



## TRANSCRIPT:

July 25, 2008

**BILL MOYERS:** Welcome to the JOURNAL.

As I watched those Congressional hearings on torture last week, I thought of John McCain and the five and a half years he spent as a prisoner of war in North Vietnam. He was tortured severely, tied and beaten so badly he tried to kill himself. After four days of this brutality, he gave in and agreed to make a false confession, telling lies to end the unbearable pain. Years later, he wrote, "I had learned what we all learned over there: Every man has his breaking point. I had reached mine."

**BILL MOYERS:** Before Vietnam, there was the war in Korea, where the communist Chinese used similar techniques on American prisoners of war, forcing them to confess to things they didn't do, including germ warfare. In 1957, an American sociologist studied the Chinese methods and their effects. He made this chart. It reappeared in 2002 at Guantanamo Bay, where it was used in a course to teach our military interrogators, quote, "coercive management techniques." In other words, we had adopted the inhumane tactics of our enemies, tactics we once were quick to call torture.

**REP. JERROLD NADLER:** The hearing of the Subcommittee on the Constitution, Civil Rights and Civil Liberties is called to order.

**BILL MOYERS:** On Capitol Hill over the past weeks, members of Congress and witnesses have been fighting over the treatment of detainees suspected of terrorism. Here are some excerpts.

**REP. JERROLD NADLER:** Today the committee continues its investigation into this Administration's interrogation policies, which have brought disgrace to our nation. Whatever euphemism one chooses - harsh interrogation, enhanced interrogation - or whatever justification might be offered, I believe, given all we know now, that it is clear that this Administration has authorized torture and that, under its auspices, torture has been inflicted on people in U.S. custody. The picture that has emerged from our investigations, despite the Administration's stonewalling, is deeply disturbing. It seems clear from the evidence that we've been able to assemble so far, that the Administration decided early on to engage in torture, to use any rationale to do what generations of soldiers understood we could not do, and to conceal that fact from the American people and from the world.

**BILL MOYERS:** Republican Trent Franks took issue.

**REP. TRENT FRANKS:** Mr. Chairman, just a personal note. I believe this is about the tenth hearing that we've had in this Subcommittee that was dedicated primarily to making sure that we were protecting the rights of terrorists. And I understand that. But we've had none that I know of that are dedicated to trying to protect the lives of American citizens. And I think ten to zero is a little out of balance.

**BILL MOYERS:** And Democrats fired back.

**REP. JOHN CONYERS:** We're not here protecting, to protect rights of terrorists. This is the Constitutional Committee of the Judiciary, and it's to protect the rights of Americans and to prevent our own government from violating the laws and treaties that pertain to torture. So here's the problem the Committee on the Constitution finds itself engaged in this morning. We can't investigate those who did the waterboarding, because they had legal approval. We can't investigate those who gave the approvals, because our intelligence agents relied on them for advice. It's a



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perfect circle that leads us round and round and round and nowhere closer to the truth.

**BILL MOYERS:** From Deborah Pearlstein, a constitutional scholar and human rights lawyer who has spent time monitoring conditions at Guantanamo, came this accounting of the facts.

**DEBORAH PEARLSTEIN:** As of 2006, there had been more than 330 cases in which U.S. military and civilian personnel have incredibly alleged to have abused or killed detainees - these figures based almost entirely on the U.S. government's own documentation. These cases involved more than 600 U.S. personnel and more than 460 detainees held at U.S. facilities throughout Afghanistan, Iraq, and Guantanamo Bay. They include some 100 plus detainees who died in U.S. custody, including 34 whose deaths the defense department reports as homicides. At least eight of these detainees were, by any definition of the term, tortured to death.

**BILL MOYERS:** Not only is torture inhumane, she said, it's counterproductive.

**DEBORAH PEARLSTEIN:** A remarkable recent study by the British Parliament found that U.S. detainee treatment practices led the U.K. to withdraw from previously planned covert operations with the CIA because the U.S. failed to offer adequate assurances against inhumane treatment. But I think it was the statement of the young army intelligence officer who put the intelligence impact most succinctly. "The more a prisoner hates America, the harder he will be to break. The more a population hates America, the less likely its citizens will be to lead us to a suspect."

**BILL MOYERS:** Committee members complained that officials have covered their collective backsides with a mix of legalese and double talk. Their frustration mounted during the testimony of Doug Feith, who had been the number three man at the Pentagon under Donald Rumsfeld and a key player in U.S. policy toward detainees.

**DOUGLAS FEITH:** The fact is, we had a clear policy from the top of this government that was against torture, against illegality, against inhumane treatment. And I don't deny that there were terrible, reprehensible cases of abuse and bad behavior, and possibly even torture, in various places against detainees. None of them was sanctioned by law or policy.

**BILL MOYERS:** One key question: Were detainees subject to the Geneva Conventions against mistreatment of POWs?

**DOUGLAS FEITH:** The decision that the President made on February 7, 2002 was that the Geneva Conventions don't apply to our conflict with al-Qaeda. The lawyers in the government made a distinction between the conflict that we had worldwide with al-Qaeda and the conflict that we had with the Taliban in Afghanistan. And they said, and what the President said, is that the Geneva Conventions do not apply to our conflict worldwide with al-Qaeda, because al-Qaeda is not a party to the Geneva Convention, and it does apply to our conflict with the Taliban.

**REP. KEITH ELLISON:** In your book, "War and Decision," you state that the Attorney General John Ashcroft said the main problem with applying the Geneva Conventions is that it would preclude effective interrogation. Do you know why the attorney general would believe that you could not effectively interrogate a detainee?

