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*CBS News*

# ***FACE THE NATION***

*Sunday, January 15, 2006*

**GUESTS: Sen. JOHN McCAIN, (R-AZ)  
Armed Services Committee**

**Sen. DIANNE FEINSTEIN, (D-CA)  
Judiciary Committee, Select Intelligence Committee**

**JAN CRAWFORD GREENBURG  
Legal Analyst, Chicago Tribune**

**MODERATOR: BOB SCHIEFFER - CBS News**

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**FACE THE NATION - CBS NEWS  
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**BOB SCHIEFFER, host:**

*Today on FACE THE NATION, Senators John McCain and Dianne Feinstein on Iran, fighting terrorism and presidential power. A day for hard questions. Iran says it's starting up its nuclear program again. What are the US options? An air strike in Pakistan leaves 18 civilians dead. What's the story on that? And what did we really learn at the Alito hearings? We'll talk about all of it with Senators McCain and Feinstein. Jan Crawford Greenburg of the Chicago Tribune joins in questions. And I'll have a final word on the death of a fine man. But, first, Iran, terrorism and presidential power on FACE THE NATION.*

*Announcer: FACE THE NATION with CBS News chief Washington correspondent Bob Schieffer, and now from CBS News in Washington, Bob Schieffer.*

*SCHIEFFER: And Senator McCain is in the studio with us this morning, as is Jan Crawford Greenburg, who is recovering from spending every minute inside the hearing room during the Samuel Alito hearings.*

*Senator McCain, let me start with this, this report that a US drone has apparently bombed a village in Pakistan--18 people are killed. What do you know about this?*

*Senator JOHN McCAIN (Republican, Arizona): All I know is that the number-two guy in al-Qaida was suspected to be there and recent reports indicate that that was probably not true, or if he was, he wasn't killed, although we don't know the details yet. It's terrible when innocent people are killed. We regret that. But we have to do what we think is necessary to take out al-Qaida, particularly the top operatives. This guy has been more visible than Osama bin Laden lately. We regret it. We understand the anger that people feel, but the United States' priorities are to get rid of al-Qaida and this was an effort to do so.*

*SCHIEFFER: Well, it certainly has inflamed some people and you're hearing criticism the United States ought not to be bombing in another country. It's my understanding that tens of thousands turned out to protest.*

*Sen. McCAIN: Yeah.*

*SCHIEFFER: What do we do about that and what do we say to people about that?*

*Sen. McCAIN: I think we say that this war on terror has no boundaries. Clearly al-Qaida does not respect those boundaries, but I don't want to equate our behavior with theirs but we have to go where these people are and we have to take them out. And the fact that maybe we didn't take them out years ago when we should have is a cautionary tale. We regret--all Americans regret the loss of innocent lives. I would remind our friends in Pakistan that in the recent tragedy of the earthquake, we did do a lot to try to help the plight of those who were suffering, and we do appreciate not only the friendship of the Pakistani people but President Musharraf who's been a steadfast ally. We apologize, but I can't tell you that we wouldn't do the same thing again.*

*SCHIEFFER: Jan.*

*Ms. JAN CRAWFORD GREENBURG (Chicago Tribune): Senator, Iran appears intent now on moving ahead with its nuclear program. Its president appears to be a dangerous de-stabilizing force. What can we do there? Do you envision a scenario which the United States could take military action?*

*Sen. McCain: This is the most grave situation that we have faced since the end of the Cold War, absent the whole war on terror. The Iranians showed their face when their president came to the UN and advocated the eradication of the state of Israel from the Earth. We must go to the UN now for sanctions. If the Russians and the Chinese, for reasons that would be abominable, do not join us, then we would have to go with the willing. This is a very tough situation. There's only one thing worse than the United States exercising a military option. That is a nuclear-armed Iran.*

*Now military option is the last option but cannot be taken off of the table. In the short term, we've got to stop this and do whatever is necessary and hope that sanctions and other efforts would work. In the long term, we have to do two things. One, encourage the pro-democracy movement in Iran. The Iranian people are not happy under these mullahs. They have basically repressed and oppressed them. We've got to do a lot more in encouraging pro-democracy in Iran. The second thing is this--Mr. Chavez's behavior in Venezuela, the latest incident with Putin in Ukraine indicate we've got to become independent of foreign oil. And we should make that our nation's highest priority.*

*SCHIEFFER: Well, let me just follow up...*

*Sen. McCain: Yeah.*

*SCHIEFFER: ...on what you say about the--putting in sanctions, if we can. Iran is a major supplier of oil to the world.*

*Sen. McCain: Yup. Yup.*

*SCHIEFFER: If we somehow stop them from selling oil or other people from buying it, it's going to drive the price of oil sky high. Is that really an option?*

