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FACE THE NATION

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GUESTS: Senator PATRICK LEAHY, (D-VT)
Ranking Member, Judiciary Committee

Senator LINDSEY GRAHAM, (R-SC)

JOHN HARRIS
Author, "The Survivor: Bill Clinton In The
White House"

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, should the Guantanamo Bay prison camp be closed? And where are we on Iraq? The US prison in Guantanamo Bay, Cuba, has become an anti-American rallying symbol overseas. Should it be closed and what should be put in its place? And new polls show that the Iraq War is losing public support. What should be the next step there? We'll ask Republican Senator Lindsey Graham of South Carolina, member of the Armed Services Committee, and Senator Patrick Leahy, Democrat of Vermont, the ranking member on the Judiciary Committee. Then we'll check in with John Harris who's just written a new book on the Clinton presidency. I'll have a final word on the argument over stem cells. But first, should Guantanamo Bay be closed 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 joining us from Clemson, South Carolina, this morning Senator Graham. Here in the studio, Senator Leahy.

Senator Graham, I want to start with you--gentlemen, welcome to both of you--because the first Republican senator has now said that we ought to close the present facility at Guantanamo Bay because it's become such a problem and he is Senator Mel Martinez of Florida, newly elected, a strong supporter of the president in Iraq.

Senator Graham, let me ask you: Where are you on this? Is it time to think about closing this place?

Senator LINDSEY GRAHAM (Republican, South Carolina; Armed Services Committee): I think that would be an overreaction. We need a place like Guantanamo Bay to house people we take off the battlefield and the war on terror, to interrogate them, to get information to make us safer as a nation and to hold them accountable. We've had problems at Guantanamo Bay, I don't think we need to close it. We'll need a place like it. Nobody is going to say, 'Move it to Florida or South Carolina or Vermont.' So I think Cuba is as good a place as any.

SCHIEFFER: Senator Leahy, Senator Martinez says the prison has become an icon for bad stories in sort of a--it's where kind of anti-American rallying cries are being centered. What do you think about it?

Senator PATRICK LEAHY (Democrat, Vermont; Ranking, Judiciary Committee): Well, I think it has. I was recently at a meeting of NATO parliamentarians. Now these people are our strongest allies. This is overseas. I heard it brought up over and over about Guantanamo. You travel into the Middle East, those parts, it is at the top of the list of grievances. We've actually created a legal black hole there. We set up Guantanamo. The White House is going to do it under one legal thing but then did it under something else. And right now they have no particular legal framework with it. We're the country that tells people that we adhere to the rule of law. We want other countries adhere to the rule of law. And in Guantanamo, we are not.

SCHIEFFER: Well, should we close it?

Sen. LEAHY: I think that eventually we have to because either that or at least have the administration come out and be honest about it, say who's being held there, why they're being held there. We understand there's even some people that were there because bounty hunters

in Afghanistan just turned them over to us and said, 'Here, give us money. These are bad guys,' and so they're put in this black hole. I think as long as that exists, we're going to have one more rallying cry against the United States and it does reflect poorly on a country that believes in the rule of law.

SCHIEFFER: But we've got to do something with these people. Senator Graham, what are these people? Are they prisoners of war or are they criminals? What exactly--how would you define them?

Sen. GRAHAM: Well, number one, they're not entitled to prisoner of war status because they're not uniformed troops. They don't fall within the confines of the Geneva Convention. They engage in criminal activity but they're an organized group that are dedicated to perpetrating their philosophy and their religion on other people through force of arms. So it's a hybrid.

I agree with Pat in this regard. We need uniform detention policies. We need interrogation policies to be more standardized but we need a gitmo. When you catch somebody in Afghanistan or other parts of the world that's engaged in the war on terror, you need to take them off the battlefield. Prisoners of war are released when the war is over. Well, there's nobody to sign their surrender treaty here. So you've got a hybrid system. Some of these people need to be prosecuted because of their criminal misconduct. It is time for the Congress and the administration to get together, come up with standard policies on detention and interrogation. Guantanamo Bay is a useful purpose in the war on terror, but under the current regime, under the current circumstances, it is not effectively working. Not one person has been prosecuted and there are people down there who deserve to be prosecuted.

