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THE USA PATRIOT ACT: AN ANALYSIS OF STUDENT REACTION TOWARD
GOVERNMENTAL ACCESS TO LIBRARY RECORDS

By

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WITH DEPARTMENTAL HONORS

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Approved:

Thesis/Project Advisor

Department Honors Advisor

Director of Honors Program

UTAH STATE UNIVERSITY
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Abstract:

The USA Patriot Act has created a furor of opinion among the library community. Many oppose the Act's affect on First Amendment rights and governmental access to library records. To investigate the opinion of Utah State University students, a survey was conducted among a random sample of 100 students. The results indicated that student opinion conforms to conservative Utah as most of the respondents believe the government can access library records if they have a court issued search warrant. Students felt it important that the suspect be informed of the investigation. Only 22% of respondents had heard of the Patriot Act, a significant number of who were less likely to believe in an equal balance between national security and civil liberties. Librarians at USU can use the results of this survey to continue to better serve their patrons.

THE USA PATRIOT ACT: AN ANALYSIS OF STUDENT REACTION TOWARD
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The atmosphere in the United States has undergone quite a change in the last few years. When I graduated from high school four years ago, I entered a world of optimism, bull stock market, invincibility and innocence. By September 11, 2001, most of those feelings had changed for our country. The current mood in the United States could be described as defensive, concerned, and even secretive. We are in an economic recession and are at war with Iraq. Moods are considerably changed in a public sense; however, feelings on the personal level are affected differently than on a national level. The purpose of this paper and the ensuing research is to determine how students feel about the USA Patriot Act and governmental access to library records in the hopes that librarians can use the information to better serve patrons.

The USA PATRIOT Act:

One of the most significant changes in the perceived security of the nation occurred when Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (the Patriot Act, the Act). The Act was passed October 26, 2001, after very little discussion in Congress (Doyle, 2002), leaving library groups struggling to interpret and analyze the Act (Kniffel, 2002). The changes created by this law are broad and diverse; only those that apply most closely to the library will be discussed here.

The Act simplifies court issued search warrants. The Foreign Intelligence Surveillance Act (FISA) was designed in 1978 to separate domestic and foreign intelligence gathering in response to "shocking and extensive" surveillance of US citizens by the Federal Bureau of Investigation (Minow, 2002). Those tight controls were relaxed by the Patriot Act. Search warrants issued may now be on a national scale extending beyond one specific investigation

(Minow, 2002). Warrants issued under criminal law must illustrate probable cause. Under FISA, however “probable cause refers not to a crime taking place but to the likelihood that the target of investigation is a foreign power or an agent of a foreign power” (Minow, 2002, p. 54). Instead of expecting a criminal act to justify a search warrant, the suspect need only be connected with a “foreign power.”

Where search warrants formerly dealt with past content, they now can be applied to real-time content, i.e. monitoring Internet activity with intercepts or wiretaps. Warrants also apply to e-mail and voice mail messages (Minow, 2002). Librarians are especially affected by this stipulation because federal officials may monitor patron use of computer/Internet terminals at libraries. The Act allows federal officials to access these records without the suspect’s knowledge and forbids librarians from revealing such inquiries to the suspected patron (G. M. E., 2003).

Additionally, the Act expands access to business and educational records, including library circulation records. Where librarians traditionally kept a strict confidentiality, they now are required to comply with law enforcement officers’ requests for information (Anti-terrorism Statement, 2001).

The library community certainly did not take a passive stance while Congress passed this legislation. On September 20, nine days after the terrorist attack on the World Trade Towers and the Pentagon, the library community, including the American Association of Law Libraries, the American Library Association, the Association of Research Libraries, the Medical Library Association, and the California Library Association 2001, issued a statement on freedom of speech and access to information (2001). Perhaps anticipating an increase in governmental regulation of civil liberties, the statement declared the library community’s determination to

support National leaders in their effort to “protect and preserve the freedoms that are the foundation of our democracy” (Anti-terrorism Statement, 2001, pg 1). They expressed their sympathy for the victims and their families, and a librarian’s responsibility to cooperate with law enforcement, but they also reinforced their resolve to continue to stand for freedom and to defend the privacy rights of patrons.