**DOUGLAS FEITH:** I would assume that he was reflecting the view of our military lawyers that the way the Geneva Conventions provisions on POWs, on POW interrogation reads, you can't, you can't even offer any kind of inducement, positive or negative, to a POW to answer a question. I mean, you can't say, you know, we'll give you cigarettes if you answer the question. We'll give, you know, anything of that type. And so the view that many people have is that you - unless a detainee is completely voluntary in offering information - you're not going to be able to get any information from him-

**REP. KEITH ELLISON:** Thank you-

**DOUGLAS FEITH:** If he has POW status.

**REP. KEITH ELLISON:** Thank you, Mr. Feith.

**BILL MOYERS:** Representative Nadler pressed for clarification.

**REP. JERROLD NADLER:** Do you believe that interrogation techniques, to which you recommended Secretary Rumsfeld, give blanket approval - stress positions, isolations, nudity, the use of dogs, the use of twenty-hour interrogations, hooding, removal of clothing, the use of detainee individual phobias, such as fear of dogs to induce stress - wouldn't that be the normal definition of anyone's concept of torture? Hasn't it always been?

**DOUGLAS FEITH:** I don't believe so. But especially not-

**REP. JERROLD NADLER:** I'm sorry. Let me rephrase that. It shouldn't be torture. Are those humane treatments that we should apply?

**DOUGLAS FEITH:** Okay, this - the way one could - I imagine one could apply those things in an inhumane fashion or one could apply them in a humane fashion. The general-

**REP. JERROLD NADLER:** How could you force someone to be naked and-

**DOUGLAS FEITH:** It doesn't say naked.

**REP. JERROLD NADLER:** And undertake 20-hour interrogations-

**DOUGLAS FEITH:** It doesn't say naked.

**REP. JERROLD NADLER:** Removal of clothing. Removal of clothing doesn't mean naked?

**DOUGLAS FEITH:** Removal of clothing is different from naked.

**REP. JERROLD NADLER:** Really?

**DOUGLAS FEITH:** It's about removing of comfort items and of clothing that would make - the idea was to induce stress, they talked about. But one could induce - in our police stations around America every day, American citizens are subjected to stress as part of interrogations. It could be done in an inhumane way; it could be done in a humane way. The general guidance-

**REP. JERROLD NADLER:** Wait, wait, are you saying, I find it hard to believe - hard to imagine, I should say - how you can have, how someone can have a hood placed over his head, albeit not restricting his breathing, undergo a 20-hour investigation while having his clothing having been removed and using his fear of dogs or other-

**REP. STEVE KING:** Mr. Chairman, point of order.

**REP. JERROLD NADLER:** And that could not be - how could that be considered humane?

**BILL MOYERS:** Deborah Pearlstein said the lack of clarity along the chain of command - whether deliberate or not - caused treatment that went beyond inhumane to fatal.

**DEBORAH PEARLSTEIN:** Welshoffer claimed that he was not at all trained for the interrogation of captured detainees. This is a young soldier put on trial for the murder of a detainee who was stuffed into a sleeping bag, wrapped with rope and suffocated to death. He testified that he understood that he was authorized to force this detainee into a sleeping bag based in part on a memorandum from General Welshoffer, the highest ranking military official in Iraq at the time. In that memo, General Sanchez authorized harsh interrogation techniques, including sleep and environmental manipulation, and use of aggressive dogs and stress positions, even as General Sanchez acknowledged that other countries would view these techniques as inconsistent with the Geneva Conventions. That memorandum was the only in-theater guidance that Welshoffer testified he received. The use of the sleeping bag technique was also authorized by his immediate company commander.

**BILL MOYERS:** But just who was responsible?

**DOUGLAS FEITH:** I mean, the way the U.S. government works is people have responsibility at various levels, and if people are not-

**REP. MEL WATT:** All right, I'm saying-

**DOUGLAS FEITH:** Fulfilling those responsibilities-

**REP. MEL WATT:** I'm just-

**DOUGLAS FEITH:** Then the higher level people have to make sure they get fulfilled.

**REP. MEL WATT:** I'm not arguing with you, Professor Feith. I'm just trying to get clarification of whether you were saying that there is no upward responsibility for decisions that get made. I presume the buck stops with the Commander in Chief. Is that correct?

**DOUGLAS FEITH:** No, the buck stops with the President. I mean, that's what Harry Truman said.

**REP. MEL WATT:** Okay, that wasn't a trick question. I'm just trying to get clarification on what it was you were saying. There's been a lot of dispute about who has responsibility here. Is there any dispute about Professor Pearlstein's testimony that there has in fact been torture?

**DOUGLAS FEITH:** No, as I've said, there were cases-

**REP. MEL WATT:** That only requires - is there a dispute about that? The answer to that is no?

**DOUGLAS FEITH:** There is no dispute that there was torture-

**REP. MEL WATT:** Okay, fine, that's all I'm asking, Professor Feith.

**BILL MOYERS:** At the time the policies were adopted John Ashcroft was Attorney General.

**REP. BOBBY SCOTT:** Attorney General Ashcroft, there's no question that torture is illegal.

**JOHN ASHCROFT:** That's correct.

**REP. BOBBY SCOTT:** Okay. Now, is there an exception to that, if it is done during a crisis?

**JOHN ASHCROFT:** There is no exception that I know of, that allows people to violate the law.

**REP. BOBBY SCOTT:** Okay. Well, suppose you got some good information as a direct result of torture. Would that be an exemption to the statute?

**JOHN ASHCROFT:** No. The outcome or product of torture, I mean, doesn't justify it.

**REP. BOBBY SCOTT:** Okay. Now, you've made a comment that we have not been attacked since 9/11. Are we to surmise that that is a direct result of the fact that people have been tortured, and that we got good information? Or not?

