



Written by [Jack Kenny](#) on December 5, 2013

U.K. Ponders Terror Charges Over Guardian's Publication of Snowden Leaks

Members of the *Guardian* newspaper staff  may be charged with crimes of terrorism over the British newspaper's handling of secret U.S. National Security Agency documents leaked by computer analyst Edward Snowden, the Reuters news agency [reported](#).

Cressida Dick, head of London's Specialist Operations Unit, told a parliamentary inquiry on Tuesday that the police are investigating whether the newspaper or its employees had committed any criminal offenses following the brief detention in August of a man carrying data on behalf of a *Guardian* journalist.

"It appears possible once we look at the material that some people may have committed offenses," Dick said. "We need to establish whether they have or they haven't."

Asked if those offenses might include violations of Section 58A of the Terrorism Act, which says it is a crime to publish or communicate any information about members of the nation's armed forces or intelligence services, Dick replied, "Yes, indeed we are looking into that." Section 58 makes it a crime, punishable by up to 10 years in prison, to possess "information of a kind likely to be useful to a person committing or preparing an act of terrorism."

Security officials have said classified data released by Snowden included details of British spies and that its disclosure would put lives at risk. *Guardian* editor Alan Rusbridger, summoned by the lawmakers to give evidence at the inquiry, said the newspaper had withheld that information from publication. The *Guardian* has published less than one percent of the information it has received and has kept the rest stored securely, he said.

"We have published I think 26 documents so far out of the 58,000 we've seen, or 58,000 plus," Rusbridger told the committee. "So we have made very selective judgments about what to print. We have published no names and we have lost control of no names."

"It isn't only about what you've published, it's about what you've communicated. That is what amounts, or can amount, to a criminal offence," replied Conservative Michael Ellis, a member of the parliamentary committee. The *Guardian* has become the target of a number of other Conservative Party members, including Julian Smith who has sought information as to whether the publication has shipped the names of British secret service agents overseas.

"I've got numerous concerns about how the *Guardian* has conducted itself," Smith said. "I believe in freedom of the press and the *Guardian's* right to write about these leaks, but there also needs to be a sense of moral responsibility." Prime Minister David Cameron, also of the Conservative Party, said in October: "I will back the work [security services] do and I will criticize those that make public some of the techniques they use because that is helping our enemies."

Snowden and the documents he released have been at the center of attention in both the United States and the United Kingdom for the past six months. A former CIA employee, Snowden was a 29-year-old



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computer specialist with NSA contractor Booz Allen Hamilton last June when he released to the press some 200,000 classified documents revealing the NSA's massive daily data collection, including billions of phone call records, e-mail, and other Internet transmissions. The *Guardian* and the *Washington Post* were the first to publish the revelations, which quickly appeared in newspapers and media outlets worldwide. Facing charges of theft and espionage, Snowden fled from his Hawaii home to Hong Kong and was later granted a one-year asylum in Russia, where he is now residing.

In June, Rusbridger said he was pressured by British authorities to destroy hard drives containing data from Snowden at the paper's London headquarters. The officials, he said, implied further action would be taken if he did not comply. He destroyed the drives knowing that copies of the data were already stored outside of the United Kingdom. In August, British authorities arrested David Miranda, the partner of Brazil-based freelance journalist Glenn Greenwald, who wrote the *Guardian's* first stories of the Snowden leaks. Miranda was stopped at London's Heathrow airport, enroute to Brazil, and interrogated for nine hours before being released. Officials seized his laptop computer, cellphone, memory stick and video-game consoles, all of which remain in government custody.

"Some of this behavior is clearly designed to be intimidatory and/or chilling," Rusbridger said in an e-mail. "Most of it would be unimaginable in America or parts of Europe. So, yes, I think there are disturbing implications for press freedom in the U.K."