*Sen. McCain: It is. I think that the president is faced with no good option, but I think as opposed to the Iranians proceeding and some say as short a period as six months they will have at least acquired the technological capability if not the absolute manufacture of these weapons and the possibility of Israel feeling they may have to act, or them acting against Israel. These are a set of bad options, but the--if the price of oil has to go up, then that's a consequence we would have to suffer.*

*SCHIEFFER: Does Iran pose a greater danger to this country and its security than Iraq?*

*Sen. McCain: I think at this time clearly it does. Now the difference between Iraq and Iran is that Saddam Hussein had us all fooled, including his own generals, about having weapons of mass destruction. I think it's pretty clear in the mind of any expert that Iranians are about to acquire them.*

*Ms. GREENBURG: Well, have our efforts in Iraq affected what we can do in Iran?*

*Sen. McCain: Sure, we're tied up, Jan. Let's be honest. We're tied up to a great degree, but that does not mean that we don't have military options. We do. But again, that is the last option. Everything else has to be exhausted but, to tell you under no circumstances would we exercise a military option, that would be crazy.*

*SCHIEFFER: Let me ask you about the anti-torture law. That was your project to outlaw torture and inhumane treatment of prisoners, and you spoke as someone who was once a prisoner. You got that law passed, and you were the one who pushed it. But when the president signed it, he more or less said that he would abide by it unless there were extraordinary circumstances. Did the president say*

*something different here? Are you satisfied with what he said? And what do you make of his statement?*

*Sen. McCain: I'm not particularly satisfied. I don't think it was necessary. But I had numerous conversations with the president about this issue and many more with Stephen Hadley, the national security adviser. They understand what this law was and they understand that we didn't carve out any exemption. I believe the president will abide by it.*

*Schieffer: Let me shift to another subject, and that is this whole business of lobby reform and this scandal, this corruption scandal that's under way. Speaking of dangers, do you think this poses a danger to the Republican Party and its majorities in the Congress and in the Senate?*

*Sen. McCain: I do. I do. And that's why we're all reformers now. We are going to have lobbying reform. There's now--that train is moving down the track. The question is, is what kind? I've had conversations with David Dreier, who is sort of leading in the House on that issue. I had conversations with Senator Santorum, Senator Lieberman and Senator Feingold are involved in this. We're going to have lobbying reform. But all the lobbying reform in the world will not do the job until you stop the earmarking. The reason why we have 34,000 lobbyists, the reasons why we have now 15,000 earmarks--in 1994 there was 4,000 earmarks.*

*Schieffer: Tell us what an earmark is.*

*Sen. McCain: An earmark is a pork barrel project or it's a line item inserted into appropriations bill, many times in the middle of the night in a conference report which many of--most of us would have--never have seen, and sometimes it's a policy change, a major policy change. Most of the other times it's millions, sometimes tens of millions, sometimes has billions of dollars in consequences. It's done in the appropriations process. In 1994, there were 4,000 earmarks. This last year that we estimate there was 15,000 of these. How did Duke Cunningham, with a relationship with one lobbyist, get tens of millions of dollars into an appropriations bill?*

*The system is broken. It must be fixed, and the American people deserve better than what we're having now. So you can do all the lobbying reform you want, and I'm happy to be involved in it, I'm overjoyed to be involved in it, but until we fix this earmark system, then you're going to have people who feel, correctly, the only way they can get their project done is to go to a lobbyist who has influence.*

*Ms. Greenburg: Let me just quickly change course.*

*Sen. McCain: Yeah.*

*Ms. Greenburg: You've got a...*

*Sen. McCain: And by the way, we've got a Federal Elections Commission that is corrupt and we've got--and we've got ethics committees that aren't working.*

*Ms. Greenburg: A Federal Elections Commission that's corrupt?*

*Sen. McCain: Yes.*

*Ms. Greenburg: How so?*

*Sen. McCain: They continue to try to carve out loopholes in the BCRA, or known to many as McCain-Feingold. Thirteen of the 15 regulations they issued to implement the McCain-Feingold law were thrown out by the courts because they were in direct contravention to it. It's--the 527s are illegal under the '74 law. The Federal Election Commission, which is corrupt, will not enforce existing law, much less bring--reign in many of this excess...*

*SCHIEFFER: Senator, let me ask you one quick question because I know you're back from the South Pole.*

*Sen. McCain: Sure. Yep. Yep.*

*SCHIEFFER: What do you think about global warming now after coming back from there?*

*Sen. McCain: I believe--and I've been to the Arctic, as well. I'm confident, unfortunately, that climate change is real. It's taking place every day we don't do anything about it in implementing national policy to try to stop the emission of greenhouse gases, which are generated by human activity. We are doing a terrible thing to this globe and a terrible thing to future generations of Americans.*