**JOHN ASHCROFT:** First of all, I don't know of any acts of torture that have been committed by individuals in developing information. So I would not certainly make an assumption. I would attribute the absence of an attack, at least in part, because there are specific attacks that have been disrupted, to the excellent work and the dedication and commitment of people whose lives are dedicated to defending the country. That includes interrogators that have used enhanced interrogation techniques - but they haven't used torture.

**BILL MOYERS:** And so it went. We'll post excerpts from the hearings at our site on PBS.org. But with me now is Jane Mayer, one of the country's top investigative reporters. Twelve years with the WALL STREET JOURNAL, covering the White House, war and foreign crises and twice nominated for a Pulitzer Prize, bestselling author Jane Mayer is now based in Washington as staff writer for THE NEW YORKER. In the past several days, her new book, THE DARK SIDE: THE INSIDE STORY OF HOW THE WAR ON TERROR TURNED INTO A WAR ON AMERICAN IDEALS, has created even

more passionate discussion than the hearings themselves.

**BILL MOYERS:** Welcome to the JOURNAL.

You've been attending some of these hearings. Are you certain that the witnesses who came from the government knew they were talking about torture?

**JANE MAYER:** Well, I think they knew they were being asked about torture. I mean, they danced around the question. They've redefined the term "torture" so that what was torture before 9/11 they say has not been torture since.

**BILL MOYERS:** Why?

**JANE MAYER:** Because they wanted to interrogate people in completely brutal ways. And they wanted to avoid being accused of war crimes. So one of the witnesses there, Doug Feith in particular, who was the number three in the Pentagon, argued right after 9/11 that the Geneva Convention should no longer apply to anybody that was picked up in the war on terror, that was a terrorist suspect. And so they took away the rules of war, which were the Geneva Conventions, which America really pioneered in many ways. And they also said that the criminal laws didn't apply to the same suspects. So they were left with kind of a legal limbo. And they made up the laws as they went along on it. So-

**BILL MOYERS:** Can we fault them for wanting to put first the safety of the United States in the hours, days, and weeks after 9/11?

**JANE MAYER:** Well, you know, this isn't really so much about fault. It's a question, seven years later, if what they did in those panicky moments right after 9/11 were the right choices and whether they're still the right choices. I think that there's been a re-consideration from many quarters. And one of the things that I write about it in this book is that, unseen by the American public, there were many people really early on who had big problems with what this program required. And they were not just liberals at the ACLU. They were-

**BILL MOYERS:** No, they were conservatives inside the government, right?

**JANE MAYER:** They were. And, particular, the first line of dissent came from the United States military leaders and particularly the military lawyers who are experts in the laws of war. And they said this is dishonorable. This is not how we fight wars. And if you do this to these people, they're, it's going to enflame them and it's going to endanger our own men and women when they get taken captive. And another very early line of dissent came from the FBI, who, when they first saw what the CIA was doing, when they started interrogating high-value detainees, a couple of the FBI agents who were there said, "These people, the CIA, should be arrested for criminal behavior. What they're doing is, the quote was, "borderline torture."

**BILL MOYERS:** And some FBI agents, as I read your book, refused to take part in this brutality.

**JANE MAYER:** They did refuse. Absolutely. They said, "We're not gonna have anything to do with this." And, in fact, it wasn't just on the low level. What it was a completely remarkable situation where it, the issue, went all the way up to the top of the FBI, where the director of the FBI took a look at this and he said, "Well, we're not gonna be involved." So you - we've had a war on terror where the FBI has pretty much taken a backseat or no seat because they don't want to have any part in this thing because they know that they think that some of it's criminal.

**BILL MOYERS:** Who were some of the other conservative heroes, as you call them, in your book?

**JANE MAYER:** A lot of them are lawyers. And they were people inside the Justice Department who, one of whom, and I can't name this one in particular, said when he looked around at some of the White House meetings - he was in where they were authorizing the President, literally, to torture people - if he thought that was necessary, he said, "I can't, I could not believe these lunatics had taken over the country." And I am not talking about someone who is a liberal Democrat. I'm talking about a very conservative member of this Administration. And there was a-

**BILL MOYERS:** Your source?

**JANE MAYER:** My source.

**BILL MOYERS:** And, yet, when these conservatives - as you write in your book - when these conservatives spoke up, Cheney and company retaliated against their own men.

**JANE MAYER:** People told me, "You can't imagine what it was like inside the White House during this period." There was such an atmosphere of intimidation. And when the lawyers, some of these lawyers tried to stand up to this later, they felt so endangered in some ways that, at one point, two of the top lawyers from the Justice Department developed this system of talking in codes to each other because they thought they might be being wiretapped. And they even felt-

**BILL MOYERS:** By their own government.

**JANE MAYER:** By their own government. They felt like they might be kind of weirdly in physical danger. They were actually scared to stand up to Vice President Cheney.

**BILL MOYERS:** And you say that all of this was maintained by a, quote, "top-down quality control?" How did they do it?

**JANE MAYER:** Well, I mean, I think this is important because we'll all remember when the pictures of Abu Ghraib came out, the Secretary of Defense Rumsfeld said, you know, these were, you know, just a few rotten apples. There wasn't a policy here. So, part of what I spent a lot of time trying to do was to figure out what was policy? What was official U.S. policy? And there's a paper trail that goes right to the top of our government. And Congress is beginning, in some of those hearings that you showed, they've begun to ask questions and subpoena documents. And-

**BILL MOYERS:** Are they getting to the truth? You've been watching the hearings.

**JANE MAYER:** They're beginning to.

**BILL MOYERS:** You think they're getting to the truth?

**JANE MAYER:** I think that they're beginning to piece it together. It's a humungous jigsaw puzzle. I mean, and there are many, many secrets we still don't know. There are legal memos that nobody's ever seen. There's a memo, for instance, that exists still that defines all the interrogation techniques that were allowed. And, for some reason, the government, the White House, won't allow even Congress to see it. Even the members of Congress with top security clearances can't see it. You have to wonder at a certain point is this because they're afraid of hurting national security? Or are they afraid of being ashamed in public when that list comes out?

