LEAKS OFFER INSIGHT INTO CANADA'S DETAINEE

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It's the second-last line in a report of a March 8, 2008, meeting with Amrullah Saleh, at the time head of Afghanistan's National Directorate of Security. And it casually notes that until 2009, the entire budget of this secret police force was provided by America's Central Intelligence Agency.

As the New York Times, one of the handful of newspapers first given the documents by the non-profit group WikiLeaks put it: "For years, the CIA had essentially run the NDS as a subsidiary."

Why this matters in the Canadian context is that it destroys the rationale for the elaborate Afghan prisoner transfer system, first established in late 2005 during the dying days of the then Liberal government and now fiercely defended by Prime Minister Stephen Harper's Conservatives.

That rationale, accepted not only by the government of Canada, but by those of Britain and the Netherlands, was the need to keep captured prisoners out of U.S. hands.

If that seems odd now, it's worth remembering that when the U.S. invaded Afghanistan, it specifically refused to adhere to the Geneva Conventions, a set of international accords that require nations to behave with a modicum of civility during wartime.

That American interrogators were hard on captives was no secret. Following the 2001 American-led invasion, credible reports of prisoner abuse began to emerge from the big U.S. holding pen at Afghanistan's Bagram airbase.

In 2002, a photographer snapped pictures of Canadian commandos handing over hooded Afghan prisoners to the Americans.

And two years later came the Abu Ghraib scandal, in which U.S. guards degraded and abused Iraqi prisoners.

For Ottawa, which had not renounced the Geneva Conventions, all of this was an embarrassment.

It was also a legal problem. Domestic law in Canada and other countries makes it a crime to hand over captured prisoners to a power that openly tortures.

And so some NATO countries, including Canada, developed an alternative approach: They would hand prisoners over to Afghanistan's NDS instead.

The Afghan government's formal pledge to follow international law, it was thought, would get them off the Geneva hook.

Britain even insisted that the Afghans not hand over prisoners it had captured to anyone else — that is, the Americans.

The flaw in the reasoning was that all knew the brutal reputation of the NDS. By 2006, it had already been cited by human rights organizations for torture.

But still these governments had plausible cover. They could say that at least they weren't handing over prisoners to a nation that openly flouted international law.

What this week's leaked documents show, however, is that Canada and others did just that. By transferring prisoners to the NDS, they were in effect handing them over to America's CIA, an agency that at the time was fully engaged in coercive interrogation.

Did Ottawa know this? If so, that could explain why the Conservative government is so adamant about keeping its files on the detainee issue secret.

If ministers knew at the time that their elaborate attempt to stay on the right side of the Geneva Conventions was a ruse, they would be in contravention of Canadian and international law. They could be prosecuted.

And that's an incentive to keep things quiet.