

# Effects of parental and attorney involvement on reunification in Juvenile dependency cases

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## ABSTRACT

Individuals in the dependency system believe that it is important to have parties present at early decision-making hearings without much empirical support. This paper examines how involvement of mothers, fathers, and their respective legal representatives at early decision-making hearings (i.e., preliminary protective, adjudication, disposition, and first review) influences reunification in juvenile dependency cases. Cox proportional-hazard models indicate the likelihood over time of returning children to the parents they were removed from was significantly higher when the mother and the mother's attorney was present at early decision-making hearings. Results also indicate that the presence of the father significantly increased the likelihood of returning children to the parents they were removed from at only two specific case events. The presence of the father's legal representative was a significant predictor of reunification at the disposition hearing only. Implications for theory and policy are discussed.

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## 1. Introduction

Too many children spend too much time in foster care. Despite federal legislation (viz., the Adoption and Safe Family Act [ASFA], among other legislative directives) designed to reduce the number of children in care, the U.S. Department of Health and Human Services (2010) indicates that of the 285,000 children exiting care in 2008, only 52% were reunified with their parents or primary caretakers. Although ASFA has statutory guidelines designed to reduce the amount of time required for the courts to establish a permanent placement for children that have been removed from their parents, children exiting foster care in 2008 spent an average of 21.8 months in state custody (U.S. Department of Health and Human Services). These outcomes create several questions for researchers, two of which are pertinent to the current study: 1) What factors influence whether children are reunified with their families; and 2) What factors influence the timeliness with which reunification occurs?

Prior research has attempted to answer these questions by focusing on demographic information like age, race, education of parents and children (e.g., Courtney, 1994; Wulczyn, 2004), and income (e.g., Courtney; Jones, 1998); family composition such as single parent homes and number of adults in home (e.g., Davis, Landsverk, Newton, & Ganger, 1996; Harris & Courtney, 2003). One caveat to these examinations is that many of them look at factors like

race, family composition, or poverty; they did not focus on the processes and/or structures of the juvenile dependency court system itself. The present study attempts to overcome this limitation by examining a process factor – involvement of the parents and their respective legal representatives at early decision-making hearings – that may increase the rate at which a child might be reunified with his/her parent(s). Prior to examining these questions, the study begins with a discussion of judicial decision points in a child dependency case, factors that might promote reunification, and effects of legal representation.

## 2. Judicial decision points

Juvenile dependency case outcomes involve a complex interaction of decisions made by the executive and judicial branches. Pursuant to federal and state law, there are five main hearings in a juvenile dependency court case: preliminary protective, adjudication, disposition, review, and permanency planning.

## 3. Preliminary protective hearing

Referred to in some jurisdictions as the “shelter care hearing,” “detention hearing,” or “emergency removal hearing,” the preliminary protective hearing typically occurs a few days prior to or immediately following a child's removal from the home (National Council of Juvenile and Family Court Judges, 1995; Snyder & Sickmund, 2006). The main purpose of the preliminary protective hearing is for the agency to establish probable cause supporting the removal of the child (ren) and for the court to make a decision whether the child can safely

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return home pending an adjudicatory hearing on the petition (Paldino, n.d.).

#### 4. Adjudication hearing

The adjudication hearing in a child dependency case is essentially the trial phase to determine whether the facts of the case support allegations that the parent(s) have abused or neglected the child (Snyder & Sickmund, 2006). During this stage in a dependency case, parents may consent or stipulate to some or all of the allegations (North Carolina Administrative Office of the Courts, 2007). In addition, the judge may dismiss and/or uphold some or all of the allegations against the parents (North Carolina Administrative Office of the Courts). The adjudication hearing typically occurs within 60 days following the removal of a child from the home, however, some jurisdictions set shorter time limits and some jurisdictions may take longer because of events such as newly discovered evidence or unavoidable delays in contacting parents (NCJFCJ, 1995).

#### 5. Disposition

While the goal of the adjudication hearing is to decide whether the facts support the allegations of abuse and/or neglect, the disposition hearing is to decide how the state should proceed, including placement options for the child, concurrent permanency plan development, needed services for the child and parents, visitation/family time scheduling and supervision, among other things (NCJFCJ, 1995). Timing of the disposition hearing varies. Some jurisdictions require it be held within 10 court days of the adjudication hearing if the child is detained and 30 days if the child is not detained (California Center for Judicial Education and Research, 2010), while others only require it to take place within 30 days—with no language regarding current placement of the child (Supreme Court of Colorado, 1996). Furthermore, many jurisdictions combine the adjudication and disposition hearings.

#### 6. First review

After a judge makes orders at the disposition hearing, a review hearing is conducted to determine the amount of progress, if any, by the parent(s) toward the agreed upon and/or ordered service plan, and the progress the agency has made in making needed services available to the parent(s) and child. Review hearings are held no less than six months after the date the child entered care and every six months thereafter, and more frequently if the court decides they are warranted (NCJFCJ, 1995). In the current study, researchers were only interested in the first review hearing because subsequent review hearings may not occur equally across samples (i.e., states). The purpose of the review hearing is to allow the court the opportunity to review the status of the case and examine topics such as long-term case goals, appropriateness of services, and whether continued placement of the child is needed (Snyder & Sickmund, 2006).

#### 7. Permanency

The purpose of the permanency planning hearing is to reach a decision concerning the permanent placement of the child (NCJFCJ, 1995). ASFA (1997) statutes mandate that the permanency planning hearing be held no more than 12 months after the child has been removed from the home. The importance of this hearing should not be understated; however, it has not been included in the current discussion for two reasons. First, the decision made at this hearing is often a result of a culmination of work (e.g., compliance with court orders, progress toward case goals, participation in court ordered services, etc.) done by the parents before and after the earlier four hearings. Similarly, the decisions made at this hearing are too closely

linked to the decisions made at other hearings and therefore poses a statistical limitation (i.e., multicollinearity).

In sum, the preliminary protective, adjudication, disposition, and first review hearings each serve distinct, important decision-making points throughout the life of a juvenile dependency case. At the preliminary protective hearing, decisions concerning whether or not the child can safely return home are made. At the adjudication hearing, the court decides whether the facts substantiate the allegations of abuse or neglect. At the disposition hearing, decisions are made concerning services designed to address case-specific problems. Finally, at the first review hearing, monitoring and decisions are made concerning parental and child progress toward reaching agreed-upon goals. Although each hearing can be examined as an independent event, the effects of these hearings may be cumulative. Specifically, before, during, and after each of these hearings, several factors may influence judicial decision-making processes and case outcomes. Two such factors of interest in the current study are parental involvement and legal representation.

#### 8. Parental involvement

Child welfare depends on researchers identifying and understanding the factors that contribute to reunification of foster children with their families (Barth, Courtney, Berrick, & Albert, 1994). As previously discussed, prior research has examined demographic variables such as income (e.g., Courtney, 1994; Jones, 1998) and education (e.g., Courtney; Wulczyn, 2004) as they relate to reunification, while ignoring possible structural and/or procedural factors of the child dependency system. One possible reason for this empirical oversight may be that the affect of the court's effect on other variables may be more difficult to pinpoint and measure. However, there are a few variables that the court can have a direct effect on—namely, parents' attendance at hearings, and engaging and involving parents during hearings.

#### 9. Mother involvement

Research into the factors predicting reunification of maltreated (i.e., abused and neglected) children with their biological families is only in the early stages of development (Larrieu, Heller, Smyke, & Zeanah, 2008). Some studies have considered the effects on rates of reunification of parental visitation and contact with a child that is in foster care. The research suggests that mothers involved in administrative case reviews and childcare activities (e.g., school conferences and doctor's appointments) have a higher chance of reunification than uninvolved mothers (Leathers, 2002). Mothers who visit with their children inside the home visit more often (18.9 more visits over a six-month period), and as a result, have a higher chance of reunification than mothers visiting in locations such as foster homes, agency offices, and fast-food restaurants (Leathers).