**BILL MOYERS:** But there is also this fact that, which is that there was a briefing in which four top members of Congress, including House Speaker Nancy Pelosi, was present, were present, and they were told what was going on. Have they been compromised by their knowledge of what was happening?

**JANE MAYER:** Well they've been very defensive about it, the Democrats in particular, because they've said that in private they complained about this. They felt they were not allowed to speak out because they'd be accused of violating national security. I also think that, what I've talked to some of them, that say that while the CIA explained what it was doing, it didn't explain it thoroughly. So they used a lot of euphemisms as the kind of euphemisms that we've been hearing, which are intent, enhanced interrogation, or special interrogation.

**BILL MOYERS:** The other side of it was raised by Representative Trent Franks, a Republican on the committee. Let me play this for you.

**REP. TRENT FRANKS:** CIA Director Michael Hayden has confirmed that, despite the incessant hysteria in some quarters, the waterboarding technique has only been used on three high-level captured terrorists - the very worst of the worst of our terrorist enemies. Now, what are these people like, Mr. Chairman? When the terrorist Zubaydah, a logistics chief of al-Qaeda was captured, he and two other men were caught building a bomb. A soldering gun used to make the bomb was still hot on the table, along with the building plans for a school. CIA Director Hayden has said that Mohammed and Zubaydah provided roughly 25 percent of the information CIA had on al-Qaeda from all human sources.

**BILL MOYERS:** What he is saying is that torture works.

**JANE MAYER:** Right. That's been the argument.

**BILL MOYERS:** What is your conclusion after these many years of reporting is?

**JANE MAYER:** Well, there are a couple of things I want to say about this. One is to say that there's a special exception here: We won't torture except when we will torture, is a legal problem. The convention against torture, which the United States Senate ratified, has no exceptions. It's a major felony. There's no excuse for doing it for war. There's no excuse for national security. It doesn't have exceptions. So this is a serious legal problem.

**JANE MAYER:** Secondly, what did they get from, let's take his case of Abu Zubaydah. There was a soldering iron, as he says, and they were building a bomb. What led them to Abu Zubaydah? Was it torture? It wasn't actually. It was a bribe that they gave to the Pakistanis that got them to Abu Zubaydah. Bribing people does work, and that's, you can see again and again in the war on terror. Then, what did they get out of Abu Zubaydah when they brutalized him? It turns out and I've talked to, for instance, Dan Coleman, who's an FBI agent who knows a lot about Abu Zubaydah and this interrogation. He questioned, he thinks they got nothing out of him. First of all, he was mentally unstable. They you, they, he said all kinds of crazy things. He later said that he made up half of the things that he told them.

There's - the reason that people don't torture is not just because it's a moral issue. It's because when we moved to a system of law that was on the principles of the enlightenment, the effort was to get at the truth. And you don't torture because people say anything under torture. And, according to a very top CIA officer I spoke to who was very close with Tenet, he said 90 percent of what we-

**BILL MOYERS:** George Tenet.

**JANE MAYER:** George Tenet, the former director of the CIA. He said 90 percent of what we got was crap. And he said and that was true of every method we used: Torture, non-torture.

**BILL MOYERS:** There have been some suggestions recently that they may have begun to torture Abu Zubaydah before the Justice Department drew up this memo justifying it. Do you think-

**JANE MAYER:** But the torture memo, the famous torture memo that was written in August of 2002 by, mostly by John Yoo, was written to justify these harsh interrogations, whatever you want to call them. But when John Ashcroft, the former attorney general, testified recently, he was asked, "Well, you know, when did these interrogations on Zubaydah begin?" It turns out they'd been interrogating him since March, which is several months before they had legal approval to do so. That's an area where there seems to be super legal exposure for the people involved in this program, the interrogators, the people at the CIA who authorized it. And, in particular, there were a number of psychologists who were contracted psychologists who designed that program.

**BILL MOYERS:** Yeah, that's a fascinating part of your book. You talk about the doctors and the psychologists who participated in the government's program of torture. What, tell us about it.

**JANE MAYER:** They're civilians. And they hadn't, these psychologists had never actually interrogated anyone. They'd trained in this odd little program where they did mock torture on people. And they had studied how to break people down. And one of them in particular, a fellow named James Mitchell, spoke, according to my sources, about how the science behind breaking someone down psychologically is based on experiments shocking dogs, using electric shocks on dogs.

**JANE MAYER:** There's this theory called learned helplessness, where if you keep shocking a dog in a cage in a random way so that there's no sense to it, the dog'll just kind of give up. They won't even try to escape after a while when you open the door because they're completely despondent. And this particular psychologist, James Mitchell, what showed up near Abu Zubaydah and started talking about this theory of learned helplessness and how the science was great and you could sort of break resistance of detainees if you applied some of these same methods.

**JANE MAYER:** Now, just for legal reasons, I need to say that a lawyer for James

Mitchell says that he never really believed this. Yet, I have people on the record in here, in this book, talking about how he talked about it all the time.

**BILL MOYERS:** You write movingly in here about your concern over the participation in the torture program of these civilian doctors and psychologists.

**JANE MAYER:** That, to me, is actually a terrible ... something I still can't fathom; which is, how can doctors, who take a Hippocratic Oath to do no harm, be involved in a program that, call it torture or not, it's purposefully cruel? And they pop up again and again.

