chief of Consumer Protection, your responsibility is to your constituents and to work with the Attorney General in terms of trying to think through like key policy pillars that the

Attorney General may have run on.... So it's a very public facing section. It's also one of the largest sections in the office. I went from a staff of about 20, 25 to a staff between 80 to 100 overnight. And so it's just different. We had – the then Attorney General was Rich Cordray. And so when he asked me to take on that role I knew that we would be working on foreclosure and servicer issues. [T]hat was very much part of his strategy to try to redress some of the consumer protection issues. And we knew that it was a huge thing that we were trying to take on to redress. And in particular, looking at servicers and some of the – again, our allegations are there, but obviously some of the alleged bad behavior they were engaging in.

Braelyn Parkman: You mentioned earlier the Save the Dream program. Could you expand a little bit on that? What was the impetus for starting that program and how did it work?

Susan Choe: So we had tens of thousands of folks facing foreclosure in Ohio, and we wanted to create a singular number or hotline where they could contact the state. And we could try to get them to help whether it was monetary or get them to a housing counselor or get them to a legal aid. And prior to Save the Dream that just didn't exist. So we needed to, in a sense, create a foreclosure portal, if you will, so that we could get folks one number, we could promote one number and get them to the help that they needed. And so it was truly an effort among multiple state players, including the Department of Commerce that had jurisdiction over mortgage brokers, but also receive complaints from consumers and the Ohio Attorney General's office was receiving complaints from consumers as well.

...I've never seen the state move so fast.... We met, then Chief Justice Tom Moyer convened a group of us. I think we met on Martin Luther King Day because that was the day everyone could meet because we were off that day. And the hotline was up and running with the appropriate triage. We had worked with Legal Aid, housing counselors, the finance agency here that funds housing counselors. And we opened the hotline in April. So we pulled together an agreed upon statewide triage. We trained customer service, created a data gathering system and opened our virtual phone doors [in] April. I don't believe April 1st. I think we shied away from April 1st, but I could be wrong.

Braelyn Parkman: In working on these more sort of systemic solutions, how did the Ohio Attorney General's office work with other stakeholders, institutions, maybe other state Attorney General's offices relating to the crisis?

Susan Choe: ... We really were I think at the forefront initially....But to be fair, – the Countrywide settlement was before I became Chief of Consumer Protection. And so there had been Countrywide and I think AmeriQuest, and so, the states had worked together before. Not quite the way that we worked together on the National Mortgage Foreclosure Settlement, it was on a different scale. But there had been that history. And again, a lot of that's before me, and I'm glad to provide you folks, some individuals who worked on it kind of during that time.

When I came in, Rich [Cordray] was very clear. He wanted us to come up with a strategy to address issues that consumers both in Ohio and nationally were seeing with large servicers.

Lost paperwork, constantly being given the runaround, really being unable to mitigate – go into loss mitigation and try to address foreclosure issues. People who may have had intermittent unemployment but now are working again, those mortgages could be redressed. Number of federal programs that folks could access, but their servicers – there's just. You name it. I had a whole list of problems that we were trying to address with respect to mortgage servicers. We had a really data-driven effort. We had a lot of information, and we worked together with Department of Commerce here all within obviously confidentiality. And really looked at consumer issues and did, to be fair, just good old honest investigation. A lot of work goes into these efforts.

There's a lot of due diligence. And so we, gosh, we worked 24/7 before we brought our first case against a servicer. But we learned a lot from those cases. I think, I'm trying to think who our first servicer case was. But anyways, again, a lot of data. We worked with state partners within the state of Ohio in terms of trying to look at all the different issues that we were seeing – and then also really pulling together consumer complaints. And that's, that's the big part of this. Consumers are really – and I'm sure I speak for a lot of heads of former consumer agencies. We need consumers to tell us what's going on on the ground. Without those consumers, we wouldn't have truly understood. Without those folks stepping up and saying, yes, you can call me. My investigators talk to those folks. I mean we kind of knew from kind of gloss data, but you really have to do good old-fashioned investigation. And without consumers really stepping up and saying, yes, I will talk to you about my story. None of those cases would've happened.