U.S. officials apparently have not yet gone as far their British counterparts in pressuring news media over publication of the Snowden documents, but the *Washington Post* noted NSA Director Gen. Keith Alexander told the Defense Department's Armed With Science blog in October that the government must find some way to stop the publication of classified documents. "We ought to come up with a way of stopping it," Alexander said. "I don't know how to do that. That's more [for] the courts and the policymakers, but, from my perspective, it's wrong to allow this to go on."

"The *Post* does not show stories to U.S. officials in advance of publication, nor does it routinely agree to official requests," the Washington paper said in a recent article on government responses to the Snowden leaks. But language in some articles has "occasionally been modified" when officials have cited specific risks to certain intelligence operations and individuals, executive editor Martin Baron said. Jill Abramson, executive editor for the *New York Times*, said the *Times* had turned down at least one request by U.S. officials to withhold a story.

While U.S. journalists have freedom of the press protection under the First Amendment, they can be prosecuted for violations of the 1917 Espionage Act, one of the charges leveled against Snowden. It was also the basis for the prosecution of former Defense Department analyst Daniel Ellsberg, who leaked a secret Pentagon study of the Vietnam War to the *New York Times* in 1971. Charges against Ellsberg were dropped after a mistrial was declared, based on illegal means used to gather evidence against him, including wiretaps and a break-in at his psychiatrist's office by members the team of "plumbers" assigned by President Nixon with the task of combating unauthorized leaks. The *Times* appealed a court injunction against further publication of a series of articles that came to be known as "The Pentagon Papers." In the opinion of the Supreme Court overturning the injunction, Justice Hugo Black wrote:

Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell.



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The German newspaper *Der Spiegel* has published excerpts of the Snowden documents but has not received the type of attention the British government has paid the *Guardian*, according to managing editor Klaus Brinkbäumer. “At *Der Spiegel* we have not encountered anything similar,” Brinkbäumer said in an e-mail. “There is no serious pressure.”

The inquiry by the parliamentary committee and the actions of British security officials have raised concerns about press freedom on both sides of the Atlantic. A spokesman for a London-based free-speech organization called Index on Censorship said the interrogation of the *Guardian* editor was an ominous sign. “The government has been reassuring us for the last few years that politicians will never interfere with the press,” said Pádraig Reidy, who claimed Tuesday’s inquest showed that “when a story comes out they don’t like, they start making threatening noises.”

“The kind of threats and intimidation being experienced by the *Guardian*, especially compared to the different responses in the United States and Germany, is something that we should all be very worried about,” said Jo Glanville, director of English PEN, a London-based freedom-of-expression group.

In a [open letter](#) to editor, published in Tuesday’s *Guardian*, Carl Bernstein, the U.S. journalist who helped expose the Watergate scandal in the 1970s, described the hearing as a “dangerously pernicious” attempt by British authorities to “shift the issue from government policies and excessive government secrecy in the United States and Great Britain to the conduct of the press — which has been quite admirable and responsible in the case of the *Guardian*, particularly, and the way it has handled information initially provided by Mr. Snowden.”

Information revealing the identity of undercover agents or operatives whose lives might be endangered “has been carefully redacted by the *Guardian* and other publications and withheld from stories based on information from Mr. Snowden,” Bernstein wrote, adding: “Certainly terrorists are already aware that they are under extensive surveillance, and did not need Mr. Snowden or the *Guardian* to tell them that.”

In his appearance before the committee, the *Guardian* editor noted that more attention had been given to his paper’s publication of the leaks than to the question of how the documents were so easily obtained in the first place. “We were told that 850,000 people ... had access to the information that a 29-year-old in Hawaii who wasn’t even employed by the American government had access,” Rusbridger said. He told the committee that over the course of the *Guardian*’s publication of the Snowden material, the paper had consulted government agencies on both sides of the Atlantic more than 100 times.

“We will continue to consult them, but we are not going to be put off by intimidation,” he said, adding, “but nor are we going to behave recklessly.”



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