**BILL MOYERS:** Doing what? What were they doing there?

**JANE MAYER:** They measure people's blood pressure. They make sure that detainees are strong enough so that they continue to, can continue to be tormented.

**BILL MOYERS:** I mean, they're observing the torture or the-

**JANE MAYER:** Yes.

**BILL MOYERS:** Enhanced interrogation?

**JANE MAYER:** They are. In one case, Mohammad al-Khatani, who was a detainee down in Guantanamo, falls apart. His, all his vital signs are, you know, cratering. And they, he gets emergency medical care, so that they can make sure that then he can be brought back and go through more of this. And I guess, you know, everybody knows in World War II that science was perverted by the Germans. And this is - I don't want to draw this parallel because what we did is not on an order of that. Anyway, doctors take an oath. There's an international oath that doctors take to do no harm. And particularly, it's particularly horrible, I think, to see people use their psychological and medical expertise to hurt people.

**BILL MOYERS:** Some of these doctors and psychologists who participated, where they're watching the torture, as you say, did you talk to them?

**JANE MAYER:** Yes, I have talked to them. I've talked to the psychologist James Mitchell. I interviewed him at one point.

**BILL MOYERS:** Were they-

**JANE MAYER:** He said he felt he had nothing to be ashamed of.

**BILL MOYERS:** Why?

**JANE MAYER:** I think he feels that he was doing the right thing.

**BILL MOYERS:** Because?

**JANE MAYER:** Because he thought he was protecting the country.

**BILL MOYERS:** Torture can become an accepted way of life for a society. I mean, you can get used to it. Or you can know it's going on and realizing that it doesn't affect you, so it doesn't matter to you. Do you see a possibility that that's happening here?

**JANE MAYER:** Well, you know, there's a great book out called, "Torture and Democracy," by Darius Rejali, which is about how torture has worked over the years. And one of the things he writes about is that it has a very corrupting effect on a society and also on military discipline, on anybody involved in it. There's this tendency to get rougher and rougher. You don't get the answer you want? You up the level of aggression. It also has a horrific effect on the outlook of the people who were involved in this program there and I do describe how one of the interrogators in particular who did waterboarding with the CIA is wracked by nightmares now according to one of his friends. He - you can't go to that dark place without it affecting you.

**BILL MOYERS:** Why did you go to the dark side? I mean, you spent three or more years there.



**JANE MAYER:** I became, I have to admit, somewhat obsessed with the subject because when I did the first story for "The New Yorker" of this series of stories which was about the program called Rendition, in which American government officials working for the CIA had black hoods over their heads, no one knew who they were. And they were kidnapping people, snatching them off of streets, and throwing them basically in dungeons where they could never be heard from again. And the more I found out, the more disturbing it became. And so, and also I was told at every step, "You can't know this." And for an investigative reporter, you know, it's like someone waving a red flag at a bull.

**BILL MOYERS:** Where did these three years take you? Where did you spend these three years?

**JANE MAYER:** Well, I was just sitting at my desk in Washington really. I've been to Guantanamo. In the past, I've been in the Middle East. And to some extent, I think that made me interested in this. I was actually in Beirut in on October 23, 1983, when the U.S. Marine barracks was blown up by terrorists. So, I was kind of there when America started dealing with this issue. And it was the most horrific thing I'd ever seen. I wondered, "Well, what mindset makes a terrorist like this? And how do you deal with this?"

And, but I knew enough about the Middle East when I saw, for instance, the Abu Ghraib pictures, to know if you're going to humiliate people like this, you're going to have a powerful backlash in the Middle East. And many people I interviewed said the war on terror is a war on hearts and minds. We've got to win over the next generation of young Muslims. And if you start torturing their relatives, it's gonna be pretty hard.

**BILL MOYERS:** What's the most horrific thing you found on the dark side?

**JANE MAYER:** I guess, I just think the worst thing for me is reading and finding out about innocent people who were taken by mistake and put through this program. And there's one, you know, there's one, a German citizen, Khalid el-Masri, who was locked up for months. And the CIA actually had doubts that he was a terrorist from the start, and they wouldn't do anything about it, which I think is unconscionable. They just kept him in there to the point where he lost 70 pounds. Everybody, you, who was around him, was banging their heads in, against the wall, trying to commit suicide. It's, it's really awful to see the psychic destruction of people for no reason. It just doesn't seem American to me.

**BILL MOYERS:** On the basis of what you report in THE DARK SIDE, do you think that these high officials, present and former, have any fear of prosecution?

**JANE MAYER:** Oh, I think that, especially after the Supreme Court ruled in the Hamdan case, which was in 2006, that actually the Geneva Conventions should cover detainees, there was just a chill that went through the top ranks of the government because they suddenly realized that if you violate the standards in those conventions, it's a war crime, which is an incredibly serious situation. So, yes, I mean, and you begin to hear in some of the meetings I described, Vice President Cheney and the former Attorney General Alberto Gonzales, literally start saying, "Well, we better be careful. If we move these detainees out of the black prison sites, people are gonna wonder where they've been and what have we been doing with them." I mean, they're getting sort of spooked about the whole thing. So, yes, I think they're worried. And I think they have to defend this at this point because they're up to their eyeballs in it. So they have to say it worked and it was necessary.

**BILL MOYERS:** Would that explain why Attorney General Mukasey has actually made a speech recently saying that Congress, not the courts, should define how the detainees can appeal their cases? Turning it into a political rather than a legal issue?

**JANE MAYER:** Well, I guess, I mean, the thing is the courts have, in my view anyway, have been terrific in standing up for the rule of law in this country and for American ideals, as we've known them since the founding of the country. And the congressmen tend to be a little, have a little less spine, especially as we approach an election, which we are. So, if you put this issue in Congress now as we're facing an election, it's gonna be demagogue-ed. And I think that there's some sense that a lot of people know that.