In a letter to Congress dated October 20, 2001, the library community issued several recommendations to alleviate the concerns raised by the Patriot Act. Their first recommendation was to maintain a high standard for obtaining a court order. They expressed their dedication to First Amendment rights and stated their belief that existing law permits sufficient access to business and educational records. Finally, they explained their inability and unwillingness to reconfigure their technological systems to aid information monitoring or retrieval (Letter to Congress, 2001).

Literature Review:

As the Patriot Act has only been in existence since October of 2001, very few formal studies have been conducted to analyze public reaction. Public reaction, however, is not difficult to find. As discussed above, the library community has released two official statements (Anti-terrorism Statement, 2001; Freedom of Speech Statement, 2001). These statements express willingness to cooperate with law enforcement, but take a firm stand in favor of First Amendment rights. They profess the library’s unyielding support of patron privacy. The librarian associations quote Abraham Lincoln: “freedom is not some arbitrary right that is bestowed upon us because of the virtuous nature of our national character. It is a right we must protect and defend in both times of promise and peril if we are to remain in the future what we are in the present—a free and honorable people” (Freedom of Speech Statement, 2001, p. 1).

The official statements show a united library community front; however individual opinion is not united. A recent survey revealed that only 49% of librarians responded voluntarily to law enforcement requests for patron information (G. M. E., 2003). Interestingly, only 60%, not even a 2/3 majority, believed the secrecy required by the Act is an abridgement of First Amendment rights. There is disagreement among librarians on the definition of the legal obligations set out in the Act, to the point that some are calling for an open forum to discuss the issue (G. M. E., 2003).

Individual librarians who voice their opinions certainly do so vehemently. In an article titled "Who's Reading Over Your Shoulder," Zara Gelsey (2002), director of communications for the Center for Cognitive Liberty and Ethics, presents a strong opposition to the Act. She sees the policy as "blatant intimidation of patrons," that is "bound to backfire" (p. 38). She feels the FBI is circumventing the First Amendment and threatening readers. Spy, intimidate, and suspicious are all words she uses to describe "Big Brother," the FBI (p. 39). She worries that the Patriot Act will inhibit intellectual freedom by causing patrons to self-censor. When a person recognizes his/her records may be accessed, s/he will abstain from reading certain books in order to keep them off the record.

Patrons in Colorado recognized this concept and organized a "subversive book checkout" (ALA online news, 2003, p. 1) in protest. They marched to the library and proceeded to check out books on such topics as nuclear reactors and explosives. The library attempted to remain neutral during the protest and to treat each patron the same, regardless of point of view (ALA online news, 2003).

Some librarians are more supportive of the Act than others. Betsy Bernfeld, director of the Teton County (Wyo.) Library told of her experience visiting Ground Zero, New York. She

was impressed and saddened by the destruction of the area. As she admired the makeshift shrine to the victims, she desired to make her contribution. She took her library card, symbol of freedom, and after removing her unique and private bar code, placed it on the memorial (Bernfeld, 2002). Her opinion still strongly supported patron privacy (she removed her bar code), but she expressed more sympathy and willingness to cooperate through her symbolic gesture of leaving her library card behind.

The debate between patron privacy and national security enflames tempers and strikes offense. As I listened to and researched both sides of the issue, I found myself questioning whether all this debate is necessary. I certainly believe civil liberties must always be protected, but I wondered if librarians were exceeding their patrons' desires by opposing the Patriot Act. A survey conducted by Norman Oder (2003) revealed that "librarians are much more likely than the general public to support the public's right to know" (p. 16). Librarians tend to be more protective of First Amendment rights than the general public.

The dichotomy that exists between patron desires and librarian services is central to this issue. A great debate exists about whether librarians should provide only the services requested by patrons, or if their services should extend beyond the basic requests. Sandra Weingart, reference librarian at Utah State University, described it this way, "We're not Wal-Mart. We defend the rights patrons don't even know they have" (personal communication, 2003). One point of view suggests that since patrons are paying the bill they should receive what they ask for. An opposing viewpoint believes librarians are the trained professionals who must provide services which many patrons don't realize are critical (such as defending patron privacy). The intent of this survey, in part, was to discover student opinion so that librarians can better fill the needs of patrons, although we may see that librarians need to step beyond patron wishes.