In addition to visitation and involvement of childcare activities, compliance by mothers with caseworkers, treatment providers, and the courts has been a consistent predictor of decision-making in dependency cases (Wingrove, 2009). How caseworkers and judicial officers perceive parental compliance with court orders and staff influences their decisions to remove the child from the home (Dalgleish & Drew, 1989; DeRoma, Kessler, McDaniel, & Soto, 2006; Jellinek et al., 1992; Jones, 1998), reunite the family (Jellinek et al.; Larrieu et al., 2008), and terminate parental rights (Brank, Williams, Weisz, & Ray, 2001). In a study of severely abused and/or neglected children involved in the Boston Juvenile Court, researchers found that the courts predominantly used parental compliance to inform permanent placement decisions. Within 30 to 54 months of filing a care and protection petition, 97% of cases in which parents did not comply with court orders resulted in the permanent loss of their child. Conversely, parents complying with court orders had their children

returned home to them in 67% of cases (Jellinek et al.). Caseworkers have also indicated that parents' ability to accept and cooperate with the Department of Social Services (DeRoma et al.) and Child Protective Services (US Department of Health & Human, 2003) was an important factor in deciding whether to reunify children with their parents.

## 10. Father involvement

Fathers (especially non-custodial) infrequently appear in court during child dependency proceedings (Edwards, 2009; O'Donnell, Johnson, D'Aunno, & Thorton, 2005; US Department of Health & Human, 2006). Reasons for a father's non-appearance include difficulty locating the father, mother's reluctance to engage the father, a general attitude that a father's involvement in the dependency proceedings is not valued (Edwards), unemployment and financial duress, and because of a general perception that the child welfare system is with the courts (Kendall, Kessen, & Reynolds, 2007). Further, print media concerning the child welfare system directed toward fathers are often punitive in nature and related to child support obligations (National Child Welfare Resource Center for Family-Centered Practice, 2002). Fathers themselves are aware of this perception, believing the juvenile dependency system treats them unfairly, and requires them to "jump through hoops" and be "on the defense" (National Quality Improvement Center on Non-Resident Fathers and the Child Welfare System, 2007; Kendall et al.; O'Donnell et al., 2005).

The perceptions fathers have of the juvenile dependency system may also be a reflection of the beliefs and practices of child welfare agencies. Some caseworkers suggest that they are relieved when the father does not show interest in participating in the court proceedings (O'Donnell et al., 2005). Further, some caseworkers view fathers as an afterthought (some believe even this term exaggerates their importance), potential threats to the safety of the children (O'Donnell et al.), and impediments to case progression (Malm, Zielewski, & Chen, 2008), stating that, "A father in the family makes it harder. It's easier to let dad stay in the background and not deal with him" (National Child Welfare Resource Center for Family-Centered Practice, 2002, p. 2).

Prior research has indicated that these negative perceptions concerning father involvement in dependency proceedings are unfounded. For example, African-American fathers adequately involved in their children's cases were reunited with their children more often than when the father was not involved (17.5% versus none, respectively), and these children had shorter stays in foster care (Coakley, 2008). In a separate study, 48% of children with non-resident (i.e., not living with the mother), highly involved (i.e., visited their child at least once while they were in foster care and provided financial and non-financial support) fathers were reunified with their families, compared to only 16% of children whose non-resident fathers were not involved (Malm et al., 2008). Children whose non-resident fathers were highly involved also spent less time in foster care (21.4 months) than children whose non-resident fathers were not involved (25.3 months) (Malm et al.).

Despite previous research examining father involvement in services and case plan development, a paucity of research remains concerning the influence of father involvement in legal proceedings on dependency outcomes. Although some analysts (such as Edwards, 2009) suggest that including the father in dependency proceedings may lead to favorable outcomes for the child, including relative placement as opposed to foster care and possibly avoiding out-of-home placement altogether, these suggestions have not been empirically tested. This study examines association between father's involvement in legal proceedings and reunification.

## 11. Legal representation

Unlike the Sixth Amendment to the United States Constitution that affords defendants in criminal proceedings the right to legal counsel,

there are no such mandates in family law. While many states provide counsel for indigent parents, at least 12 states lack statutes affording parents a right to legal representation during child dependency proceedings (Sankaran, n.d.). Further, if counsel is appointed, there are no specifications as to what hearing this appointment must occur. Depending on jurisdiction, appointment of counsel may occur upon removal of the child, at the shelter care hearing, at the adjudication hearing, or only upon request by a party (Melonakis, 2006).

Even if legal counsel is appointed, there is no guarantee the attorney will effectively represent the parents. According to the Chief Child Protection Attorney in Connecticut, the most common complaint they receive is that attorneys fail to appear for court appearances (Bowen, Hudner, & Warner, 2007). A body of literature devoted to this topic has found that the inability of parents' attorneys to appear for court hearings is a primary cause in delaying case resolution (Bridge & Moore, 2002).

To remedy issues (e.g., delays in case resolution and fewer reunifications) attributable to inadequate legal representation – among other factors – several states have begun implementing attorney-training programs. The American Bar Association (2009) created an extensive summary of parent representation models that have been implemented across the United States. For example, California has introduced the Dependency Representation, Administration, Funding, and Training Program (DRAFT), which, as of 2008, has increased reunification with 12 and 24 months of entry. The state of New York has the Center for Family Representation, Inc. (CFR), who, from 2007 to 2008, helped the children of their clients spend 73% less time in foster care than other children in the state. The Washington State has created an Office of Public Defense (OPD) program that helped increase reunification rates in 2003. Despite these findings, there is a paucity of empirical literature examining the possible influence of permanency outcomes attributable to simply having legal representation present at early hearings. The current paper argues that both legal representation and adequate and competent counsel are important; however, they are separate questions. Oversight of attorney competency and adequacy is often undertaken by outside entities (e.g., the American Bar Association), but assigning legal representation is something the courts can manage more directly.

## 12. Overview of study

Previous research (e.g., Larrieu et al., 2008; Leathers, 2002) has indicated that involvement in administrative case reviews and compliance with court-ordered services by parents may have an influence on the timeliness and odds of reunification in dependency cases; however, previous research has not examined the influence of parent and parent representative involvement in hearings on these outcomes. The purpose of the current study is to attempt to fill the lacuna in extant knowledge by examining whether the presence of a child's parents at early dependency hearings (i.e., preliminary protective, adjudication, disposition, first review) is related to the odds rate of reunification. The presence of the mother and/or father's legal representation at these early hearings will also be examined. Two hypotheses and two exploratory questions will be tested:

**Hypothesis 1.** Children whose mothers are present in court at early hearings have a higher rate of reunification than children whose mothers are not present at these hearings.

**Hypothesis 2.** Children whose fathers are present in court at early hearings have a higher rate of reunification than children whose fathers are not present at these hearings.

*Exploratory Question 1:* Do children whose mothers have a legal representative present in court at early hearings have a higher rate of reunification than children whose mothers do not have legal representation present at these hearings?

*Exploratory Question 2:* Do children whose fathers have a legal representative present in court at early hearings have a higher rate of reunification than children whose fathers do not have legal representation present at these hearings?

### 13. Methods

#### 13.1. Sample

Data for this study were acquired from the data archives of the NCJFCJ. Information from two separate projects was used in this analysis, a parental representative analysis conducted in the Colorado dependency system<sup>1</sup>; the second a Court Improvement Program (CIP) funded analysis of three dependency courts in coastal counties in California.<sup>2</sup> These two projects were selected because of the quality (i.e., few missing variables) and timing (i.e., each was collected at similar times) of the data collection, and because the data were collected by the same individuals. The inclusion of data from two separate projects adds to the robustness of the study. The method for selection of project sites and case files differed by state and is outlined below.

##### 13.1.1. Colorado

A random sample of child abuse and neglect cases was drawn from Denver, El Paso, Teller, and Weld Counties. These counties were selected in consultation with the Colorado Respondent Parents' Counsel Task Force. Created in 2005 by the Colorado Supreme Court, the Respondent Parents' Counsel Task Force consists of a group of child welfare professionals and academics who review issues facing parents' attorneys in dependency cases (e.g., protecting due process and statutory rights and presenting balanced information to judges) and make recommendations to the Supreme Court and the Colorado Legislature. The final Colorado sample consisted of 404 case files (193 open, 205 closed, and 5 unknown) from the four counties (Denver,  $n = 124$ ; El Paso,  $n = 155$ ; Teller,  $n = 24$ ; and Weld,  $n = 101$ ).