**BILL MOYERS:** Some observers like the lawyer Glenn Greenwald say that what Congress is doing, and this is a direct quote, is "to immunize the Administration's law breaking and retroactively protect it." What would be the impact of that?

**JANE MAYER:** I think that, you know, there's been a lot more discussion recently about whether or not President Bush might issue blanket pardons of some sort retroactively to anybody involved in this program. And that is the program of detention and interrogation. And I, you know, I think it might happen. I - there have been blanket pardons before. I'm not sure. Again, I don't know where the American public really is on these issues. Nobody ever asked the American public, "Do you want to start torturing people?" It happened in secret. Now-

**BILL MOYERS:** But the American public did want to be protected from a second strike after 9/11.

**JANE MAYER:** I think they did. And I think they were told that this would work. And the question is, now, I think it's worth knowing a lot more about did it really work and was it necessary? And what are the long-term consequences of this?

**BILL MOYERS:** What do you think the country would gain or lose from pursuing war crimes?

**JANE MAYER:** Well, you know, I think that it could be very toxic in some ways to hold people as criminals who were doing what they thought was right for the country. But, at the same time, I have to say I think that we need accountability in this country in order to make sure that people abide by the laws. And I can tell you when I interview people at the CIA, a number of people said that they didn't want to get involved in this because they thought there'd be criminal repercussions. So, if there never are any criminal repercussions, I'm not sure where that leaves us.

**BILL MOYERS:** Do you think that George W. Bush and Dick Cheney and John Yoo and David Addington and all of the participants in these decisions would have done the sort of unthinkable things you describe in here before 9/11?

**JANE MAYER:** Well, I think the panic certainly unleashed them. And it's not that I think they were sitting there saying, "I can't wait to torture people." What I do think, though, is that there was a long festering political agenda, which was to gut international law. There's been a movement in conservative legal circles to try to push back international law and to also, to not coddle criminals, which is what, you know, they, how they see al-Qaeda in some instances, to get tough.

**JANE MAYER:** I mean, right after 9/11, there's a speech from President Bush in which he says, you know, we've been too soft. So, they felt that they had to get tough. And this is what they thought being tough was, being macho. And I think the Bush Administration really thought, "Okay, we'll take this shortcut and it, and we got to do it." And so they did it.

**BILL MOYERS:** And, in the face of this, why is Congress so pliant?

**JANE MAYER:** Well, I think, politically, this is not a winning issue - to look like you're standing up for terrorists. And it's really not about standing up for terrorists. And that's why I have to say I admired the statement from John McCain where he said it's not about them, it's about us. And it's about our country. You know, you don't want to imitate the terrorists. We're better than that.

**BILL MOYERS:** THE DARK SIDE: THE INSIDE STORY OF HOW THE WAR ON TERROR TURNED INTO A WAR ON AMERICAN IDEALS. Jane Mayer, thank you very much for the book and for being here.

**JANE MAYER:** Glad to be with you.

**BILL MOYERS:** Another Washington journalist the late Meg Greenfield covered the city for a long time and knew how it worked. She got the connection between money and politics in ways that some reporters never do. Trying to rid politics of money, she wrote, is kin to the quest for a squirrel-proof birdfeeder. No matter how clever and ingenious the design, the squirrels are always one mouthful ahead of you.

Those squirrels came to mind last week when we reported on the bailout of Fannie Mae and Freddie Mac. The two mortgage giants survived scandal and crisis over the years by spending nearly \$200 million on lobbying and campaign contributions. We've posted on our website a story by Politico's Lisa Lair, on how insiders helped Fannie and Freddie stave off scrutiny and avoid taxes even as their top executives pulled down multi-million dollar paychecks. THE NEW YORK TIMES also reported, bluntly, that "their rapid expansion was, at least in part, the result of artful lobbying." What a lovely term: 'artful lobbying.' In other words a better birdfeeder

built by the squirrels themselves.

For more on money and politics, let's go now to a man who saw first hand how the city's money chase has crippled and corrupted Washington.

His name is Ernest 'Fritz' Hollings, and he spent 38 years in the United States Senate - a long and colorful run during which he made a name for himself as a passionate advocate for the hungry, a champion of balanced budgets, and a fighter for jobs in the textile industry. He called it quits four years ago and went home to South Carolina. But he was back in town recently, to see old friends and sign his new book, MAKING GOVERNMENT WORK. I talked with

**FRITZ HOLLINGS:** at a Senate office building on Capitol Hill just before his book party. Why did you write this book now?

**FRITZ HOLLINGS:** I wrote the book because I could see what was wrong. I was raising money. I wasn't running for reelection.

**BILL MOYERS:** As a senator in your last term.

**FRITZ HOLLINGS:** As a senator in the last two or three years that's all I was doing was raising money. And working for the campaign and for the party. The hardest working people in the world are the congressmen and senators. We work from early morning 'til late at night and all weekend and everything else. But we are working now, not for the country, but for the campaign.

**BILL MOYERS:** What do you mean?

**FRITZ HOLLINGS:** All the time is fundraisers. All the time is money, money, money, money. In 1998, ten years ago, I ran and had to raise 8 an a half million. The record is there. Eight and a half million is 30,000 a week. Every week for six years. Each and every week for six years. Oh Dick Russell of Georgia-

**BILL MOYERS:** Former senator.

**FRITZ HOLLINGS:** He says, "Now a senator is given a six year term rather than a two year term. He's given six years, the first two years to be a statesman. Then the second two years to be a politician. His last two years a demagogue." We use all six years to raise money. That's why I wrote the book. To try to get the government off its fanny and cut out all the politics and let's work for the country for a change.

