

HOME AFFAIRS COMMITTEE MPS WORRY ABOUT MINIMIZATION PROCEDURES — OF NEWSPAPER, NOT SPY SERVICE

I just finished watching Guardian editor Alan Rusbridger's testimony before the House of Commons Home Affairs Committee, which the Guardian live-blogged here. My overall impression is that, whatever else has happened to America's former colonial overlords, Brits still maintain the ability to be utter blowhards while maintaining a facade of politeness far better than, say, our blowhards on the House Intelligence Committee.

Those who really wanted to attack Rusbridger and the Guardian, though, appear to have no sense of irony.

They latched not primarily on the Guardian's publication of news about the NSA-GCHQ dragnet, which several MPs agreed showed the spy services had too few limits. Rather, MPs like Keith Vaz and Mark Reckless suggested Rusbridger had broken the law by sending 50,000 files to the NYT without first redacting the names of GCHQ's spies. From the Guardian liveblog:

Has he communicated information contrary to the Terrorism Act?

Rusbridger says the government has known for many months that the material Snowden leaked included names of security people at the NSA and GCHQ and he told the cabinet secretary in July that the Guardian was sharing with the NYT. Self-evidently they work in New York. Rusbridger holds up the book Spycatcher by Peter Wright, a former MI5

agent, and recalls the ridiculous sight of the UK trying to stop publication of something being published elsewhere in the world. That was the point of giving the files to the NYT – to avoid a similar situation.

You have I think admitted a criminal offence there, Reckless says. Should Rushbridger be prosecuted?

Admittedly, this was mostly an attempt to intimidate Rusbridger (and he said as much).

But it was also a query about whether the Guardian used adequate minimization procedures before sharing bulk data collected in the course of reporting.

To one question, Rusbridger admitted he hadn't gone through all 50,000 documents before handing them to the NYT, but he knew the NYT would also protect the names of any spies.

He effectively was taking precisely the same stance on minimization that GCHQ and NSA adopt with their bulk collection. The services share unminimized bulk collected data back and forth with each other. They agree (though sometimes let each other ignore that agreement) to minimize the data of British or US subjects before using that data in finished intelligence reports, the equivalent of a newspaper's publication.

Pass on the data in bulk, with the understanding none of it will be published with the legally protected identities unmasked (unless needed to understand the intelligence, the spy services allow). That is the practice used by both the Guardian with NYT and GCHQ with NSA.

Spy overseers have repeatedly pointed to minimization procedures as an adequate protection for the privacy of their citizens, to hide information unless it was necessary. Usually, they ignore the danger of having those identities tied to the data in secret archives

somewhere.

But at least MPs Vaz and Reckless admit, without meaning to do so, that such minimization procedures might not adequately protect sensitive identities.

But as Rusbridger quipped (and has quipped, elsewhere), the only one who is known to have lost control of data here was the NSA, not the newspapers.