*SCHIEFFER: Do you think it's being handled correctly by the administration?*

*Sen. McCain: No.*

*SCHIEFFER: You don't?*

*Sen. McCain: No.*

*SCHIEFFER: What do they need to do?*

*Sen. McCain: Well, first of all, we need to recognize that it's real. Second of all, then we could start embarking on various efforts, including a revised Kyoto, which means India and China have to be part of it, and whatever else other demands we have, but also start taking major steps to reverse this greenhouse gas emissions. And one of those is going back to nuclear. Nuclear power is a major short-term effort that we need to make to reduce the emission of greenhouse gases.*

*SCHIEFFER: All right. Well, thank you very much, Senator. Always good to have you. We'll be back in a minute to talk to Senator Dianne Feinstein.*

*(Announcements)*

*SCHIEFFER: And we're back now with California Democrat Senator Dianne Feinstein. Senator, welcome to you. You just heard Senator McCain say, and I think I'm quoting him correctly, the threat posed by Iran may be the most serious threat to this country since the Cold War. Do you agree with that?*

*Senator DIANNE FEINSTEIN (Democrat, California): Yeah, I would agree with that. I think Iran has much more opportunity to create devastation in the Middle East than Iraq at this time. I think it's a very serious threat. I think this new president of Iran is very difficult to predict. He clearly holds very radical, almost fanatic views certainly with respect to Israel. I don't think it's a stretch to say that if the Iranians had a nuclear missile that this president might well use it against Israel. Now the question is: What do we do?*

**SCHIEFFER:** Well, that's my question. What can we do that would be effective?

**Sen. FEINSTEIN:** I think this is the major test of the international community. The IAEA, the process set up under the United Nations to essentially now take this to the Security Council, and for the world to really stand up in an international way and use diplomacy in its hardest edge against Iran.

**Ms. GREENBURG:** Well, do you believe that Russia and China would support that move to the Security Council? Could the Security Council take meaningful action?

**Sen. FEINSTEIN:** Russia and China certainly should. I mean, I think this is a very real test. I mean, China has never wanted, you know, nuclear powers around its country. I think China should recognize the devastation that Iran could bring about, the strongly held anti-Israel views that this new administration in Iran holds. And this raises it to a level of real potential threat?

**Ms. GREENBURG:** Do you envision a scenario in which the United States would take military action?

**Sen. FEINSTEIN:** Well, I certainly can't say right now. As people have wanted to say, every option should be on the table.

**Ms. GREENBURG:** And that's one of them.

**Sen. FEINSTEIN:** The United States is pretty clearly committed at the present time. But...

**SCHIEFFER:** Well, Senator, are sanctions a realistic option in the sense that this is going to drive up the price of oil, it seems to me, and maybe to levels that would harm the economies of a lot of countries in the West.

**Sen. FEINSTEIN:** Well, I can't speak to the specific of sanctions, but I can speak to the opprobrium of an international community, unified, forceful, and dramatic in its diplomacy. And that's what needs to happen. I heard Kofi Annan say the other day, well, he hoped it could be settled before it came to the Security Council. It looks like it's not going to be settled before it comes to the Security Council. And this is one of those times the Security Council of the United Nations has to stand up and has to take firm action. Now what that action should be I'm not in a position to say.

**SCHIEFFER:** All right. Let's switch to the big topic here in Washington last week, and that was the Alito hearings. Do you think he is going to be confirmed and is--will the Democrats still hold out the threat of a filibuster?

**Sen. FEINSTEIN:** Well, in the first place, right now the process isn't finished. Questions have just gone out. I think they went out Sunday, written questions. What's traditional and what we do and particularly with Supreme Court nominees, is we read these questions because they become part of the record. We also, because of the length of the hearings and it's impossible to really concentrate as much as you would like and hear every word, we go back through transcripts and look at it. That needs to be done.

**Ms. GREENBURG:** Well, based on what you heard last week in the hearings, how do you believe you're going to vote?

**Sen. FEINSTEIN:** Well, I'm going to vote in opposition, I believe. I haven't seen...

**Ms. GREENBURG:** You've made up your mind.

*Sen. FEINSTEIN: Yeah. I've made up my mind because I'm very concerned about certain of the tendencies of the Rehnquist court, where that court was going, certainly with respect to restricting the rights of Congress to legislate, certainly with respect to a woman's right to choose, certainly with respect to the concept of expanded executive power. These are big issues and I think that if you asked me who would Alito most be like, it would probably be--I'd have to say Scalia.*

*Ms. GREENBURG: Well, you voted against John Roberts during his hearings back in September for chief justice. Did you get a sense that Alito would be more or less conservative? Do you have greater concerns about his views on these issues?*