**BILL MOYERS:** What do you mean, it's not working? You say you can't get anything done in Washington anymore. What's not getting done?

**FRITZ HOLLINGS:** Legislation. Anything meaningful. They fill up the tree both sides, it's nothing wrong with Harry Reid or Mitch McConnell, they're durn good leaders and they're doing what the senators want done. And they're all smart senators and they're all responsible people. But they're playing the game and the media hadn't exposed. That's why I wrote it. I'm trying to expose-

**BILL MOYERS:** The game? What's the game?

**FRITZ HOLLINGS:** The game is money. I got to get the money to heck with constituents, I gotta get contributors.

**FRITZ HOLLINGS:** I've talked to the senators; you ask 'em, they know they're not gettin' anything done. And they grown men and they're conscientious women and everything else, they're outstanding. But they know that all they're doing is on a money treadmill. That's all it is.

**BILL MOYERS:** You write, "When I first came to the Senate 40 years ago, Senator Mansfield," he was the majority leader then.

**FRITZ HOLLINGS:** Yessiree.

**BILL MOYERS:** "Had a vote every Monday morning to make sure"

**FRITZ HOLLINGS:** To get a quorum.

**BILL MOYERS:** "To get a quorum. And we worked until five o'clock on Friday every week."

**FRITZ HOLLINGS:** That's right. We didn't go home on the weekends. We tried to get out Thursday afternoon or night or at least early Friday morning to go to the West Coast for fundraisers. That's why Hollywood and that's why Wall Street has got that much influence. I'm not going to South Carolina. They got no money for a Democrat. I have to travel all over the country.

**BILL MOYERS:** Years ago, you write, "On Washington's birthday, a freshman senator would read the farewell address at 12 o'clock noon and then we'd have votes in the afternoon."

**FRITZ HOLLINGS:** We'd have votes. Now we have merged Lincoln's birthday with Washington's Birthday and take ten days off in February for fundraising. We have St. Patrick's Day, ten day break for fundraising. Easter, Memorial Day, Fourth of July, the month of August, Labor Day, Yom Kippur and Columbus Day that's ten days gone in October. September, October, is fundraising. Everything is attuned for the campaign, the hell with the country.

**BILL MOYERS:** A constant permanent campaign.

**FRITZ HOLLINGS:** That's exactly what it is.

**BILL MOYERS:** Commercial television is the big winner in this because that's where so much of the money goes.

**FRITZ HOLLINGS:** That's right; the rich have got all the speech they want. The poor got lockjaw. He can't articulate out onto the television. And-

**BILL MOYERS:** The poor can't. They have no voice.

**FRITZ HOLLINGS:** Yeah, and that's the trouble. They tell you, don't go waste time and don't go see people and everything. Get on television and get a little tricky television and everything else like that. All these artists have got all kinds of different ways and different things like that to bring up and tricks to play.

**BILL MOYERS:** The clear message is money has a stranglehold on our democracy.

**FRITZ HOLLINGS:** You gotta untie that money knot and then begin the government will begin to work.

**BILL MOYERS:** So, you conclude therefore, if we limit the money, Congress will have time to work for the country, rather than--

**FRITZ HOLLINGS:** The campaign. That's exactly right. They can talk to each other, they can deliberate. There's no, you fill up the tree with amendments; the leaders know-- legislation is made down on K Street. They tell you when to vote, when they got the votes.

**BILL MOYERS:** Lobbyists.

**FRITZ HOLLINGS:** The leader brings it up, he knows where it's going. And it's not going anywhere, but he's goin' to get a vote, to make 'em embarrassed about immigration, or about energy or about sub-prime mortgages. The votes are made for the campaign. It's not to get anything done, bah humbug. You can forget about that. They're not doing anything up here. And the senators and congressmen know it.

**BILL MOYERS:** What do you make of the fact, as you point out in your book, three days before the first presidential primary in Iowa; The New York Times listed the positions of all the candidates on eight important issues. Not one of them on trade or outsourcing of jobs.

**FRITZ HOLLINGS:** That's right. And they came way out. We had, in South Carolina, since President George W. Bush has been in; we have lost 94,500 manufacturing a net loss. We're getting' some more jobs in BMW in Spartanburg, but a net loss. And they never mentioned it in the early Democratic primaries. They're-

**BILL MOYERS:** Why?

**FRITZ HOLLINGS:** Because they gotta get the money.

**BILL MOYERS:** And who gives them the money?

**FRITZ HOLLINGS:** Wall Street, the banks, and business BILL MOYERS Yeah, you say presidents negotiate trade agreements not to open markets, but to protect corporate America's foreign investment. That's how you see it.

**FRITZ HOLLINGS:** Well, I know it. I mean look at the Congress. Under article one, section 8, the Congress shall regulate. Not free-

**BILL MOYERS:** Regulate--

**FRITZ HOLLINGS:** Congress regulates trade both domestic and foreign.

**BILL MOYERS:** And you say in your book that Congress is not doing that.

**FRITZ HOLLINGS:** They can't do it because they've gotta get the money. You put in a trade bill and down on your head comes THE WALL STREET JOURNAL and the big banks and The Business Round Table and The National Chamber of Commerce and the National Association of Manufactures they're not for domestic. They're for Chinese and Indian manufacturer even The National Chamber of Commerce is not worried about Main Street, Peoria, Illinois; Main Street, Shanghai.

You see, Henry Ford built up the middle class along with organized labor. He said I want the fellow making the car to be able to buy the car. So, he doubled the minimum wage. He put in health care and retirement costs and everything else of that kind, benefits. And so we had a good working relationship between labor and that-- now, all of these trade agreements for the investors to protect their investment in China and India, but, uh-uh forget about labor.