Methods:

To discover student attitudes toward the Act, a survey was conducted among 100 students at Utah State University (see Appendix A). The student sample was a random selection of 8 English 2010 classes. These classes were chosen because English 2010 is a requirement for all undergraduate students and therefore lends a good cross section of the student population. The class also requires library research in the course of writing a paper, providing a student sample that has theoretically used the library. Classes chosen were held at different times of the day from 7:30 am through 3:00 pm in order to further randomize the sample. The Institutional Review Board for the protection of human participants in research approved this research.

Results:

The surveys were collected and data analyzed using SPSS for Windows. Several statistical analyses were performed including mean distribution of results and Pearson Chi-Square analysis (See Tables 1-3 and Figures 1-2).

The sample population was fairly random as 43.9% of respondents were male and 56.1% were female. Most of the respondents (56%) were sophomores, but each class level had at least one representative. Library usage time was well distributed, although only 22% of respondents had heard of the Patriot Act.

Student opinion was analyzed by studying the mean distribution of responses. To the question "Under what circumstances do you feel the Federal Government has the right to investigate someone's library records after notifying the person that it is going to do so," students responded most frequently (36%), "when the government has a court issued search warrant."

The other responses were given with the following frequency: Never for any reason—1%, To aid in a criminal investigation—20%, When someone is suspected of terrorism—26%, Any time for any reason—15%.

To the question, “Under what circumstances do you think the Government has the right to investigate someone’s library records without telling them?” students responded with the following: Never. Someone being investigated should always know about it—16%, Only when it would hinder the investigation to tell the suspect—29%, When the government has a court issued search warrant—35%, Only when the person is a terrorist suspect—8%, Always. The Government does not need to inform suspects that they are being investigated—10%.

To the question, “how should the Federal Government balance national security and civil liberties?” students responded in the following ways: Civil liberties can be restricted any time the Government deems necessary—2%, Civil liberties can be restricted when the Government perceives a threat—31%, There should be an equal balance between civil liberties and national security—41%, Civil liberties can be restricted only in cases of extreme national risk—21%, Civil liberties should never be restricted even if it means putting the nation at risk—2%.

The Pearson Chi-Square analysis showed one statistically significant correlation. Students who had heard of the Patriot Act were the least likely to answer that there should be an equal balance between civil liberties and national security. Their answers were divided between “civil liberties can be restricted when the Government perceives a threat” (31.8%) and “civil liberties can be restricted only in cases of extreme national risk” (40.9%), but they were significantly less likely to answer “there should be an equal balance between civil liberties and national security” (13.6%).

Conclusions:

Utah is a conservative state; 22 of the 29 state senators are Republican and conservative bills promoting the recitation of the pledge of allegiance, and allowing students to choose their public school district were passed in 2003 (Utah State Legislature, 2003). 89% of students who attend Utah State are residents (Utah State University, Enrollment, 2002), I, therefore, expected the results to mirror the conservative attitudes of the Utah population. I was not disappointed. Most students felt it most appropriate for the government to access library records (with or without the suspect's knowledge) when they had a search warrant. Neither extreme had a high response rate; most of the responses fell within the conservative range.

When the question specified that suspects were to be investigated without being informed, the percent of respondents who felt it inappropriate for government to access library records jumped from 1% to 16%, a significant increase. The percent of students who felt the government has the right to access library records dropped by 5% when suspects were not informed of the investigation. USU students feel it is important to know they are being investigated.

Results indicated a correlation between students who do not believe civil liberties and national security should be equal and those who have heard of the Patriot act. Two possible explanations for these results exist. One, students who are educated about the Patriot Act may be more likely to form stronger opinions on one end of the spectrum or the other. The second possibility is students who hold more extreme opinions are more likely to seek information on national security legislation like the Patriot Act.