##### 13.1.2. California

Randomly selected dependency case files, with petition filing dates from 1995 to 2005 and closing dates in 2006 or 2007, were used to conduct a baseline assessment of court performance and best practices in juvenile dependency courts in three California counties: Monterey, San Mateo, and Santa Cruz. The David and Lucile Packard Foundation selected and approved these counties for inclusion in the current study in order to obtain baseline data for subsequent court performance and outcome evaluations prior to implementing model court best practices. The final California sample consisted of 123 case files from the three counties (Monterey,  $n = 41$ ; San Mateo,  $n = 40$ ; and Santa Cruz,  $n = 42$ ).

#### 13.2. Procedure

Data were collected during several site visits to the dependency court of each county. All case files were coded with a standardized case file coding sheet, returned to the NCJFCJ offices, and entered into a large-scale database.

### 14. Materials

The case file review instruments used for data collection were adapted from an instrument used in previous studies assessing parental representation (Oetjen, 2003). This instrument was pre-tested on a

small number of case files during the initial site visits and was modified by the research team as necessary. Researchers read the individual case files and placed a mark inside the box labeled "Mother," "Attorney for Mother," "Father," and "Attorney for Father" when the minute orders indicated that these parties were present in court during each of the early hearings.

Survival analysis was used in the current study rather than other forms of regression (i.e., multiple regression) because multiple regression results in biased estimates if the data are censored (Tarling, 2009). A common form of censoring, right censoring, is used when the period of observation is terminated prior to the event occurring (Fox, 2002). In the current study, although some of the children involved in open cases in Colorado may be reunified with their parents in the future, the data did not reflect this; therefore, these cases, along with all other cases (open and/or closed that did not end in reunification, including placement with non-charged parents) were included in the analyses as *censored* and coded as 0. The outcome variable of interest, reunification, was coded to include 1) reunification with charged parent, 2) case dismissal due to insufficient evidence, or 3) case dismissal due to amelioration of previously unsatisfactory conditions. Situations in which one of these three events occurred were considered *reunification* because each resulted in the child's return to the parent and were subsequently coded as 1. Researchers using survival analysis (e.g., Benedict & White, 1991; Courtney, 1994; Wulczyn, 1996) commonly implement this method of variable coding.

### 15. Results

The final Colorado sample consisted of 403<sup>3</sup> cases with a mean case length of 466.67 days ( $SD = 184.26$ ) in which 74% of mothers and 44% of fathers had allegations listed against them on the petition. Of these 403 cases, 114 (28.3%) of them ended in reunification. The final California sample consisted of 119 cases with a mean case length of 616.10 days ( $SD = 412.40$ ) in which 85% of mothers and 57% were listed on the petition. Of these 119 cases, 69 (58%) of them resulted in reunification. To ensure that differences in petition allegations do not relate to the current findings, we examined the frequencies of court attendance for mothers and fathers across allegation type (e.g., physical and sexual abuse). The number of mothers and fathers present at each of the early decision-making hearings did not vary according to differences in petition allegations. See Table 1 for an additional sample-based, frequency distribution of mothers', fathers', and their respective legal representative's presence at each of the early hearings.

Cox proportional-hazard rate regressions were estimated for each outcome variable of interest (four for each state) to examine the influence of the mother's presence, mother's legal representative's presence, father's presence, and father's legal representative's presence on the rate of reunification. Answers to the statement, "Parties Present at Hearing" were coded using a dichotomous (1 = Yes and 0 = No) scale. Instances in which the mother was present at the hearing were coded as 1 and instances in which the mother was absent from the hearing were coded as 0. The same procedure was used to indicate the presence of the mother's attorney and/or substitute attorney, father, and father's attorney and/or substitute attorney at each of the four hearings. Researchers then collapsed the attorney and substitute attorney variables into a *legal representation* variable in which the presence of the attorney or substitute attorney at the hearings was coded as 1 and the presence of neither attorney was coded as 0. Separate analyses were conducted for each hearing in order to avoid issues of multicollinearity. In addition, separate analyses were conducted for each state in order to avoid possible

<sup>1</sup> The NCJFCJ conducted this project in conjunction with the National Center for State Courts (NCSC) and the National Association of Counsel for Children (NACC).

<sup>2</sup> This project was a joint effort between the NCJFCJ and the David and Lucile Packard Foundation.

<sup>3</sup> One case from Colorado and four cases from California were outliers and were removed from analysis.

**Table 1**  
Percentage of mothers, fathers, and their respective legal representation present at early hearings.

	Preliminary protective	Adjudication	Disposition	First review
Colorado				
Mother	76.7%	67.2%	32.8%	33.5%
Mother's legal representation	67.0%	69.7%	40.4%	37.7%
Father	49.1%	46.7%	23.1%	20.8%
Father's legal representation	39.5%	42.4%	26.8%	26.6%
California				
Mother	66.4%	73.9%	13.4%	63.9%
Mother's legal representation	63.9%	88.2%	14.3%	79.0%
Father	43.7%	45.4%	8.4%	37.0%
Father's legal representation	38.7%	60.5%	10.9%	58.0%

biases attributable to differences (e.g., demographic, economic, etc.) between California and Colorado.

### 15.1. Mother present at early hearings

#### 15.1.1. Colorado

The presence of the child's mother at the preliminary protective ( $e^{\beta} = 1.96, p < .05$ ), adjudication ( $e^{\beta} = 2.12, p < .05$ ), disposition ( $e^{\beta} = 1.71, p < .05$ ), and first review hearings ( $e^{\beta} = 1.69, p < .05$ ) were significant predictors in the overall rate of reunification throughout the course of the case. **Hypothesis 1** was supported for the Colorado sample. See **Table 2** for a more complete reporting of regression coefficients.

#### 15.1.2. California

**Hypothesis 1** was supported for the California sample as well. The presence of the child's mother at the preliminary protective ( $e^{\beta} = 2.61, p < .05$ ), adjudication ( $e^{\beta} = 1.97, p < .05$ ), disposition ( $e^{\beta} = 2.57, p < .05$ ), and first review hearings ( $e^{\beta} = 2.86, p < .05$ ) was a significant predictor in the rate of reunification with the child's parent.

**Table 2**

Presence of mothers, fathers, and their respective legal representation at early hearings on likelihood of reunification.

	California			Colorado		
	B	SE	Exp(B)	B	SE	Exp(B)
Mother						
Preliminary protective	0.96**	0.32	2.61	0.67**	0.26	1.96
Adjudication	0.68**	0.32	1.97	0.75**	0.23	2.12
Disposition	0.94**	0.34	2.57	0.53**	0.20	1.71
First review	1.05**	0.32	2.86	0.52**	0.19	1.69
Mother's legal representation						
Preliminary protective	1.18**	0.31	3.24	0.50**	0.22	1.65
Adjudication	0.96	0.59	2.61	0.54**	0.23	1.72
Disposition	0.83**	0.34	2.30	0.30	0.19	1.36
First review	1.37**	0.47	3.95	0.48**	0.19	1.62
Father						
Preliminary protective	0.35	0.25	1.42	0.12	0.19	1.13
Adjudication	0.12	0.25	1.13	0.28	0.19	1.32
Disposition	0.76*	0.41	2.13	0.39*	0.21	1.47
First review	0.43*	0.26	1.54	0.31	0.22	1.36
Father's legal representation						
Preliminary protective	0.30	0.26	1.34	0.00	0.20	1.00
Adjudication	-0.32	0.26	.72	0.24	0.19	1.27
Disposition	0.86**	0.37	2.37	0.34*	0.20	1.41
First review	0.21	0.26	1.24	0.12	0.21	1.13

\*  $p \leq .10$ .

\*\*  $p \leq .05$ .

### 15.2. Mother's legal representation present at early hearings

#### 15.2.1. Colorado

The presence of the mother's legal representation at the preliminary protective ( $e^{\beta} = 1.65, p < .05$ ), adjudication ( $e^{\beta} = 1.72, p < .05$ ) and first review hearings ( $e^{\beta} = 1.62, p < .05$ ) were significant predictors in the rate of reunification over the course of the case in Colorado. The presence of the mother's legal representation at the disposition hearing almost reached marginal significance ( $p = .11$ ). In general, the results from Colorado answer Exploratory Question 1 in the affirmative.