SCHIEFFER: Well, what about that, Mr. Leahy?

Sen. LEAHY: You know, either--I'm a former prosecutor. My easy response would be prosecute them or turn them loose. What has happened the administration has put some new title we call it enemy combatants so they don't fit under any of the treaties that we've signed, but we signed these treaties, Geneva Convention and others, saying that we would follow them. All of a sudden, we stepped outside them. So they're in this neverland. They don't belong one way or the other.

It's not helping our security. It's hurting our security. If they're criminals, then prosecute them. If they've violated rules of combat, then go through an Article V. Do military commission. At the beginning of this, the White House said, 'Well, we're going to have military commissions because they're faster.' Three years later, we haven't had a single military commission.

SCHIEFFER: Well, how do you get the administration to move on this?

Sen. LEAHY: Well, I'm hoping that public opinion will. You know, we've had so many things in here that they've been able to hide. We just got this recent report that said that the Justice Department, the FBI, never connected the dots before 9/11. Had they done that, we might have avoided it. Well, the former attorney general made sure that that was kept classified until after the election. At some point, we have to understand, this is not just a political issue. This is the issue really that goes to the basic security of our nation and what our nation stands for. And right now we're not getting a very good report card.

SCHIEFFER: Let me shift to the war in Iraq. Senator Graham, this week The Washington Post ran a poll that showed for the first time, people do not think that the war in Iraq has made us any safer. Do you feel that the president, that public support for this effort is slipping away now?

Sen. GRAHAM: I think so, because the idea that the war has gone on this long with this many casualties surprises people. When the statue in Baghdad fell, we thought the war was over. And we have really underestimated the insurgency. We haven't had enough troops in play, so we need to adjust. To me, this is the season of adjustment. We need a Guantanamo Bay to house people, to make sure they don't go back to the fight. But they need to be treated decently, they need to be accountable for their actions, and they need due process. You just don't turn them loose. You look at a way to keep them so they don't go back to the battle with a rule of law in place.

When it comes to Iraq, the first thing we need to do is make sure that the men and women fighting the war are better taken care of. The recruiting numbers in the Guard and Reserve and active forces are going down, because this war is going sour in terms of word of mouth from parents and grandparents. So this is the season to adjust. We need to adjust our recruiting and retention policies. We need to review the policies at Guantanamo Bay. The war was right. It's right to take enemy combatants off the battlefield, but if we don't adjust, this is going to slip away.

SCHIEFFER: Well, what do you mean? I mean, is the situation in Iraq--is it better or worse than it was, say, two months ago?

Sen. GRAHAM: I've been there three times. The security environment is much worse. The political environment is better. Iraqis are making decisions about their own future. When you kill a politician in Iraq, somebody else runs for the same office. When you blow up a recruiting station for police, other people come and join. That's the good news. They're trying to work out a constitution. They're making progress. But the insurgency is alive and well. We underestimated the viability of the insurgency. It's hurting recruiting and retention. We need better health-care benefits for the Guard and Reserves. This is the time to adjust. The war in Iraq, I think was the correct thing to do to replace the dictatorship with a democracy. But we've been slow to adjust when it comes to troop strength and supporting our troops. And if we don't adjust, public opinion is going to keep slipping away. We're at least two years away.

SCHIEFFER: Well, we're at least two years away.

Senator Leahy, what do you think the next step ought to be here?

Sen. LEAHY: Well, one of the things that I should just add that Lindsey touched on, on helping our Guard and Reserves, he's been a tremendous leader in this bipartisan effort to get tri-care health care for our Guard and Reserves.

Sen. GRAHAM: Thank you.