Librarians should be quick to respond to search warrants, as their patrons believe search warrants are an appropriate way for federal officers to access library records. Librarians should be wary of search warrants not issued by the US Court system, however, for students specified

their desire for court issued warrants. Students want to know if they are being investigated. Because the Patriot Act forbids librarians from revealing such inquires to the suspected patron (G. M. E., 2003), librarians should continue to fight the Act on this point. Finally, because only 22% of the students surveyed had heard of the Patriot Act, librarians may want to begin an education campaign. It is impossible to claim knowledge of the Act leads to stronger opinions, but 77% of students live in ignorance of legislation that could directly affect them.

With the results of this survey in hand, Utah State Librarians can begin to form policies that continue to serve patrons' best interests; but conforming to patron opinion may or may not be the best way to serve them. Only 22% of those surveyed have even heard of the Act. Librarians believe they are defending patrons' civil liberties by protecting them from what they do not know. I see the merit in defending the uneducated, but I believe librarians who alter patrons' rights without telling them are no better than John Ashcroft and his Patriot Act. Patrons must be free to control their own rights. They should be protected, but I feel the best method of protection librarians can implement is education. As the survey results indicated, patrons who have heard of the Patriot Act are likely to form stronger opinions; once educated, patrons will be able to choose for themselves the best course of action.

These results are very small scale and localized to Utah State University; librarians in other communities would be well advised to investigate public opinion in their areas. In the case of Utah State University, librarians can use the results of this survey to help form search warrant policy, continue to fight aspects of the Patriot Act, and begin an educational campaign about the Act.

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Appendix A:

Survey

Thank you for taking a few moments to fill out this survey. The results will be used for a senior thesis research project and will be kept strictly anonymous.

Are you (circle one): male / female

Circle your class standing:

Freshman Sophomore Junior Senior Graduate Staff Faculty Other: _____

How often do you use the library (circle one):

Every day 2-3 times per week once per week every 2 weeks every month never

Are you familiar with the USA PATRIOT Act? YES / NO

If No: USA PATRIOT is an acronym for “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism.” The purpose of the act is “To deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.” The act:

- was Passed by the United States Congress in October, 2001.
- allows the Federal Government broad and ambiguous power.
- allows Federal Officials to access email, voicemail, library records and other records of persons they suspect of terrorism.
- allows Federal Officials to access these records without the suspect’s knowledge and with a much simplified search warrant.

Under what circumstances do you feel the Federal Government has the right to investigate someone’s library records **after notifying the person that it is going to do so.**

1. Never for any reason.
2. To aid in a criminal investigation.
3. When the government has a court issued search warrant.
4. When someone is suspected of terrorism.
5. Any time for any reason.
6. Other: _____

Under what circumstances do you think the Government has the right to investigate someone’s library records **without telling them?**

1. Never. Someone being investigated should always know about it.
2. Only when it would hinder the investigation to tell the suspect.
3. When the government has a court issued search warrant.
4. Only when the person is a terrorist suspect.
5. Always. The Government does not need to inform suspects that they are being investigated.
6. Other: _____

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On a scale of 1 to 5, how should the Federal Government balance national security and civil liberties?

1. Civil liberties can be restricted any time the Government deems necessary.
2. Civil liberties can be restricted when the Government perceives a threat.
3. There should be an equal balance between civil liberties and national security.
4. Civil liberties can be restricted only in cases of extreme national risk.
5. Civil liberties should never be restricted even if it means putting the nation at risk.
6. Other: _____

Table 1:

Demographic Statistics

Gender

Gender	Frequency	Percent	Valid Percent
Valid male	43	43.0	43.9
female	55	55.0	56.1
Total	98	98.0	100.0
Missing System	2	2.0	
Total	100	100.0	

Class

	Frequency	Percent	Valid Percent
Valid Freshman	2	2%	2.0
sophomore	56	56%	56.0
junior	32	32%	32.0
senior	9	9%	9.0
graduate	1	1%	1.0
Total	100	100%	100.0

Library Usage

	Frequency	Percent	Valid Percent
Valid every day	10	10%	10.1
2-3/week	30	30%	30.3
1/week	12	12%	12.1
2 weeks	19	19%	19.2
1 month	21	21%	21.2
never	7	7%	7.1
Total	99	99%	100.0
Missing System	1	1%	
Total	100	100%	

Familiar with the Act

	Frequency	Percent	Valid Percent
Valid yes	22	22%	22.2
no	77	77%	77.8
Total	99	99%	100.0
Missing System	1	1%	
Total	100	100%	

Table 2:

Mean Distribution of Survey Results

Under what circumstances do you feel the Federal Government has the right to investigate someone's library records after notifying the person that it is going to do so?