#### 15.2.2. California

The results from California mirror those of Colorado and further affirm the answer to Exploratory Question 1. The presence of the mother's legal representation at the preliminary protective ( $e^{\beta} = 3.24, p < .05$ ), disposition ( $e^{\beta} = 2.30, p < .05$ ), and first review hearings ( $e^{\beta} = 3.95, p < .05$ ) was a significant predictor in the rate of reunification in California. The presence of the mother's legal representation at the adjudication hearing almost reached marginal significance ( $p = .11$ ).

### 15.3. Father present at early hearings

#### 15.3.1. Colorado

In contrast to **Hypothesis 2**, the findings for the influence of the father's presence at early hearings in Colorado do not mirror those of the mother. Only at the disposition hearing was the presence of the father a marginally significant predictor of reunification ( $e^{\beta} = 1.47, p < .10$ ). The coefficients for all other hearings were smaller and not significant.

#### 15.3.2. California

Consistent with the findings from Colorado, **Hypothesis 2** was not supported in California. The father's presence at the disposition hearing was a marginally significant predictor of the odds of reunification ( $e^{\beta} = 2.13, p < .10$ ). Unlike the findings in Colorado, the father's presence at the first review hearing was also a marginally significant predictor of the odds of the child being reunified with the charged parent ( $e^{\beta} = 1.54, p < .10$ ). The coefficients for all other hearings were weaker and not significant.

### 15.4. Father's legal representation present at early hearings

#### 15.4.1. Colorado

The presence of the father's legal representation at early hearings does not have a substantial effect on the rate of reunification. Only legal representation present at the disposition hearing was a marginally significant predictor ( $e^{\beta} = 1.41, p < .10$ ). No significant effects were observed for the preliminary protective, adjudication, and first review hearings. Exploratory Question 2 was partially answered in the affirmative, and partially in the negative.

#### 15.4.2. California

Exploratory Question 2 was partially answered affirmatively for California as well. The presence of the father's legal representation at the disposition hearing was a significant predictor in the rate of reunification ( $e^{\beta} = 2.37, p < .05$ ). The preliminary protective, adjudication, and first review hearings did not have a significant effect on reunification.

### 15.5. Comparative likelihoods

**Figs. 1 through 8** show the cumulative likelihood of reunification in Colorado and California based upon the presence of the mother, father, and their respective legal representatives at each of the four

early hearings, with Figs. 1 through 4 indicating the presence of the mother and Figs. 5 through 8 indicating the presence of the mother's legal representative. In each of the figures, the x-axis represents the age of the case (in days) from the filing of the petition, and the y-axis represents the likelihood of a child's reunification with his/her parents at each time point throughout the case. Figs. 1 through 4 indicate that throughout the life of the case, the likelihood of reunification was greater with the presence of the mother at the preliminary protective, adjudication, disposition, and first review hearings than when the mother was not present at these hearings. Further, this difference in likelihood of reunification increased and became more divergent over time—the rate of reunification continued to diverge. Similarly, Figs. 5 through 8 indicate that the likelihood of reunification was greater and the rate differences increased and became more divergent over the life of the case with the presence of the mother's legal representative at early hearings when compared to mother's whose legal representative was not present at these hearings.

Overall, these findings suggest two things regarding the presence of mothers and their legal representation at early decision-making

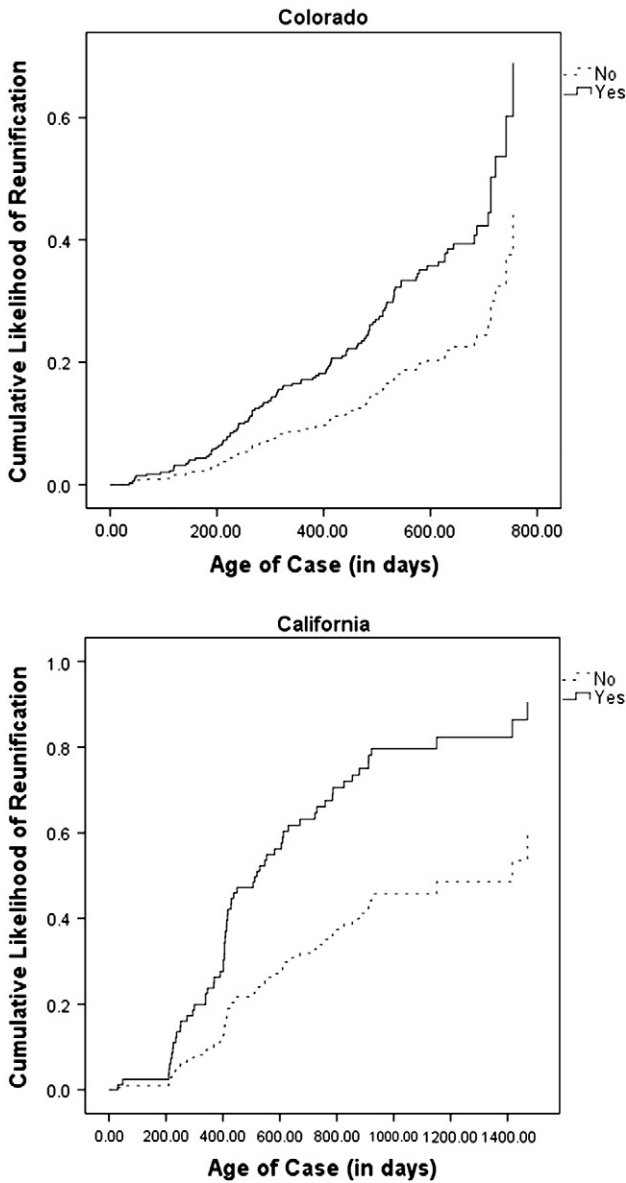


Fig. 1. Mother present at preliminary protective hearing and cumulative likelihood of reunification across length of case.

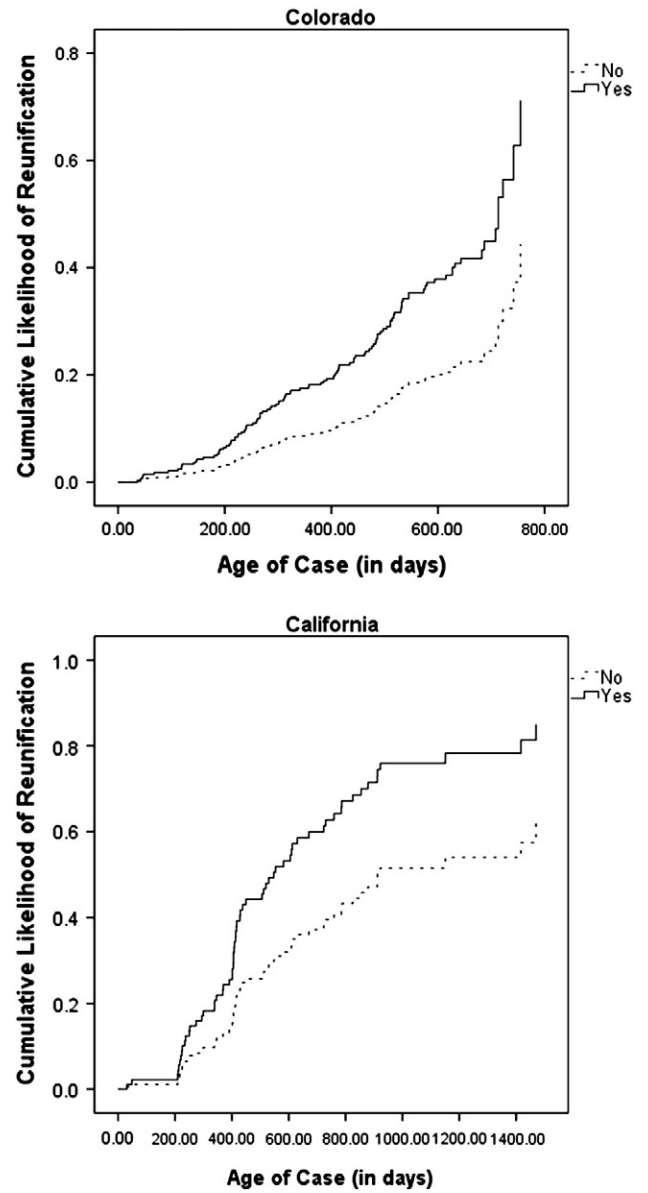


Fig. 2. Mother present at adjudication hearing and cumulative likelihood of reunification across length of case.

hearings. First, having mothers present at the preliminary protective, adjudication, disposition, and first review hearings increases children's chances of being reunified with their families. Second, assigning mothers legal counsel at or before one of these four early decision-making hearings will also increase the chances of reunification.<sup>4</sup>

Figs. 9 and 10 show the cumulative likelihood for reunification in Colorado and California based upon the presence of the father (Fig. 9) and father's legal representative (Fig. 10) at the disposition hearing. These figures indicate that the likelihood of reunification was greater and the difference in likelihood increased and became more divergent across time with the presence of the father and the father's legal representative at the disposition hearing.