**BILL MOYERS:** You write--

**FRITZ HOLLINGS:** Yeah.

**BILL MOYERS:** Your country and mine, that's the United States of America, is going out of business?

**FRITZ HOLLINGS:** Oh yeah. What hasn't been outsourced is being bought with that cheap dollar. Vodophone is gone to the Germans. Bell Labs is gone to the French with all their research and everything else. Westinghouse Nuclear with all of their research and technology and everything, is going to Toshiba, Japan. And Anheuser-Busch, the Belgians. Anheuser-Busch is beholden to the stockholders but nobody's beholden to the people other than the congressmen and senators. And they're not doing their job.

**BILL MOYERS:** But they're voting for NAFTA. They're voting for these trade agreements.

**FRITZ HOLLINGS:** Yeah, we've gone to an outright trade war and globalization and that's were we're AWOL. The way to get free trade is raise a barrier to a barrier and remove them both. Then you got free trade.

**BILL MOYERS:** But when you were chairman of this very powerful Commerce Committee, here in the Senate, you'd make these cases.

**FRITZ HOLLINGS:** Yeah.

**BILL MOYERS:** They would call you protectionist, they would call you--

**FRITZ HOLLINGS:** Yeah, I am a protectionist. You-- you got Social Security to protect you from the ravages of old age, Medicare to protect you from ill health. You got food and drugs and clean air, the water we drink, the food we eat, antitrust to protect the openness of the market and everything else. Before I open up Moyer Manufactory, you gotta have clean air, clean water, Social Security, Medicare, Medicaid, plant closing notice, parental leave, safe working place, safe machinery,

antitrust. You can go to China for 58 cents an hour. They'd get you the plant, they own the workers, and you don't have any investments so you don't have to worry about it.

**BILL MOYERS:** You say all we need to do to make the country work, is follow the lead of the forefathers to compete in globalization. To build the country's economy Washington, Hamilton, Jefferson, and Madison, made sure the first bill to pass the Congress in its history on July 4th 1789--

**FRITZ HOLLINGS:** Seventeen eighty nine.

**BILL MOYERS:** Was a--

**FRITZ HOLLINGS:** Protectionist bill, tariff bill on 60 articles. We financed the country's development with tariffs. That's how we--that's the Treasurer's Building is the best building here in Washington. The best building in Charleston is the custom house. The best building in Brooklyn is the custom house. Treasury had the money. Teddy Roosevelt said, "Thank God I am not a free trader." Oh, Lincoln, everybody says, I'm either for Roosevelt, I'm a Lincoln Republican. He was a big protectionist. Oh, he raised tariffs. They were gonna build a transcontinental railroad on the Abraham Lincoln. And they said we could get the steel cheap from England. He said, ah - wait a minute, we're gonna build our own steel mills, and then we'll have not only a steel capacity, but we'll have the railroad. And so he was a builder. Everybody was a builder. Eisenhower, he protected oil. Jack Kennedy, I went to him, and he protected textiles. Ronald Reagan, he protected computers and Harley Davidson. He saved it. I saw George W. the other day about three weeks or a month ago, he was at the Harley Davidson plant, but protectionism saved it. That's why they were making money at Harley Davidson. Oh, he got--

**BILL MOYERS:** That's because of--

**FRITZ HOLLINGS:** Voluntarily restraint. Reagan got on steel, computers, machine tools, and automobiles. He got voluntary restraint and that's the only way to do it. Sober up

**BILL MOYERS:** Do you take any hope on this issue on money in politics? From McCain and Obama? Are they saying anything that or doing anything that--

**FRITZ HOLLINGS:** I happened to hear and I don't know, but the finance chairman for Obama was just told to get up 300 million for the rest of the campaign till November. Also, get up millions for the Denver convention. And that's all they're doing is raising money.

**BILL MOYERS:** You and John McCain sat on the same committee. You were chairman of the Commerce Committee--

**FRITZ HOLLINGS:** Oh yeah

**BILL MOYERS:** He was a member of the committee--

**FRITZ HOLLINGS:** We were good friends. And I love him.

**BILL MOYERS:** And how does he--

**FRITZ HOLLINGS:** I know him, yeah.

**BILL MOYERS:** And he used to be thought of as being an advocate of campaign finance reform.

**FRITZ HOLLINGS:** Exactly right. And he was an advocate against these tax cuts. But now they've taken the maverick McCain and trying to make him the Christian right and the money raiser and everything else like that. They're trying to make him an ordinary Republican. And you can tell he's ill at ease. He, John McCain is not happy campaigning right now. I can tell you that. He's-- the media loves him. He had a room up there by the commerce committee with donuts and coffee and all and the press wouldn't go to the press gallery. They'd go to McCain because they could get a statement out of him. And he was honest. He'd tell you how he felt. So, the press loves him and everything else. But they're disappointed in him now, because they're trying to change him over to qualify him as a Republican.

**BILL MOYERS:** What would you do about the power of the press in our society today?

**FRITZ HOLLINGS:** Tell them that by gosh, tell the truth. You know the debate between Walter Lippman and John Dewey. And Walter Lippman said, what we oughta do is get the experts in finance and defense, and education and the various elements of government, and let them determine the company's the country's needs, and give it to the Congress and let 'em pass it. John Dewey, the educator said, no, no, let the free press report the truth to the American people and the needs will be reflected, to the congressmen and senators in Washington. And he was right. But they're not telling the truth anymore. They all were doing the headlines rather than headway. They're all getting by with perceptions; they're all getting by with pollster politics. They're not talking about the needs. The country is ready, willing, and able to work, the government's not working.

**BILL MOYERS:** And the book is, MAKING GOVERNMENT WORK. Senator Fritz Hollings, it's been good to see you again.

**FRITZ HOLLINGS:** Good to be with you, always. xxx

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