		Frequency	Percent	Valid Percent
Valid	never	1	1.0	1.0
	criminal	20	20.0	20.0
	warrant	36	36.0	36.0
	terrorism	26	26.0	26.0
	anytime	15	15.0	15.0
	other	2	2.0	2.0
	Total	100	100.0	100.0

Under what circumstances do you think the Government has the right to investigate someone's library records without telling them?

		Frequency	Percent	Valid Percent
Valid	never	16	16.0	16.0
	hinder investigation	29	29.0	29.0
	warrant	35	35.0	35.0
	terrorist	8	8.0	8.0
	always	10	10.0	10.0
	other	2	2.0	2.0
	Total	100	100.0	100.0

How should the Federal Government balance national security and civil liberties?

		Frequency	Percent	Valid Percent
Valid	anytime	2	2.0	2.0
	threat	31	31.0	31.3
	equal	41	41.0	41.4
	national risk	21	21.0	21.2
	never	2	2.0	2.0
	other	2	2.0	2.0
	Total	99	99.0	100.0
Missing	System	1	1.0	
Total		100	100.0	

Table 3:

Cross Tabulation of Significant Results

Count

		Security vs. Liberty					Total	
		anytime	threat	equal	national risk	never		other
familiar with the Act	yes	0	7	3	9	0	2	21
	no	2	24	38	12	1	0	77
	Total	2	31	41	21	1	2	98

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	18.752(a)	5	.002
Likelihood Ratio	18.573	5	.002
Linear-by-Linear Association	6.209	1	.013
N of Valid Cases	98		

a 7 cells (58.3%) have expected count less than 5. The minimum expected count is .21.

Figure 1:

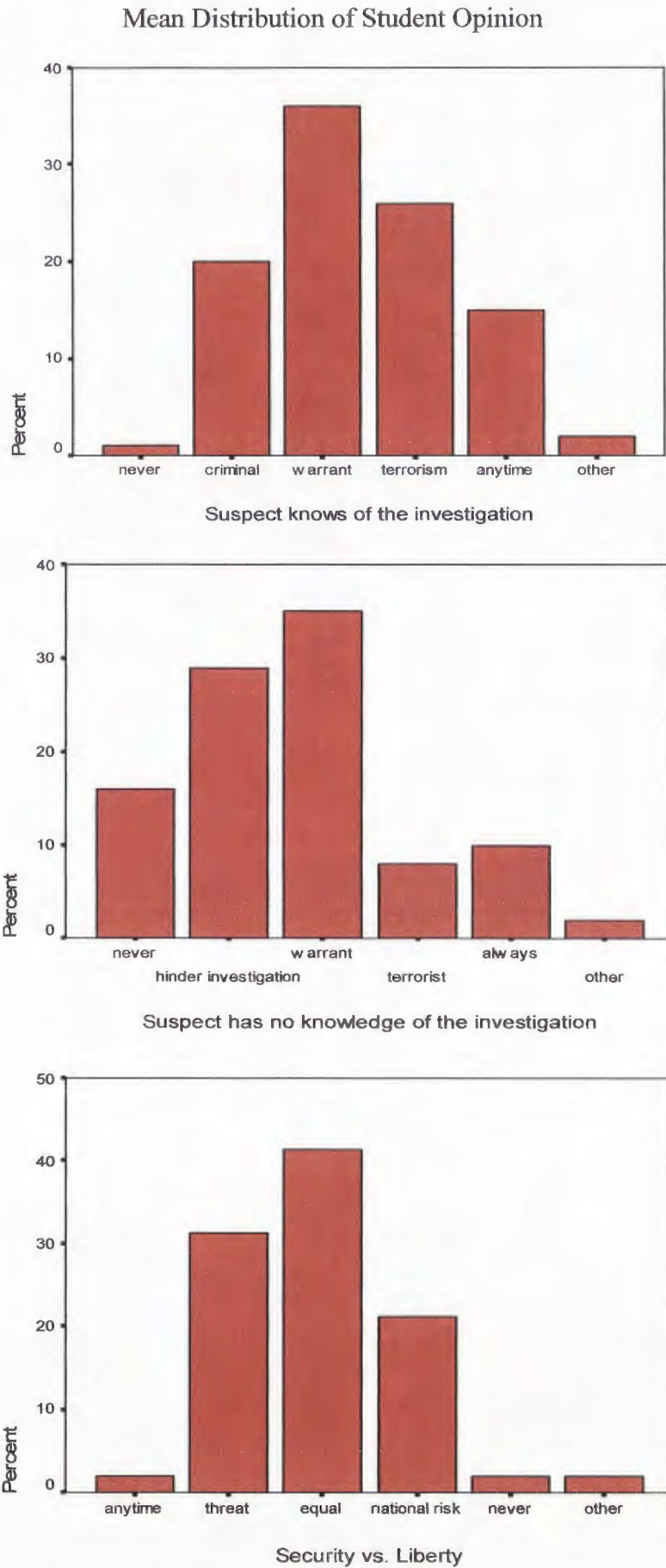
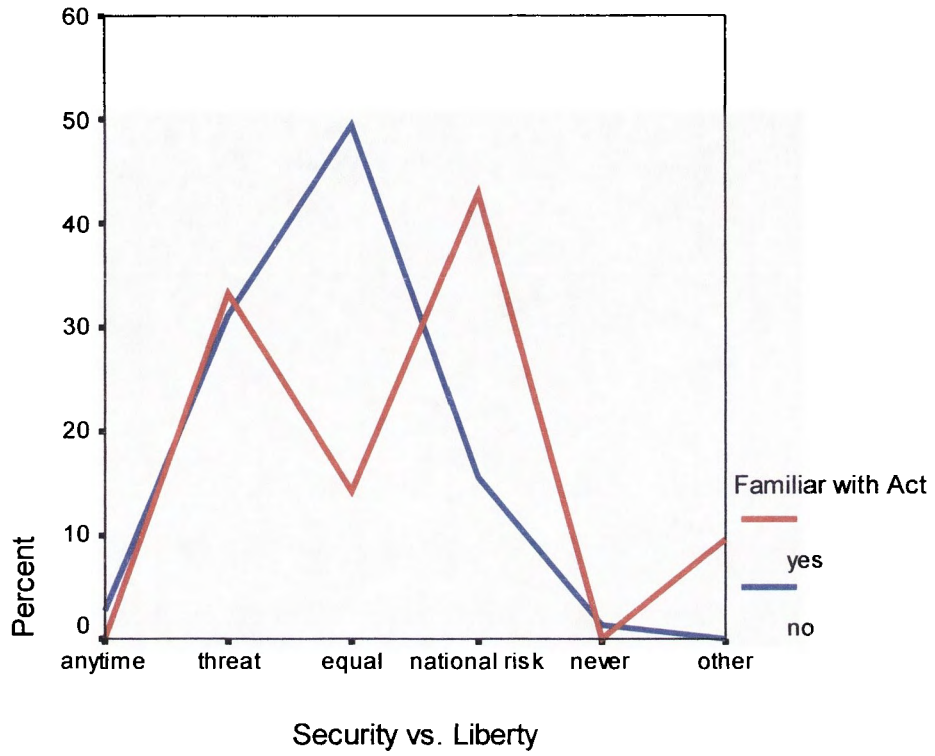


Figure 2:

Graph of Cross Tabulation Results



**Announcing a Senior Seminar
Presented by:**

Kathryn Fifield

Honors Student

Liberal Arts and Sciences Major

Kathryn will present the results of her own research and lead a discussion afterwards

***THE USA PATRIOT ACT: AN ANALYSIS OF
STUDENT REACTION TOWARD
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