Torture is a subject that has received a good deal of indirect scholarly attention in the past, but not as much concentrated study as one might expect, given its pervasiveness. On reflection, this is not that surprising, given the inherent problems in defining the concept, the horrific details of the actual practices, concerns about the effects of prolonged observation and study on torture victims, and the ease with which the use of torture by the twentieth century’s reprehensible autocracies in Italy, Japan, Germany, and the Soviet Union allows attention to shift away from the historical record (Rejali 2007). Until recently, the issue of torture has been usually treated as a subsidiary question, often as part of a more extensive historical treatment of wider subjects (e.g., see Conquest 1990 or Solzhenitsyn 1973). This is not to say that the question of government repression was ignored, far from it. There has been a longstanding interest in the causes and mechanisms of repression of all kinds, including a substantial quantitative tradition built around the “domestic democratic peace thesis” (see Davenport 2000 for an overview). However, research focusing directly on torture has been limited. There have been some descriptive histories (Peters 1985, Langbein 1977) and occasional government reports (see McCoy 2006 for descriptions of these). However, the only systematic recent studies directly focusing on the official adoption of torture until after the revelations from Iraq and Afghanistan were Rejali’s (1994) groundbreaking study of torture and modernity in Iran; Conroy’s (2000) comparative account of torture in Northern Ireland, Israel, and Chicago; and Hathaway’s (2002) transnational examination of the relationship over time between ratification of human rights treaties and the incidence of torture in 165 countries. Furthermore, with the exception of Conway’s study, none of these works focused even partially on the United States.
This is, of course, no longer the case; the stories and supporting data concerning torture and abuse in the War on Terror have led to a tidal wave of new research. Scholars and journalists have written ethical and legal studies of the torture issue (e.g., Levinson 2004, or Greenberg 2006), descriptive histories (McCoy 2006, Otterman 2007), and accounts of torture as part of more comprehensive studies of the wars in Iraq and Afghanistan (Ricks 2006, Risen 2006, Rosen 2006). Journalistic accounts of the sequence of Bush administration decisions involved in establishing torture (e.g., Mayer 2008, Suskind 2006) and considerations by legal scholars of the possible legal ramifications of using torturous interrogations (see Sands 2008, among others) have also emerged. Perhaps most remarkably, however, these works have been supported and, in many cases, verified by primary documentation obtained through the Freedom of Information Act (FOIA) including legal memoranda from the Department of Justice’s Office of Legal Council (OLC) and other executive agencies; extensive reports of courts martial criminal investigations by the CID and the U.S. Navy’s Criminal Investigation Service (CIS); Department of Defense commission reports, AR-15 investigations, internal communications, inspector general’s reports, and legal memoranda; the reports of congressional investigations; and, finally, the still not completely released photographic and video records (Danner 2004, Greenberg and Dratel 2005, Jaffer and Singh 2007, U.S. Congress 2008). This immense (and growing) archive constitutes perhaps the most complete uncovering of the use of “alternative procedures” of interrogation and the consequences of it in world history.

Yet for all this recent interest, the number of systematic quantitative and qualitative studies of torture remains small and the study of the official adoption of torture remains under-examined and under-theorized. There is further work by Hathaway (2003, 2004) and others (Powell and Staton 2007) on the effects of international treaties on torture practices and an additional study by Gilligan and Nesbitt (2009) on whether established international norms reduce torture. The most relevant work to the problems I examine here, however, are the “large N” comparative studies by Davenport and his associates (2005, 2007, 2008) mentioned above and Rejali’s (2007) major study of the history and style of torture practices. To recall, these works establish that torture is much more ubiquitous than it was thought to have been, that the difference between torture practices in autocracies and democracies is substantively small when regimes are not under threat and disappears when they are, and that democracies have been active developers of torture techniques, especially “stealth” techniques that leave effects difficult to forensically detect. If I am to present a useful explanation of how torture was officially adopted by the United States, this set of findings means that any model of the process must compare both authoritarian and