Sen. LEAHY: And yet the administration has fought it tooth and nail. And so they took it out recently. The House leadership, Republican leadership had them take it out of the budget bill. I think that's a mistake. If we're going to have our troops there, they ought to be treated right. But what's happening now--I mean, at some point, we've got to tell the Iraqis that we have no intention of keeping our troops there permanently. We're not out there to take their oil. We're not looking for permanent bases. It's their country, and they're going to have to fight

for it. We have made misstep after misstep, poor planning, not having enough troops there. Whether one was for the war or against the war, I think everybody agrees that we went in with an inadequate number of troops, and we totally underestimated what we were going to face. You remember the statements being made...

SCHIEFFER: Yeah.

Sen. LEAHY: ...by the White House? 'Well, we're going to be greeted as liberators like it was the American troops marching into Paris after World War II.'

SCHIEFFER: Let me just ask you this, Senator Leahy, do you think we're anywhere close to the Congress cutting off support for this war? I mean, we know that the support is going down. We see that in the polls. Do you think that Congress is anywhere close to that right now?

Sen. LEAHY: We have a Republican-controlled Congress. It will not cut out the funds anymore than a Democratic-controlled Congress until way into the Vietnam War was willing to cut off funds. Eventually they did. Eventually with public opinion here, funds will be cut off. Not this year, not today, but eventually they will. And I think that what we have to do, all the more reason we have to be honest with the Iraqi people and say, 'You know, it's going to be your country. You're going to have to fight for it. We are going to leave, and we're going to stop pumping over a billion dollars a week into sustaining you.'

SCHIEFFER: Well, let me ask you about this. I mean, it is getting harder and harder for these Army recruiters. They can't meet their goals. Do you think we're anywhere close to having to go to a draft? Would that ever happen?

Sen. LEAHY: I think politically it would be very difficult. But I can tell you right now, these trends are not improving. If you think you're having trouble getting recruits today, you're going to have far more trouble six months from now. It is not going to get better. That's going to get worse.

SCHIEFFER: Well, what about that, Senator Graham? Do you think a draft is something that will have to be considered here?

Sen. GRAHAM: I don't think there's any reason to consider it. But I do believe if we don't act quickly to help the Guard and Reserves with better health-care benefits, we're going to lose a lot of people in recruiting and retention.

Sen. LEAHY: I agree.

Sen. GRAHAM: Senator Leahy has been a great supporter of this. We've got 70 votes in the Senate. We have our head in the sand about recruiting and retention problems. This is a chronic problem, been building over time, and it's going to need a forward-thinking solution. The idea of leaving an Iraq at a date certain would be a mistake. If we lose in Iraq, if the insurgents drive us out and moderate forces are succumbed to by terrorists, we've lost a big battle in the war on terror. The only way we're going to win this war, Bob, is not to kill a bunch of terrorists but to empower moderate people to set up democracies in a place like Iraq and change the culture of the Mideast.

And one last thing about Guantanamo Bay that really bothers me. I'm a military lawyer. And let me tell you, we can do better in terms of the policies and procedures we have in place at Guantanamo Bay if we work with the administration. But the Koran abuse, those five

allegations about mishandling the Koran, we have regulations, very pointed, about how we allow people to exercise their religious rights. The people we have in that jail would kill us all because of their religion.

Let's don't lose sight of the big thing. The people who are in Guantanamo Bay have been captured on battlefields. They need to be treated decently, they need to be held accountable, but the world needs to give us some credit. We've got regulations protecting religious practices of people who hate us and would kill us. There's a big difference between us and the enemy, and I don't want to blur that distinction. And I think the world needs to give us some credit.

Sen. LEAHY: I think there is an enormous difference between us. But I think what we're losing sight of around the rest of the world that we have always stood for the rule of law. And at Guantanamo, we have not followed it. We have not done the things we should. That's why I say charge them or release them...

Sen. GRAHAM: I agree with that.

Sen. LEAHY: ...or follow the military commissions and make it transparent, not only to the Congress but to the rest of the world what's going on. We haven't done that. And we diminish--I mean, we are such a great and wonderful country because of our rule of law, and we're not following our own rules. And that is hurting us around the world.

SCHIEFFER: OK. Thank you both, senators.

Sen. GRAHAM: Thank you.

