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2 DEATHS, 2 OUTCOMES

Fathers receive different forms of justice for babies' deaths in hot cars

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Two hot cars. Two dead infants. Two grieving fathers.

Two very different outcomes.

College professor Mark Warschauer says he simply forgot his 10-month-old son Mikey was in the car. Horse groomer Antonio Balta claims he didn't know the car would get hot enough to harm his 9-month-old daughter, Veronika.

Neither man meant to harm his child. But that doesn't always matter in the eyes of the law.

Since the mid-1990s, the number of children who died of heat exhaustion while trapped inside vehicles has risen dramatically, totaling around 340 in the past 10 years. Ironically, one reason was a change parent-drivers made to protect their kids after juvenile air-bag deaths peaked in 1995 — they put them in the back seat, where they are more easily forgotten.

An Associated Press analysis of more than 310 fatal incidents in the past 10 years found that prosecutions and penalties vary widely, depending in many cases on where the death occurred and who left the child to die — parent or caregiver, mother or father: Mothers are treated more harshly than fathers; daycare workers and other paid baby sitters are more likely than parents to be charged and convicted. But they are jailed less frequently than parents, and for less than half the time.

WARSCHAUER'S STORY

A baby lay lifeless on a stretcher, a car window shattered nearby, paramedics swarming.

How sad, Mark Warschauer thought. Then he realized it was his car.

It was Mikey.

If there was ever a miracle baby, Michael Kai Warschauer was it.

For five years, Warschauer and his wife, Keiko Hirata, struggled with infertility. They had undergone in vitro fertilization, only to see more than a dozen embryos fail.

Mikey's was the last survivor of 14, and the grateful parents reveled in their dark-haired boy, filling page after page with photos of them cuddling, playing and laughing together. Appreciating what a precious gift they'd received, the couple studied parenting books and even brought in a child-safety expert to inspect their home.

"Mikey was the most loved and adored baby on earth," says Warschauer.

The Warschauers were a two-career family. Mark Warschauer is a professor at the University of California, Irvine, a leading expert in the field of technology and learning. Hirata is a political science professor specializing in Japan and East Asia.

NATION

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HAPPIER TIME: Mark Warschauer plays with Mikey in 2003, shortly before he forgot his son was in his car. Mikey died of heat exhaustion, but authorities ruled it an accident and no charges were filed. **AP photo/Mark Warschauer**

The morning of Aug. 8, 2003, Mark Warschauer was tired and stressed out. His wife was trying to wean Mikey.

When he drove to work that morning, he was "on automatic." Mikey had fallen asleep in the back, dozing quietly in his car seat.

Instead of going to day care, Warschauer went to campus, parked his car and went to the office. His "life of grief" began three hours later.

"At your greatest moment of need, I failed you horrifically," Warschauer said in a eulogy for his son. "Worst of all. I have no explanation for what I have done. I cannot understand how I, who loved you more than the air I breathed, who would have gladly given my own life for you, could have done such a thing."

Authorities ruled Mikey's death an accident and decided not to prosecute. But Warschauer cannot let himself off quite so easily. "I take full responsibility for Mikey's death," he said during a recent interview.

Warschauer has said these words to groups, written them on a Web site (http://www.4rkidssake.org/mikeysstory.htm) dedicated to his son, recorded them in public service announcements. He feels obligated to spare other parents the grief he has experienced.

Since Mikey's death, the Warschauers have had three more children, including twins. Warschauer knows Mikey's death was a tragic fluke, but he knows he can never fully trust himself again.

Inside each of the two family cars is a leather briefcase strap. When Warschauer buckles a child in, he clips the strap to his belt loop, so he can't leave the car without being reminded that he's not alone.

"It's my cue," he said.

BALTA'S STORY

Nine-month-old Veronika Balta grew up around the ponies.

Her father, Antonio, was a thoroughbred horse groomer who followed the racing circuit from New York to Kentucky to Florida. Her mother, Michelle Bashford, waited tables at the various track clubhouses.

The couple couldn't afford day care, so Balta would park Veronika's stroller in the stables while he worked on the horses. Balta would talk to his little "mami" — short for mami chula, Spanish for "pretty mommy" — while he washed and brushed the horses.

"I had to be at work at 4 in the morning to 11 or 12 in the afternoon," the 30-year-old Peruvian native said in soft-spoken, heavily accented English. "Basically it was me and her relationship, because the mother used to work all day, 9 in the morning to 7. So I got her by myself all these hours."

On March 14, 2004, the couple

JAILED: Antonio Balta, who cared for his 9-month-old daughter while working as a horse groomer, pleaded guilty to aggravated manslaughter in the death of Veronika. He received 20 years for her death from heat exhaustion. **AP photo/Chris O'Meara**

were packing up to return to upstate New York. Bashford was finishing her last shift at Gulfstream Park in Hallandale Beach; Balta decided to try and pick up a little more spending money at the betting windows.

Veronika cried around large crowds, so Balta said he left her in the car. He cracked the windows just a hair, he said, because he was afraid someone might take her.

The first two times Balta left the air-conditioned betting parlor to check on Veronika, she was playing with a stuffed toy that he'd won for her in a Kentucky claw machine — a rabbit dressed in a striped prison uniform. But then he got caught up in the races, and before he knew it, about 45 minutes had gone by.

When he found Veronika, she was limp, her eyes rolled back into her head. "I tried to wake her up but when I carry her like this," he said, gesturing as if holding a baby over his right shoulder, ". . . milk came out of her mouth."

The temperature was mild when Balta got to the track that day. He said he had no idea the car could heat up that quickly.

At trial, a psychologist testified that Balta's IQ was 74. Balta's defense attorney called him "borderline retarded."

Balta pleaded guilty to aggravated manslaughter and threw himself on the mercy of the court. Circuit Judge Ilona Holmes had none.

She sentenced him to 20 years. When he gets out, he will be deported.

At the maximum-security Desoto Annex prison in Arcadia, Balta says, "It's like I lost my soul. When I lost her, it's like a big chunk of my heart came out."

Balta agrees that he deserves to be punished. But he wonders what good it will do to keep him locked up for 20 years.

"This place is not going to bring my daughter back," he says. "I have learned from my mistakes already . . . I'm not the same person. I never been a bad guy, never. I did a mistake."