

By Deborah Solomon

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Jason Madara for The New York Times

**Your new book, “Crisis and Command,” is an eloquent, fact-laden history of audacious power grabs by American presidents going back to George Washington. Which president would you say most violated laws enacted by Congress?
I would say [Lincoln](#) . He sent the Army into offensive operations to try to stop the South**

from seceding. He didn't call Congress into special session until July 4, 1861, well after this had all happened. He basically acted on his own for three months.

Are you implicitly comparing the [Civil War](#) with the war in Iraq, in order to justify President Bush's expansion of executive power?

The idea is that the president's power grows and changes based on circumstances, and that's what the framers of the Constitution wanted. They wanted it to exist so the president could react to crises immediately.

Do you regret writing the so-called torture memos, which claimed that President Bush was legally entitled to ignore laws prohibiting torture?

No, I had to write them. It was my job. As a lawyer, I had a client. The client needed a legal question answered.

When you say you had "a client," do you mean President Bush?

Yes, I mean the president, but also the U.S. government as a whole.

But isn't a lawyer in the Department of Justice there to serve the people of this country?

Yes, I think you are quite right, when the government is executing the laws, but if there's a conflict between the president and the Congress, then you have to pick one or the other.

Were you close to George Bush?

No, I've never met him. I don't know Cheney either. I have not gone hunting with him, which is probably a good thing for me.

Weren't you invited to the White House Christmas party during your two years at the Department of Justice?

I don't think so. That's the way the government works. There's the attorney general, then the deputy attorney general and then an associate attorney general. Then there's the assistant attorney general, who was the head of my office.

So you're saying you were just one notch above an intern, you and [Monica Lewinsky](#) ?

She was much closer to the president than I ever was.

What led you to take a job as a professor of constitutional law at Berkeley, of all places, where you've taught since 1993?

It was the best school that I was able to get a job at. It's not easy for a conservative to get a job in the academy in any field.

I see various groups are protesting a decision by a California government lawyer to teach a course with you that starts on Jan. 12, claiming he is legitimizing your unethical behavior.

At Berkeley, protesting is an everyday activity. I am used to it. I remind myself of West Berlin — West Berlin surrounded by East Germany during the Cold War.

Are you saying the citizens of Berkeley are Communists, reminiscent of those on the dark side of the Iron Curtain?

There are probably more Communists in Berkeley than any other town in America, but I think of them more as lovers of Birkenstocks than Marx.

When, exactly, did you become a conservative?

I've been one since I was a kid. I was 9 when [Jimmy Carter](#) took office. I can remember him giving a speech in a funny sweater and asking people to turn down thermostats. And then there was the malaise speech. I thought they meant mayonnaise.

You were born in South Korea and grew up in and around Philadelphia, the son of two doctors. What sort of doctors?

Psychiatrists.

What effect did that have on you?

I hope none.

Are they psychoanalysts?

I couldn't tell you. I don't actually know that much about their work. I've never really been interested.

A psychiatrist might say you are in denial.

I deny that I am in denial.

INTERVIEW HAS BEEN CONDENSED AND EDITED.