

## **Murder He Wrote**

*This week begins jury selection for the Cheshire home-invasion trial, a process that could take months. Will a controversial book cause a miscarriage of justice? Not if anyone bothers to read it.*

Library buys book. Town protests book. Library stands ground. Free Speech abides.

It seems like a simple, timeless story, but the recent controversy over Brian McDonald's *In the Middle of the Night* refused to follow the script. McDonald's book revisits the morning of July 23, 2007, when Joshua Komisarjevsky and Steven Hayes (allegedly) invaded the home of Dr. William Petit, beating him with a baseball bat and raping, torturing, and murdering his wife and two daughters. The crime traumatized not only Petit's inner circle, but his entire town. So it makes sense that someone in Cheshire might want to peruse *In the Middle of the Night*—perhaps for the new information taken from McDonald's four interviews and 200 pages of correspondence with Komisarjevsky—and the town's library ordered two copies.

This led to a nasty backlash from residents, who demanded the library ban the book—and, not surprisingly, created tons of publicity for it. McDonald told me in a phone interview that he's declined "many, many media requests" because he's in a "lose-lose situation." "I saw myself being cast as someone in it purely for the money," he said. "I thought I'd either come across as defensive or just trying to drum up sales." (When I asked him why he agreed to talk to the *Advocate*, McDonald said: "Because you're a small paper and people won't read it.")

Let's be clear: the only real villains in this mess are Komisarjevsky and Hayes, and, even three years later, it's impossible to consider Petit's tragedy without feeling fear, sympathy, and regret. But this tragedy occurred in and was assimilated by a culture that loves lurid details, Easy-Bake opinions, and petty personal concerns. And, in the reaction to McDonald's book, you'll find many of this culture's usual suspects—duplicitous lawyers, lazy journalists, small-town politicos, quickie cash-in publishers, and a whole lot of people who'd rather react than read.

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The Cheshire Public Library occupies a small brick building just outside the town's historic district. It hosts weekly programs like Pajama Story Time ("Pajamas welcome, but not required"), and, twice a year, puts on a used book sale that, even by New England's high standards, is fantastic.

It must have been surreal, then, to see so many people crowding into the library's Mary Baldwin Room on Oct. 19. The library's advisory board was holding its monthly meeting, and one item on the agenda was the response to library director Ramona Harten's decision to order *In the Middle of the Night*. McDonald's book had been out for several weeks—it hit stores on Sept. 29

—but, given the schedule shared by small-town volunteers everywhere, the board was only now getting to it.

In other words, the issue was unfolding in slow motion, allowing tempers to simmer, then boil. When it became clear that the library's room wouldn't hold everyone, the board pushed the meeting back to Oct. 22 and down the street to Town Hall. There, for more than two hours, voices cracked with emotion and raised in anger. Some residents, marshaling an online petition with more than 1,200 signatures, implored the board to keep the book off the shelves. Others asked them to remember the library's mission. When an ACLU rep began, "The best way to counter obnoxious speech is to counter it with more speech . . ." several voices in the back shouted out "FREAK!"

The board didn't meet again until Nov. 16. Back at the library but still with a capacity crowd, they voted on McDonald's book. When board member Marilyn Bartoli, a close friend of Petit and the secretary of the Three Strikes Now Coalition, raised her hand to oppose the purchase, the crowd exploded in applause. The library board chair had to bang her gavel to restore order.

Bartoli saved her best material for after the meeting. In all the coverage of the library controversy—at one point, the *New Haven Register* ran six stories in five days—Bartoli never articulated a coherent position on free speech, generally just prefacing her comments with "While I in no way support censorship . . ." (This became even more perplexing in reverse, as when she accused her opponents of "hiding behind the First Amendment.") But Bartoli remained quite clear on her opinion of Harten. "The only person who has benefited from this is Ramona Harten," Bartoli seethed. "There's thousands of other books that the library doesn't have, but apparently those two books will get her a national library award."

Other Cheshire residents fell in line. They threatened to stop patronizing the library, called for Harten to be disciplined or fired, said things like: "I think the librarian is too full of herself," or, "She wanted to show that she's got all the power. It's all about her."

But nothing suggests Harten was some kind of cynical mastermind. (Harten and Bartoli both declined to be interviewed for this story.) Harten had never heard of McDonald's book until a TV reporter called to ask for the library's stance on it. She conferred with her staff and learned there were several requests for the book. At that point, she decided to order it based on its "evident popularity and relevance to Cheshire."

Even more telling was how Harten handled the controversy. Thanks to a quirk in the library's acquisitions policy, which had been revised in 2007, only two entities hold authority over Harten: Cheshire's town council and town manager. The library board's vote was merely symbolic—a "recommendation"—and nothing mandated those emotional meetings. But Harten did them anyway, guided by that wacky principle of letting everyone have a say.