*Sen. FEINSTEIN: I would get a sense from his record, 15 years as an appellate court as well as from his answers that he would be more conservative. Now in my view, he's clearly qualified. This is--I mean, I was very impressed with his ability to maintain a very even demeanor during this entire thing and his ability not to specifically answer any questions.*

*SCHIEFFER: Are your concerns strong enough, Senator, then that you would support a filibuster to block him?*

*Sen. FEINSTEIN: I do not see the likelihood of a filibuster to be very candid with you. I don't see those kinds of egregious things emerging that would justify a filibuster. I think when it comes to filibustering a Supreme Court appointment, you really have to have something out there whether it's gross moral turpitude or something that comes to the surface. Now I mean, this is a man I might disagree with. That doesn't mean he shouldn't be on the court.*

*SCHIEFFER: All right.*

*Ms. GREENBURG: So it would be different for Supreme Court as opposed to appellate court nominees...*

*Sen. FEINSTEIN: Well, I'm just saying...*

*Ms. GREENBURG: ...which were filibustered?*

*Sen. FEINSTEIN: ...I think there is an additional weight that you must give to his background, to his qualifications, to his credibility as opposed to agreeing with him. I mean, I might disagree with him. That doesn't mean that he doesn't have credentials to serve on the Supreme Court.*

*SCHIEFFER: Let's shift a little bit. You are also on the committee that's going to hold hearings on whether or not the president has the authority to conduct this eavesdropping on American citizens. Who do you think ought to come and testify at that hearing and how serious is this?*

*Sen. FEINSTEIN: First of all, I think this is very serious. I think it's probably the largest problem of our day. I think the war against terror is going to be with us for a very long time, perhaps even as long as we live if not longer, and, therefore, it is very pertinent to begin to look at the power that an executive has.*

*SCHIEFFER: Well, Senator Specter said this morning he does not believe that the president has this authority. Do you believe he has this authority?*

*Sen. FEINSTEIN: I do not believe he has this authority, and I think the record makes that very clear. The Congress has legislated in 1978 with the Foreign Intelligence Surveillance Act which we call FISA and set up a process for the gathering of all intelligence. It has certain escape hatches, but I do not believe it's true that the president's plenary power would allow him to simply avoid the law.*

*SCHIEFFER: What do you do?*

*Sen. FEINSTEIN: When you can do it--by following the law. I mean, we want these people wiretapped if they're connected to terror. No question. Follow the law. And the law enables this to happen.*

*Ms. GREENBURG: Have you gotten a sense of why the administration thought it needed to go outside that law? Is that a question that you're going to...*

*Sen. FEINSTEIN: No. And that's a very good question. Why? Because one of the escape hatches is that the attorney general can authorize a tap for 72 hours and then they must take it to the FISA court. The FISA court will review it. I think out of some 20,000 takings to the FISA court, the FISA court has turned down very few--I understand less than a dozen. Therefore, there is no evidence that the FISA court can't respond. They work 24/7. There are 11 judges. I've spoken to some of them. They believe they can cover this. Why? Because the check and the balance is important. If you're going to wiretap Americans, if you may wiretap whomever in America might call, if you're going to put that information in a database--and I said if because we don't exactly know what happened--follow the law and do it legally.*

*SCHIEFFER: Senator Feinstein, we want to thank you for being with us this morning.*

*Sen. FEINSTEIN: You're very welcome.*

*SCHIEFFER: And I'll be back with a final word in just a minute.*

*(Announcements)*

*SCHIEFFER: Washington lost a fine man last week, David Rosenbaum, who had just retired after a long career covering the Capitol for The New York Times. We were friends, and I last saw him during the summer when we tried to top each other's stories about our grandkids. But I mostly knew David through years of chasing the same officials down those Capitol corridors. You learn a lot about reporters when you're covering the same story. You learn which ones really work, which ones cut corners, and which ones are not above the occasional cheap shot.*

*What David had was that curiosity that marks all good reporters. He was basically just an honest man who had respect for the news and the people he covered, and most of all he tried to find out what had happened, what it meant, and he was determined to get it right. In one of those random acts for which there never seems an explanation, save that life is unfair, David was on an after-dinner stroll in his neighborhood last week when he was beaten to death by two men who apparently wanted nothing more than his credit cards.*

*It shocked Washington and 700 people came to his Capitol memorial service. The confirmation hearings for Supreme Court nominee Samuel Alito were adjourned so senators could attend. It was a remarkable tribute, but to me it was his daughter who paid him the highest honor, because she said, 'He taught me to always do the right thing even when it didn't seem to matter.' To David, it always mattered, and that is why his life mattered so much. He was 63.*