<sup>4</sup> A follow-up cox proportional-hazard rate analysis was conducted to examine whether a difference exists between the likelihood of reunification when only the mother is present at these early decision-making hearings and when both mother and attorney are present. No significant difference was found between these conditions,  $p = .24$ .

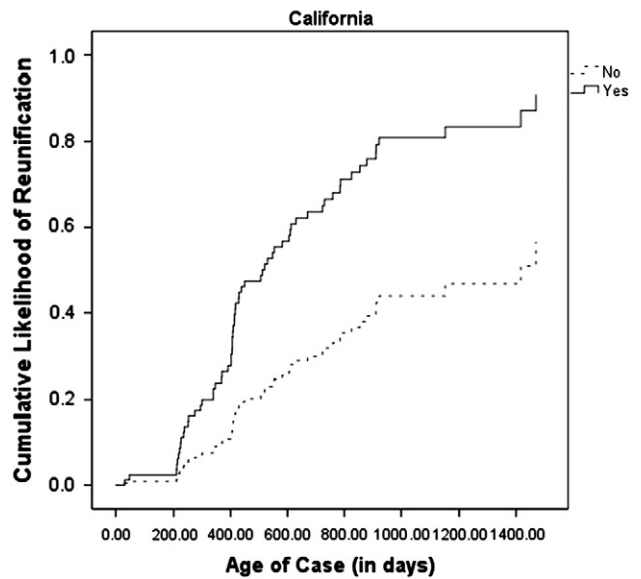
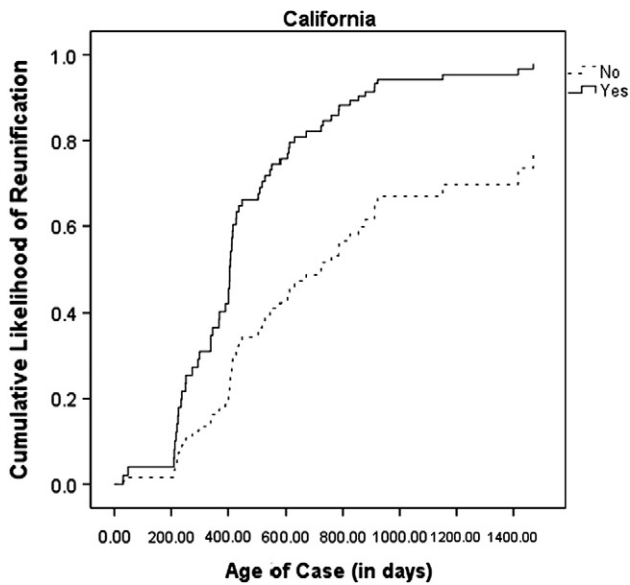
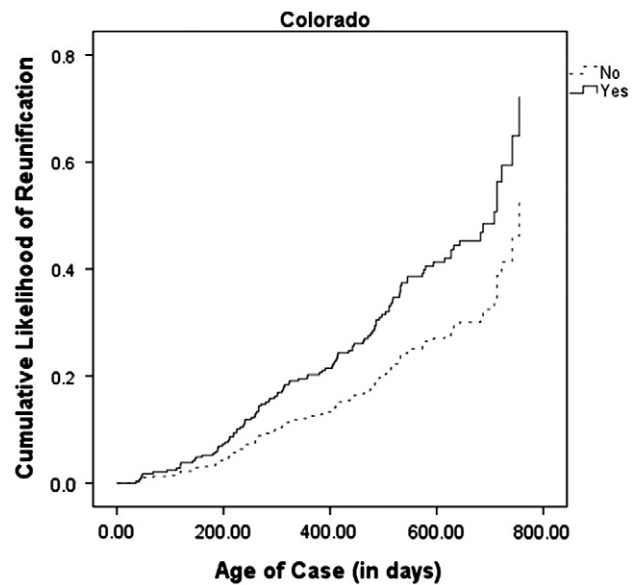
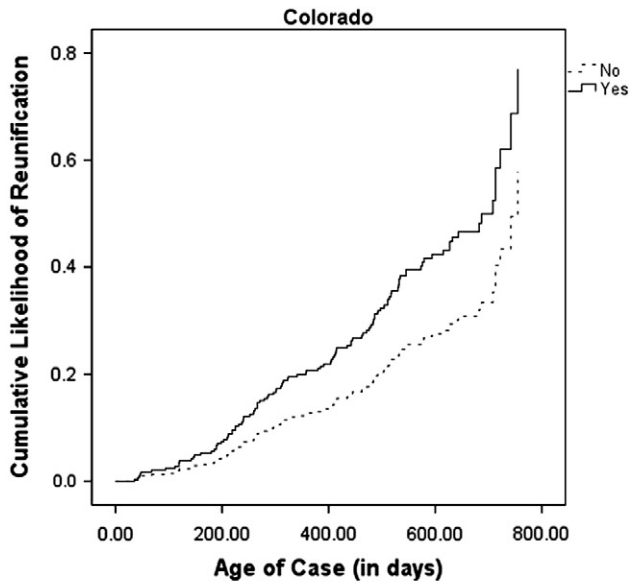


Fig. 3. Mother present at disposition hearing and cumulative likelihood of reunification across length of case.

Fig. 4. Mother present at first review hearing and cumulative likelihood of reunification across length of case.

These findings suggest that, unlike mothers and their legal representation, fathers and their legal representation do not substantially influence the chances of children being reunified with their families. It appears that only during the disposition hearing (and first review hearing for fathers in California) can the presence of fathers and their legal representation increase the chances of reunification.

## 16. Discussion

The current study finds that children whose mothers were present at each of the four early hearings in California and Colorado were more likely to be reunified with their parent(s), and this reunification occurred sooner across the life of the case than children whose mothers were not present at these early hearings. Similar findings were made for children whose mothers' legal representative were present at each of the four early decision-making hearings compared to children whose mothers' legal representative were not present. These findings are robust across samples (i.e., Colorado and California) and hearings. The same association was not found for

fathers. Children whose fathers were present at the disposition hearing in California and Colorado were more likely to be reunified, and more expediently than children whose fathers were not present at this hearing. Similar outcomes occurred for children whose fathers' legal representative was present at the disposition hearing compared to children whose fathers' legal representative was not present. Children in California whose fathers were also present at the first review hearing were more likely to be reunified, and in a timelier manner than children whose fathers were not present at the first review hearing—an outcome not found in Colorado. All other hearings and legal representation for father by hearing were not significant.