Braelyn Parkman: Okay. You mentioned that you brought some cases against servicers. Could you speak a little bit to what those cases looked like and how they worked out?

Susan Choe: Well, they were – they're a lot of work. These are really large companies. Rich [Cordray] is always ambitious. I remember at one point he said, well, if we need to, we will basically do a prosecution against X many. And I – and part of my role as the Chief of Consumer Protection is to say, we have only so many resources. And that's why those multi-states are so critical because what you do with the multi-states is that you can bring in the resources of other Attorneys General's office to then redress behavior on a national scale. But in terms of those cases, we knew that we would be addressing an issue where we would get a lot of fight. And to be fair, the fights initially were purely almost on jurisdiction. Whether or not we had the appropriate jurisdiction to bring the cases that we did under our consumer protection statutes.

... We had anticipated that. We also anticipated potentially being removed from state court into federal court. And we were. And so we had anticipated those issues and that's why, I think we brought maybe two or three because we knew

that we would be working on both jurisdiction issues and that we would be initially not talking about consumers, although that's part of that narrative. We knew that we would be doing a lot of legal work just on jurisdiction and on removal and just lots of procedural issues. I think that folks don't often talk about that, but I mean, that's a big part of the work that we do is that we have to be able to anticipate issues on jurisdiction, on venue, and that's what we did for a good chunk of it.

And then I will tell you that we had heard from our Legal Aid partners that, because we also talked with Legal Aid, I had a communication channel with them because Legal Aids were doing amazing work on the ground. So I want to make sure that Legal Aids are not lost in this. And we had heard from our Legal Aid partners that there appeared to be discrepancies on affidavits, but couldn't quite pinpoint where. And then, and again, this is the private network of attorneys general. Because in a sense, the Truth in Lending Act ... talks about that. Those depositions broke, I think from Maine and maybe Florida, they had been under seal, about the robo-signing. And when the robo-signing broke, because of all the investigation work that we had, and the fact that we had reviewed thousands of cases at that point, we were quickly able to bring that story together on the robo-signing. And I think we were the first state to file on the robo-signing issue. Our GMAC case was the first on the robo-signing issue. But I don't think we could have done that without all the lessons learned from the prior cases that we had filed with respect to servicers.

Braelyn Parkman: ...The last piece of the story I really want to talk about is the National Mortgage Settlement in 2012. Could you describe your role during those negotiations and what that process looks like?

Susan Choe: Sure. So I can only talk so much. But, so we were – Ohio was on the Executive Committee. The primary negotiations. So like in terms of the final settlement – was done by the five, I think it was five states that were part of the final negotiations. And then Ohio was on the Executive Committee that helped steer those negotiations in terms of redressing the damage that was done to the state and to constituents. So, the final parameters of that with a cash settlement portion that went to the states to try to redress behavior and then to damages. And then the credits that went in, in particular related to principal write-downs and things like that, that was part of a multi-year effort. Because each of the states, we had all learned collectively the pieces that worked and didn't work as part of prior settlements.

And the other part too that was particularly important was compliance and the role of the eventual person or organization that would have oversight over the settlement itself. Because I think from just prior learnings, it was critical that there be good oversight over the settlement to make sure that what was negotiated to was implemented and implemented appropriately. And so kind of weaving in the prior lessons learned, I think all went into the settlement and then – but at the end of the day, you're negotiating for 50 states. And so we had to be really cognizant of the fact that we were negotiating for 50 states because

it was one of the few multi-states that I was a part of when I was with the Attorney General's office where I think we filed GMAC and then [the] National Mortgage Executive Committee came together within a month, which I've never seen anything coalesce that quickly.