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Harten's opponents didn't get their desired outcome—the board backed her 5-1—but they did make a real-world impact. Almost immediately, Komisarjevsky and Hayes's legal teams started

tossing the library drama around like a legal football, using it to snipe at each other and to lobby for trial delays. Hayes's lawyers blasted the book as "a fictionalized account"; even Komisarjevsky's admitted it was "sensationalistic." When it came to sneering at McDonald, though, the local media outdid them all. In a column that ran on the *Hartford Courant's* front page—and that offered an eloquent defense of Harten—Rick Green called it "a revolting book."

But Green never said why. Given this mess—and I haven't even mentioned the protesters' take (sample comment: "I haven't read the book and do not intend to")—it's worth pausing to look at what actually is and isn't in McDonald's book.

*In the Middle of the Night* includes the same details as everyone else—the mother-daughter trip to Stop & Shop, the trampoline in the Petits' backyard, and so on. But McDonald also digs deep into the pasts of Hayes and Komisarjevsky, describing, for example, both Joshua giving his 5-year-old daughter a bath the night before the crime and his sexual predilection for young girls. When McDonald gets to his most grisly and heartbreaking scenes, he doesn't revel in or sensationalize them. Indeed, throughout the book, he employs a simple, direct style and short chapters that always manage to end with a cliffhanger. In other words, it's standard true-crime writing, a solid effort whose major problems are poor pacing and organization.

And yet an awareness or understanding of true-crime writing is exactly what's lacking in McDonald's critics—and in their charge that he "fictionalized" events. Look at the book's opening sentences:

3 A.M. Loose gravel on the street crunched beneath the heavy-set Hayes's feet. He could make noise in a blizzard, Joshua thought, but now Joshua wore a small smile as he shook his head and, palms facing down, motioned to his older partner to walk *softly*. Joshua was either getting used to Steven Hayes or still feeling a little bit of buzz from the beer and Southern Comfort he'd had at the sports bar or, more likely, charged by the thrill of the crime he was about to commit.

I asked McDonald how he constructed the scene. He said that, for the facts, he relied on previous reporting and Komisarjevsky's letters. But what about the style? "I knew the way Joshua phrased things, the way he told a story," McDonald said. "It wasn't like I drew it out of whole cloth—I had the raw material."

McDonald also had a lot of literary history on his side. True-crime writing frequently relies on the techniques he describes, with the most famous example being Truman Capote's *In Cold Blood*. Of course, these techniques also led many to accuse McDonald of providing Komisarjevsky with an open, uncritical platform. But that charge reveals an ignorance of not only true-crime tradition—Capote appears in his book only once, and obliquely—but also the contents of McDonald's book. While Komisarjevsky, in McDonald's words, "contends that he didn't kill anyone that morning," McDonald details how he planned to murder Hayes—and how, whatever else Komisarjevsky said, he was equally culpable for the idea to burn down the Petits' home. As McDonald writes near the end of the book, after describing his first interview with Komisarjevsky: "He couldn't, or didn't, explain the gasoline."

Now, McDonald's no Capote—something he'd be the first to admit. But they belong to the same tradition. In fact, *In the Middle of the Night* is part of St. Martin's True Crime Library series, which, every month, puts out a new mass-market paperback with an attention-mongering title and cornball cover. Capote's book ends, powerfully, with two executions, and McDonald said he wished he could have waited until after the trial to finish his book. "I really think the story deserved more time," he said, "time to learn how someone like this could slip through not only the jail system, but the societal system. But I had already asked for one three-month extension. St. Martin's True Crime is a factory, and I have a place on the assembly line."

The point here isn't that McDonald and St. Martin's are above criticism. McDonald told me St. Martin's and his literary agent approached him only a few days after the crime. Still, in their quest for notoriety and profit, are they really that different than, say, the *Courant*, which, in October of 2007, ran a 4,000-word, five-reporter opus that promised "new insight into the mindset of the alleged killers and new details of the slayings"? To criticize McDonald, you need to criticize the whole true-crime genre—hell, the whole true-crime culture, from Capote to *Law and Order* and its many offspring.

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*In the Middle of the Night* is, technically, the second book about the Petit tragedy. In 2008, Michael Benson published *Murder in Connecticut*, which, even on the sliding scale of true-crime writing, is a terrible book. Benson sees the world in only two shades, perfect and monstrous, and this is exacerbated by his pathological need to exaggerate. (There isn't a "full aisle" of ketchup in Stop & Shop.) His approach simplifies not just this crime, but all crime. It also produces some tongue-clucking prose. Take this passage—on the Cheshire Police Department, whose performance that morning has been widely criticized:

Investigators were running on instinct. They were so well trained that they made correct decisions and asked the right questions despite the fact that their brains were on fire with the horror of the morning.