The findings concerning mothers' presence at early hearings build upon previous research suggesting that caseworkers' and judicial officers' perceptions of parental compliance influence their decisions to reunite families (Jellinek et al., 1992; Larrieu et al., 2008; Wingrove, 2009). Although the current study did not explicitly test for compliance levels of mothers, it is possible that mothers appearing in court during each of the early hearings are more likely to comply with the case plan than mothers not appearing in court. Another

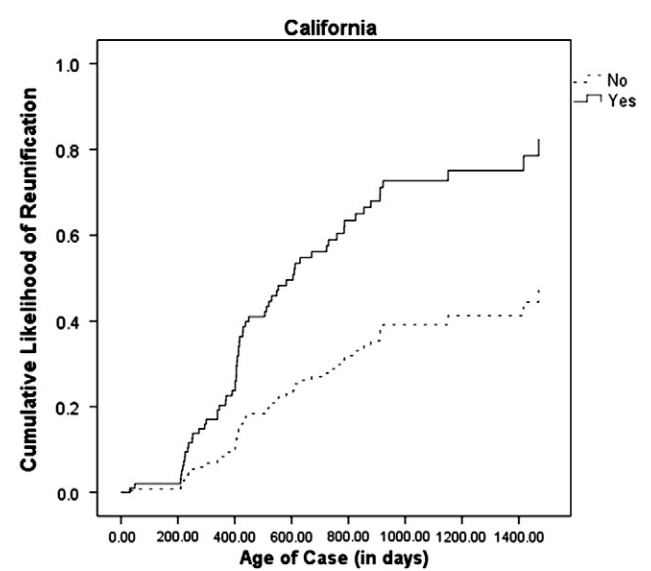
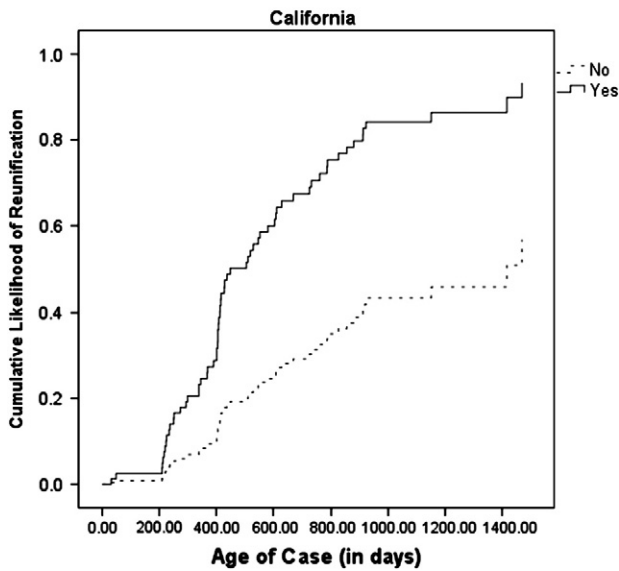
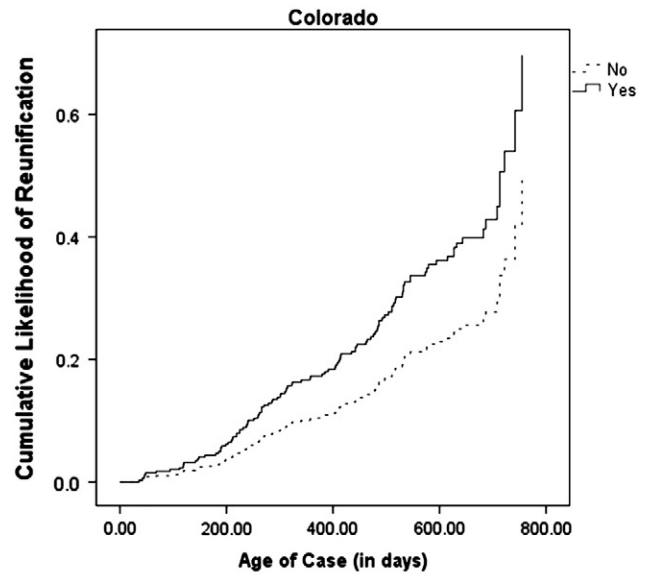
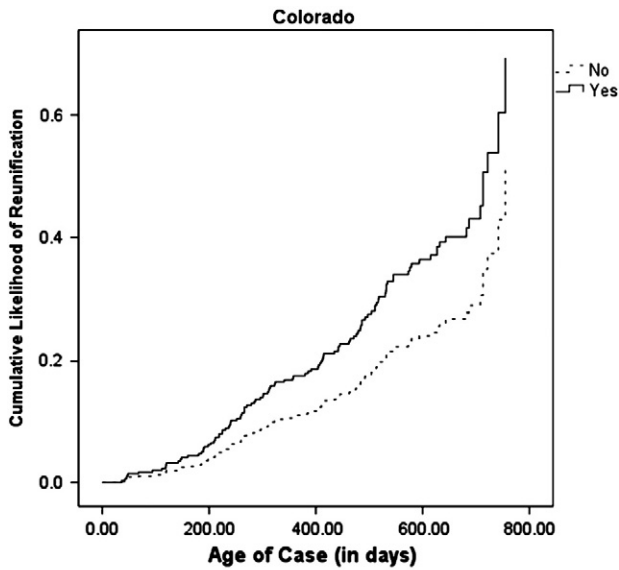


Fig. 5. Mother's legal representation present at preliminary protective hearing and cumulative likelihood of reunification across length of case.

Fig. 6. Mother's legal representation present at adjudication hearing and cumulative likelihood of reunification across length of case.

possibility is that mothers appearing in court are more likely to be in compliance, as those mothers not in compliance may be hesitant to appear in court for fear of reprisal. Appearing in court during each of the early hearings may also suggest to judicial officers and caseworkers that the mother is dedicated to reunification.

This should not imply that mothers could simply show up to these hearings to ensure reunification. Research findings across studies suggest that mothers need to comply with legal expectations, to accept and to follow the case plan. Nevertheless, if a mother shows up in court, other factors that are crucial to reunification are more likely to occur as well. Being present in court may correspond with compliance with the case plan, with getting services, spending parenting time with the children, and with being in good view of the court.

The current findings concerning fathers' presence at early decision-making hearings build upon, and fit within the framework of, prior research showing that adequate levels of involvement by fathers in permanency planning and case plans leads to more paternal placements and shorter stays in foster care compared to fathers who were not involved and did not enter into a case plan (Coakley, 2008).

Similarly, the current findings can be understood in terms of previous research indicating that 48% of non-resident, highly involved fathers were reunified with their children, compared to only 16% of children whose non-resident fathers were not involved (Malm et al., 2008). Therefore, the findings of the current study raise an interesting question: Why is it that there are no better outcomes for children when their fathers and/or fathers' legal representative were present at early hearings? One answer may be that those children with highly involved fathers are more likely to be placed with the non-offending parent—a placement that is similar, but not equivalent to reunification. A second answer may be that fathers are listed on the petition less often, as the percentage of allegations in the current study was overwhelmingly against the mother. Therefore, fathers may appear in court, but the final permanency goal may be reunification with the charged parent.

A third plausible answer for the variations in findings for fathers concerns the variables of interest. In previous research (Coakley, 2008; Malm et al., 2008) the amount of involvement by the father was gaged by involvement in case plans, visitation, and financially assisting the child, while the current study gaged involvement as