And then, I think from the time that it coalesced, within two years, we had the settlement, which again was fast. And I think that that showed the urgency of the issue. And I think it also showed the urgency of the issue for consumers. But it was critical that there be a cash portion for states to redress behavior. It was critically important that consumers not only get some dollars to redress damages, but it was really important that there – so I always think of it this way. So the servicers through, I would say, neglect, not making investments, had systematized bad behavior. And so it was really important for Ohio, and I think the other states, to try to basically create a better servicer system, make sure that it was something that would be national because we wanted to make sure that we systematize good behavior.

I think critics will say that it's unclear the full success of that. But I will tell you it's been interesting with the pandemic. So Ohio Legal Help, I always say, like I know based upon our data and our consumers, so we have over 50,000 folks on our portal now each month. We opened about a year ago. And I'm not seeing complaints on foreclosure, ... although I'm seeing a ton of stuff on evictions, I'm seeing a ton of stuff on unemployment. And our portal is pretty sensitive to data. Because right now, the second most trending topic on our website is stimulus checks because everybody in the country right now desperately needing cash to redress evictions. Like we've seen evictions ha[ve] been number one for the last couple of months, followed by, to be fair, unemployment, but this is the first week.

So it's been interesting. I have not seen foreclosures trend, and I've actually gut checked with our Legal Aid partners as well. And while those are issues, they're not seeing servicers come up over and over again. So it's been interesting.

I think that that is actually a hallmark of the National Mortgage Foreclosure Settlement in that I think servicers may be trying to redress this early. And I will also say that by getting ahead of it in terms of allowing the 12 month forbearance, I think we learned as a country that it's critically important to do that. So, I do think that there was some success from the National Mortgage Foreclosure Settlement. That, there's the money, but then what you really want to do is change behavior because that is what really for the family that is facing foreclosure, that's what you really need. And so I have seen some inklings of that. And so I've been happy with that. Happy being a relative term right now. But yeah, to see that actually come forward and to see it in the data in my current work.

Braelyn Parkman:

Okay. We have a couple of questions that we ask everyone to sort of conclude the interview. So the first one is: Over the last decade, we've seen a number of

different narratives emerge to explain the financial crisis. And how do you understand what caused that crisis?

Susan Choe:

I laugh. Okay. I'm going to be really good. So, I think there've been a lot of narratives. I actually – so the one narrative which I disagree with, is that, and I think the Federal Reserve spent time actually addressing this was that there was a narrative that the CRA, the Community Reinvestment Act, somehow caused the financial crisis. And I would vigorously disagree with that. I think at the end of the day there was, I guess I am more of the narrative is that as the mortgage market became more and more commoditized, and there was cash available in the system. There was a drive and those financial incentives drove us into the financial crisis. I'm not going to go into everything related to the secondary market, other than I can tell you when I was a newly minted Legal Aid attorney, seeing the foreclosure plaintiff as series 1997.⁵ And then, I was just confused because they don't teach you securitization and secondary markets in law school. But I really do believe that that is what drove the financial crisis. It wasn't the CRA. Other than, I think you had communities of color who had been starved of credit. And so, when credit became available, they did it, but it wasn't CRA that drove it.

Braelyn Parkman:

And looking back on the crisis a decade later, what do you see as its most important lessons for state level policy makers and public servants like yourself?

Susan Choe:

Get ahead of it. Plain and simple, get ahead of it. It is bad for the state as a policy. You want homeowners in their homes just like you don't want folks evicted. Just a social crisis. There is good data out there about how – I don't care like how you want to take it. Driving someone from their homes, it – what it does is it prevents kids from matriculating in school and graduating. It prevents families from building any type of wealth on their own and stabilizing communities. There are communities out there, they're just hollow because of the crisis. So, folks need to get ahead of this and folks need to work together to prevent it.

[END OF SESSION]

⁵ Choe's reference to "series 1997" alludes to a type of case caption, which according to her would sometimes alarm homeowners as the entity suing them appeared to have no connection to their home loan.