Yet Benson wasn't nice enough. He dedicated his book to "the people of Cheshire," donated part of his earnings to the Petit Family Foundation, didn't even allow himself to describe the crime—and still his book was excoriated on Amazon.com. His customer reviews—"Evil has many faces. Profiting from an unauthorized book on crime is one of these faces"; "As a memeber [sic] of the local community, I'm really disgusted that this book even exists"—stack up with McDonald's. (In McDonald's case, Amazon wasn't the only offender: he told me that "for the first few weeks, I received very strongly worded, very personal emails, six or ten a day.")

When these two books—one so positive it's unreadable, the other more squarely in the true-crime tradition—provoke the same reaction, it raises the question of motive. What's behind the library controversy? Is it simply that Cheshire, a quiet (master) bedroom community that saw as many homicides that morning as it had in the previous decade, wants to avoid being defined by this tragedy? That it wants to be left alone?

This would certainly explain why some residents attacked Harten for not living within Cheshire's town limits. (Never mind that four out of five signatures on that petition came from outside Cheshire.) But there seems to be something more motivating the protests. After all, the ugly personal attacks undercut the idea of a caring community trying to protect one of its own. Even those who tried to find a compromise—withholding the book until, say, after the trial, especially since, in talking to McDonald, Komisarjevsky may have violated the court's gag order (see the sidebar)—missed the larger point. Libraries shouldn't adjudicate these issues; libraries should preserve and circulate information.

And a lot of people wanted this information. *In the Middle of the Night* had an initial print run of 65,000—McDonald said that's "middle-of-the-road for this kind of book"—but, at local bookstores, it sold out almost immediately. All over Connecticut, libraries had to start wait lists—including in Cheshire, where more than a dozen people requested the book.

So what motivated Cheshire's various factions? When Bartoli claimed that the only person to benefit from the library controversy was Harten, she got it exactly wrong. Harten was the only actor in this drama with something to lose—perhaps her job, certainly her reputation. McDonald, meanwhile, gained all the press an author could want. And, as the *Register* speculated, Bartoli may have been playing politics all along; she also chairs Cheshire's Republican Town Committee, which, thanks to a big win in the most recent election cycle, will be able to replace four Democrat members on the library board next month and elevate Bartoli to the role of chair.

They're even getting a head start. A new petition—this one asking that the library's copies of *In the Middle of the Night* be rescinded—started circulating in late December. When I mentioned this to McDonald, he made a genuine effort to remain understanding: "It was a horrible, horrible crime, and it happened close to home." But he also offered the best explanation I've heard for the motivations behind the library controversy. "There's a whole lot of anger that hasn't been vented," he said. "The trial hasn't happened, and they need someone to lash out at."

*In the Middle of the Night* made headlines with the library controversy, but a potentially more serious matter is its relationship to the case's gag order. William Petit himself has touched on this, even suggesting that McDonald may have posed as a lawyer and paid Komisarjevsky for access. But these charges miss the real issue. In 2007, Superior Court Judge Richard Damiani imposed the gag order on the lawyers and the defendants, but not on any lay people or witnesses. In other words, Komisarjevsky, not McDonald, is the key. (Komisarjevsky's lawyers contend that the gag order doesn't apply to him because it was never placed in his court file.)

McDonald told me he sent letters to Komisarjevsky, Hayes, Petit and others about a month after the tragedy. Komisarjevsky was the only one to respond—and even he didn't for several months more. "As we corresponded," McDonald said, "Joshua invited me to come up and visit. He sent me a form to fill out that was given to him by the guard."

While McDonald denied Petit's accusations, both men would probably agree that the protocol at Suffield's MacDougall-Walker Correctional Institution could use some tightening. "At one point," McDonald said, "they were going to let me talk to Joshua face-to-face, attorney-client. At the very last minute, another guard said 'No, we can't do that.' Then they asked if I was an attorney, and I said no." But McDonald still conducted four interviews before being turned away. "I was as surprised as anybody," he said. "It was so easy. I waited while they brought him up from the cell, chit-chatted with a guard, and then there he was."

Due to the gag order, Attorney General Richard Blumenthal can't comment on Komisarjevsky's letters or McDonald's journalism, though he told the *Courant* that he shares Petit's concerns. For his part, McDonald said that "no body has contacted me from the Connecticut Attorney General. St. Martin's received one letter and has responded." — Craig Fehrman

McDonald still stands by his work. “Is banning the book going to change anything?” he asks. “Will it make those horrible events not happen? Or is it just to punish me?” But his theory about a need for political and communal catharsis makes sense—especially given the legal slog that lies ahead. Hayes’s jury selection begins this week; even before his defense used McDonald’s book to ask for a delay, the trial wasn’t scheduled to start until September.

Citing Connecticut’s unique *voir dire* laws, which allow for unlimited questioning of individual jurors, Superior Court Judge Jon Blue rejected this request. “You simply ask [jurors], ‘Have you read the book?’” Blue said. He added another question (“Can you put aside any impressions you may have and decide the case based on the evidence you hear?”), but I like his first one.

Have you read the book?