SCHIEFFER: We're going to come back in a minute, and we're going to talk to John Harris, who's written a new book on the Clinton presidency. We'll talk to him about such things as the president's health and is Hillary Clinton about to run for president in a minute.

(Announcements)

SCHIEFFER: We're back now with John Harris, who's just written a fine new book, if I do say so, called "The Survivor: Bill Clinton in the White House." John, of course, is a political writer for The Washington Post, covered Clinton for--What?--six of the eight years he was there...

Mr. JOHN HARRIS (Author, "The Survivor"): Six of eight. That's right.

SCHIEFFER: ...in the White House. Let's go right to the question I think most people are wondering about right now. You have watched these people. You have observed them. You have written this book. You think Hillary Clinton is going to run for president?

Mr. HARRIS: There's about 1 percent doubt in my mind; 99 percent certain that she will. If you look at the arc of her career, you can't really point to an instance where she hasn't taken the bolder or more ambitious step, so I'd be stunned if she didn't, and everybody I know in the Clinton circle's operating under the assumption that she will.

SCHIEFFER: You know, as we were talking to Lindsey Graham just now, it struck me that she has sort of formed a partnership with Lindsey Graham, trying to get better health-care benefits for veterans. I find them the oddest couple in Washington right now, because after all,

let's not forget Lindsey Graham was one of the prosecutors in the impeachment trial of Bill Clinton.

Mr. HARRIS: That's right. And it really highlights the journey that she has made from--Hillary Clinton came in as much more combative, much more partisan, really, than her husband. I tell a story in the book; Rahm Emanuel was a young political aide, now in Congress. This was in 1993. He invited a bunch of Republicans down to the White House to help pass NAFTA. And one person who was outraged by this was Hillary Clinton. She called him up, she said, 'What are you doing bringing these people into our home?' They are our enemies. They are trying to destroy us--reflective of her mind-set now--then. These days, she actually has quite cordial relationships with Senator Graham. She has learned that that approach, the partisan approach, does not work for a Democrat. She's become a much more bipartisan figure.

SCHIEFFER: She also seems to be moving to the center, as I look at it, especially on things like abortion. She is still pro-choice. But she is also talking about why we should encourage adoption...

Mr. HARRIS: Right.

SCHIEFFER: ...and that adoption--that abortion should be the very last choice. How do you--if you were just kind of handicapping this race so far, how do you see her as compared to the other potential candidates for the Democratic nomination this time around?

Mr. HARRIS: Look, she is going to dominate the Democratic field, and I think what that's going to do is take a lot of the oxygen away. There's probably room for Senator Clinton and maybe one person running as the anti-Clinton, presumably on a campaign that says, 'Look, she's just too polarizing a figure to win. She's not somebody who can thread the needle, as Democrats need to do to win in Ohio and these other swing states.' Probably Senator Edwards or Governor Mark Warner of Virginia--somebody's going to fill that role.

SCHIEFFER: Joe Biden, perhaps?

Mr. HARRIS: Perhaps. Right.

SCHIEFFER: But what would be her strengths, do you say? Because I agree with you. I think she would be polarizing. What would be her greatest asset, as you see it--just the fact that she's the most well known?

Mr. HARRIS: Well, her greatest asset--and there's some discussion of this in the book--is she's a much better politician than we expected. In 2000, she ran for Senate in New York. People said, 'Well, that's a Democratic state.' But she had formidable obstacles to overcome; great skepticism, including among women voters, about her motives: 'Is she running for president? Is that why she wants this? Why did she stay in her marriage? What's all that about?' She overcame that in New York, and not just in downstate New York City. I'm from Rochester. That's a more Republican-leaning area up there. She ran competitively. So people say she could never win. I don't think they've looked at her history.

SCHIEFFER: What about Bill Clinton? Is he an asset or is he a liability to her if she does run?