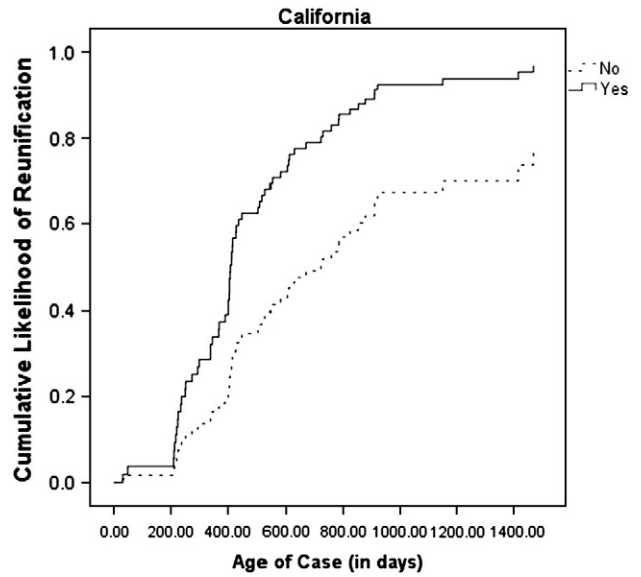
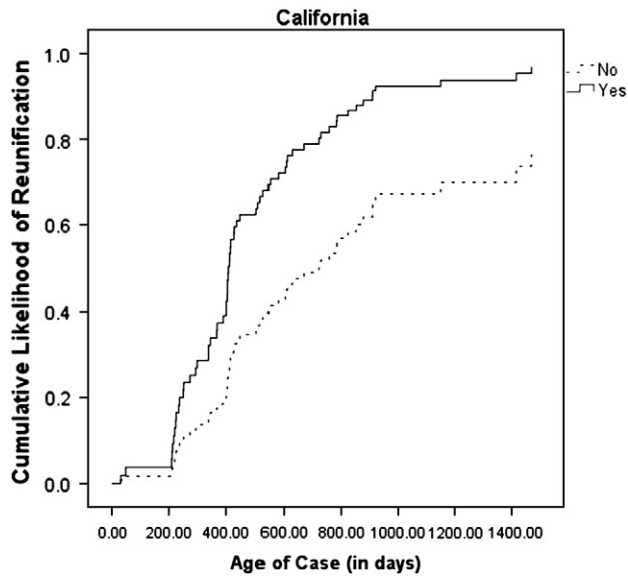
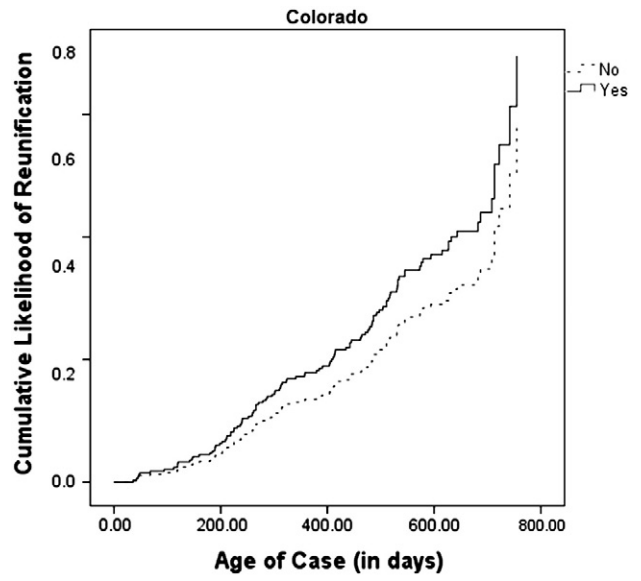
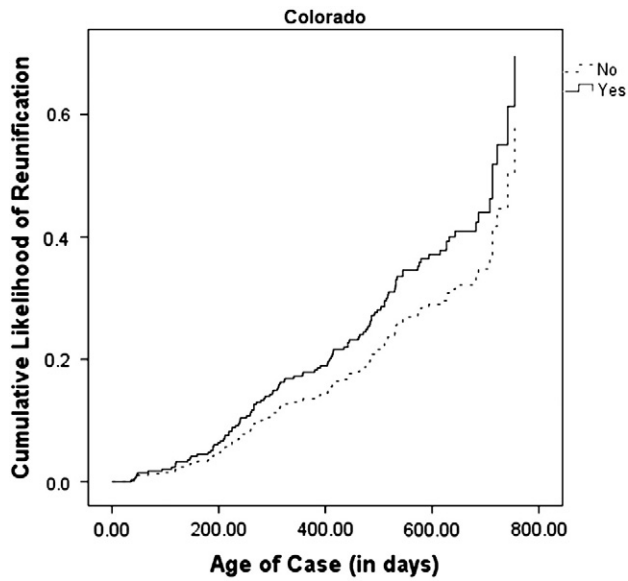


Fig. 7. Mother's legal representation present at disposition hearing and cumulative likelihood of reunification across length of case (Fig. 8).

Fig. 8. Mother's legal representation present at first review hearing and cumulative likelihood of reunification across length of case.

appearances in court. While it may be inferred that appearance in court equates to fatherly engagement similar to visitation and involvement in case planning, those arenas of fathers' involvement were not assessed in the current study; therefore, this inference cannot be adequately made. The differences in findings between the current study and previous research are that, unlike mothers, it appears that it is not sufficient for fathers just to appear in court. In addition to attending hearings, fathers may have to demonstrate that they are making an effort toward correcting the situations that brought them before the courts. Only through behaviors such as compliance with case plans, court orders, visitation, and financial support, might fathers demonstrate they are willing and able to be reunified with their children. These behaviors are critical for mothers as well, obviously. However, mothers appear to receive a greater benefit of presumption than fathers do.

The findings of the current study concerning the presence of legal representatives at early hearings add to the existing literature on attorney representation. Much of the previous literature related to attorneys has examined the influence of attorney competency, compensation, caseload (American Bar Association, 2009; Center for

Family Representation, n.d.; Children's Advocacy, 2009), and type (e.g., public defender, District Attorney) (Goodman, Edelstein, Mitchell, & Myers, 2008) on dependency case outcomes. However, the current study suggests that, although an experienced attorney who is able to provide ample assistance may be beneficial for both the parents and the child, an attorney – regardless of experience – is better than no attorney. This should not necessarily imply that just having any attorney in court is adequate. The empirical analysis presented in this paper does not account for quality of representation, and the quality of representation might be just as important as having representation. Further research is needed to flesh out these factors and differentiate whether it is truly the quality of the attorney or whether dependency practitioners treat parents differently when legal counsel represents them because the parents may become an informed party to the proceedings rather than a judicial target.

16.1. Implications

The findings of the current study offer implications for policymakers in the child welfare system as well as theoretical implications for social

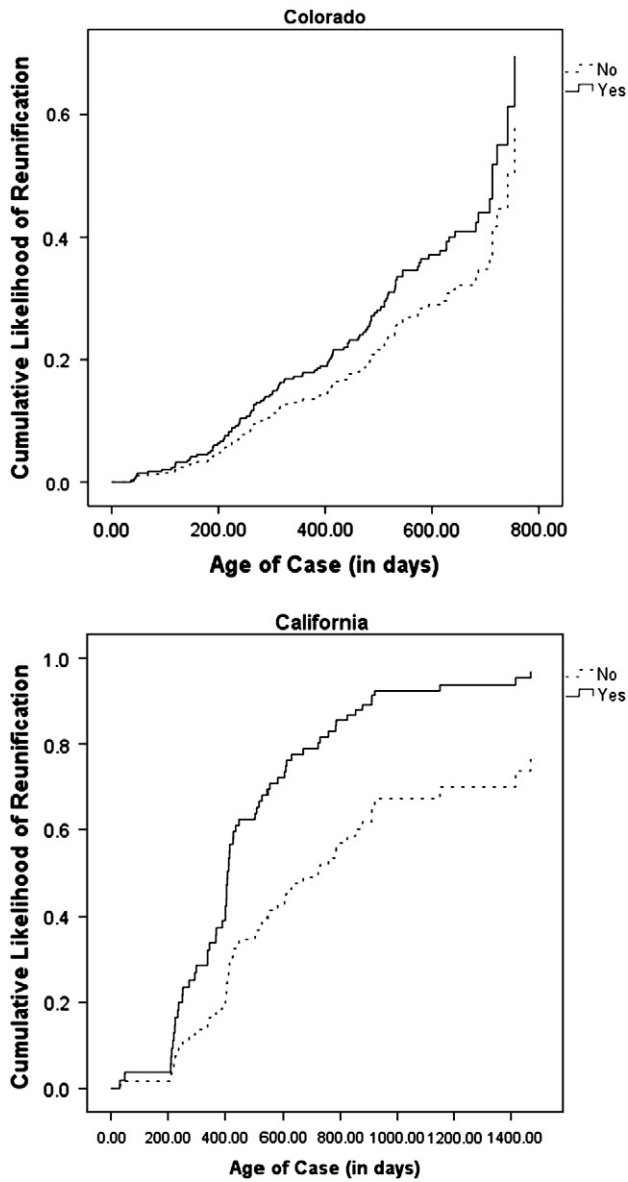


Fig. 9. Father present at disposition hearing and cumulative likelihood of reunification across length of case.