Mr. HARRIS: Well, he's a little bit of both. I think it does help Democrats make the case, 'Look, we've had an experiment in the Bush years, experiment in the Clinton years, and the

economy was better and some other trends were better in the 1990s,' Democrats will argue. And there is this certain nostalgia I think now for Bill Clinton. He's less divisive than when he was in office, but if she's actually running, that nostalgia--he goes from being a nostalgic figure to a contemporary figure somewhat controversial. And it's also going to require him to be exceptionally disciplined about taking the secondary role and letting her take center stage. I think the two of them feel like it's her turn at center stage.

SCHIEFFER: How is his health these days? What do you hear?

Mr. HARRIS: I saw him a couple of weeks ago. He says he gets tired and this was a surprise for him, that he thought he would bounce back. I think people that I know who've had heart surgery said it's less of a surprise. He's had two major operations in the past eight, nine months, but I think his health is good, but at times, you can really see it. He gets tired and drawn and sort of physically beat but I think he's OK.

SCHIEFFER: What about their marriage? I know you wrote a lot about that in this book. Did you co--how did you come down on that? Are they madly in love? Is this sort of like a law firm where they're partners in it all for their interest? What did you finally come down on what their relationship is?

Mr. HARRIS: No, I think that idea that it's an arrangement is exactly the wrong way to look at it. I think they are devoted to each other. That's not to say that politics is not a part of it. Politics is central to this relationship. It has been since 1974 when she went out there to campaign for him for Congress even before they were married. Politics is what keeps them together, but that's not the same as thinking that it's a law partnership. It's something more different than that. I'm just convinced of it.

SCHIEFFER: You know, you wrote also about the war on terrorism and how Clinton really did early on recognize that Osama bin Laden was someone to be reckoned with. I have always wondered: Do you think that had it not been for Monica Lewinsky and the scandal that was swirling around Bill Clinton, that we as Americans would have recognized earlier what a threat that Osama bin Laden posed because every time that Clinton would take action when he'd fire the missiles at what was supposed...

Mr. HARRIS: Right.

SCHIEFFER: ...to be the terror training camp, people asked, 'Is this wagging the dog?'

Mr. HARRIS: Right.

SCHIEFFER: 'Is this something to divert us from talking about Monica Lewinsky?'

Mr. HARRIS: I think that's the great tragedy of Bill Clinton's record on terrorism, that he understood the threat of Islamic terrorism generally, Osama bin Laden specifically, and yet he was not able to infuse his own government or the country at large with that sense of urgency. I do think the scandal was part of it. The nation as a whole was distracted but I think also to some extent his own governing approach was part of that. He had a completely dysfunctional relationship with Louis Freeh, the FBI director, and yet he didn't take action. He tolerated that dysfunctional relationship rather than, you know, doing what some of his people thought he should do which is just fire him and get in somebody that he could trust.

SCHIEFFER: Thank you very much, John.

Mr. HARRIS: Thanks, Bob.

SCHIEFFER: I hope you sell a lot of the books.

Mr. HARRIS: Appreciate it.

SCHIEFFER: It's a very good book.

Mr. HARRIS: Thank you so much.

SCHIEFFER: I mean, it really is. I highly recommend it.

We'll be back with a final word in just a minute.

(Announcements)

SCHIEFFER: Finally today, history has been shaped by three groups of people: those who wondered what was on the other side of the mountain, those who had no interest in what was there, and those who feared what was there. Most human achievement has come from the first group, those who had the courage to go to the other side of the mountain. The second group probably stumbled on a few things by accident. The blind hog does find the occasional acorn. But the third group can't claim much. They were the ones who urged Columbus to stay home, the ones who refused to look into Galileo's telescope, claiming they already knew what was there. Americans are descended from that first group. Our ancestors crossed an ocean to see what the far shore held, and once they got here, they kept going, in covered wagons, no less, with no idea what they would find.

Which is why I am surprised, as Congress faces the question of stem cell research, at the turn our national dialogue on science has taken. While the rest of the world moves at warp speed in every area of research, our national debate has somehow veered away from how to blaze new scientific trails to arguments over how to best limit research. Government serves a public interest when it regulates the products of science. Putting limits on research before we know what the product is can only be counterproductive. Besides, it seems so out of character for us.

That's it for us. We'll see you next week, right here on FACE THE NATION.