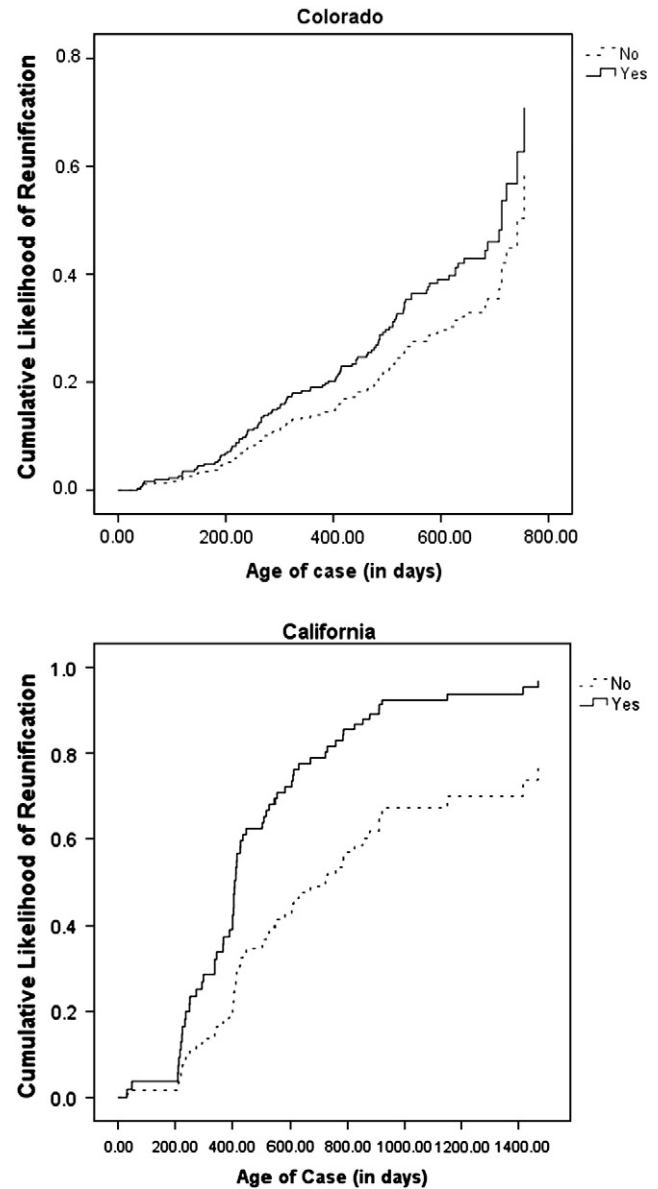


Fig. 10. Father 's legal representation present at disposition hearing and cumulative likelihood of reunification across length of case.

scientists. With regard to policy implications, the current study offers three plausible suggestions. First, efforts are needed to ensure that mothers are present at each of the early hearings. Some jurisdictions are currently implementing such techniques. In an effort to get parents to attend court, rather than placing in the court orders simply that the parents are hereby given notice of the next hearing, some counties in Texas are ordering parents to appear at the next hearing. On some occasions, these courts also give bus passes to parents without adequate transportation to and from court. At the time of writing, the success of these measures has not been evaluated; however, the findings of the current study suggest they may be successful.

A second policy implication suggests the courts should attempt to engage fathers more. Although the findings of the current study do not support previous research (Coakley, 2008; Malm et al., 2008) suggesting that involving fathers in dependency proceedings results in better permanency outcomes, this outcome is explainable. In previous research, fathers were considered highly involved if they visited their child in foster care, provided both financial and non-financial support, and entered into a case plan. In the current study, only the presence of fathers at court was examined. The non-significant results of the current

study build upon previous research by indicating that it is not sufficient for fathers to simply appear in court. If fathers wish to be reunified with their children, they must be actively engaged in case plan development and implementation. However, in order to do so, the perceptions of fathers by some as afterthoughts, potential threats to the safety of the children (O'Donnell et al., 2005), and impediments to case progression (Malm et al., 2008) must be altered. As the current study shows, fathers need assistance from outside sources (apart from their attorney) to help facilitate and ensure reunification with their children.

A third policy implication of the current study regards legal representation for all parents. While many states generally assign counsel to indigent parents, not all states have statutes affording parents a right to legal representation during dependency proceedings (Sankaran, n.d.). The findings of the current study suggest that better outcomes (i.e., reunification) occur when parents, especially mothers, have legal representation, and when this legal representative is assigned early in the dependency proceedings and appears in court at the time of the hearings. It is therefore recommended, that more states begin to implement assignment of counsel in all cases and that this

assignment occurs at or before the preliminary protective hearing. More research is needed to support this contention, but if future research findings coincide with the current study, then policymakers need to consider implementing legislation that ensures early representation. While the cost of such legislation may create a financial burden on the state, it would be more fiscally responsible and less burdensome than the cost of housing children in the foster care system, inundating and overextending the courts with hearings, and separating families for extended periods. More importantly, such legislation would be something court practitioners could directly influence, as opposed to other factors (e.g., poverty, race, family structure) that are largely out of their control.

The findings of the current study offer theoretical implications as well. While prior research has examined the influence of demographic information (e.g., Courtney, 1994), family composition (e.g., Davis et al., 1996), and income-related variables (e.g., Courtney; Jones, 1998), these variables are largely uncontrollable at the individual, parental level. By examining factors under the control of parties involved in the dependency court system, the current study offers a more complete explanation of the factors relating to reunification. Along with family and case factors, these findings suggest that the processes and structures of the juvenile dependency system are also important to case outcomes. This investigation makes it clear that it is important to consider not only the characteristics of the families involved in the dependency court system, but also how they are involved.

## 16.2. Limitations and future directions

The limitations of the current study concern the scope and nature of the data set. First, the current study only examined the case outcomes from two states; and more specifically, only seven counties within these two states. While this limitation may diminish the generalizability of the results, the cross-sample consistency of significant results across both states creates a robust building block for future studies. Future studies may benefit by examining not just an additional number of states, but also additional geographic locations. While the current study examined the Western states of Colorado and California, future studies could examine Eastern, Southern, and Midwestern states to determine whether these findings are consistent across different geographic regions or whether factors unique to these regions (e.g., higher number of dependency cases, greater focus on parental involvement) influence reunification rates.

A second limitation is that the current study utilized a secondary data set; therefore, researchers were constrained with regard to the variables available for examination. For example, researchers were unable to assess the three factors commonly associated with the efficacy of legal representation: performance, compensation, and caseload. When collecting data for future studies, researchers could access the attorney performance ratings via state surveys. Such a process appears to be feasible because several states including Arkansas, Colorado, and Utah require some level of attorney oversight (Bowen et al., 2007). Researchers could also access the caseload and compensation information via state reporting systems such as that used in the Connecticut's Office of Chief Child Protection Attorney.

Because of the secondary nature of the data set, researchers were also not able to obtain racial information concerning the involved parties. Among others, George and Lee (1998) find that Black or African American children are less likely to be reunified than White children and other studies have determined that, when controlling for factors related to race, the effects of race remain important (Needell, Brookhart, & Lee, 2003). Future studies should collect race information of the child and both parents (in case there are racial differences between mother and father). Researchers could then enter race into the survival analysis as a control variable to examine whether the

influence of mothers and/or fathers' presence at early hearings remains the same.

Future research may also be to expand on two, more narrow areas of interest regarding fathers. First, researchers could examine reunification outcomes when the father is on the petition as the charged parent and appears at each hearing. Second, researchers could examine reunification outcomes when the father is not on the petition, but appears at each hearing and expresses an interest in acquiring custody of the child(ren). While the assumption may be that these two scenarios would result in similar outcomes, it would be interesting to examine whether this is in fact true. Findings from this research may give researchers and policymakers an interesting look at whether courts differentiate between charged and non-charged fathers when deciding permanent placement outcomes. Moreover, contradictory findings may help elucidate areas for future improvement of court practices and procedures.

## 17. Conclusion

Involvement by parents and legal representatives – specifically mothers and their counsel – in child dependency cases is an important aspect with regard to reunification. When mothers and/or their legal representation are present at early hearings, children are more likely to be reunified, and to be reunified faster. In some instances, specifically at the disposition and first review hearings, the same outcomes are seen when fathers and their legal representatives are present. Understanding that these relationships exist, court personnel (e.g., judges, caseworkers, and agency staff) should make a concentrated effort to involve parents, especially fathers, in the dependency hearings. By engaging parents at hearings, the child welfare system may be able to assist families more effectively and, more importantly, protect and maintain the best interests of the children.

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