

Khmer Veterans of Minnesota  
7360 53rd Street, Oakdale, MN 55128

March 3, 2026

Minnesota State Legislature  
Attn: Veterans Affairs Committee  
75 Rev Dr Martin Luther King Jr Blvd  
Saint Paul, MN 55155

Dear Members of the Minnesota State Legislature,

We, Khmer (Cambodian) veterans who served along side United States military as brothers in arms, advisors at training campsites in Laos, MACV-SOG irregular Hatchet team members, and regular Khmer forces under Project Copper during the Secret War in Laos (1961–1975), wholeheartedly support amendments to Minnesota Statutes § 197.448 for inclusive recognition and a robust verification protocol such as the Chain-of-Honor model found at:

<https://www.cavvw.org/observations-advise--difficulties.html>  
<https://www.cavvw.org/final-overview--statement.html>  
<https://www.cavvw.org/other-ethnic-allies-laos.html>

Our roles included training Lao and Hmong irregulars at CIA camps in Laos, conducting cross-border reconnaissance and sabotage as MACV SOG Hatchet and CIDG team members (mixed Khmer/U.S. Special Forces units targeting NVA supply lines) along the Ho Chi Minh Trail, and paramilitary operations in Project Copper (CIA-funded Khmer surrogates fighting in Laos/Cambodia borders). Based often in Cambodia or Thailand, we supported U.S. missions in Laos at immense risk, with many lost to combat or captivity.

Yet, we are omitted from § 197.448 due to geographic ambiguities and the Hmong-specific 2000 Act proxy. Federal NCA eligibility (38 U.S.C. § 2402(a)(10)) explicitly excludes Khmer allies, denying us verification despite our contributions.

We advocate for amendments clarifying "irregular forces" to include Khmer roles and implementing the Chain-of-Honor: claimant affidavits, officer confirmations, EO 13526-compliant CIA authentication, board reviews, and safeguards like perjury penalties. This ensures equitable access to benefits and equal protection.

Enact these changes to recognize our sacrifices fully.

Sincerely,

Houen Hach  
Spokesperson, Khmer Veterans of Minnesota & Khmer Rouge Genocide Survivor

Edward Kong, Vadnais Heights, MN - Khmer Republic Armed Forces  
Sinuon Sang, Bloomington, MN - Khmer Republic Armed Forces  
Sotheary Duong, Saint Paul, MN - Sons and Daughters of Cambodia  
Chatham Vong, Shokopee, MN - Khmer Republic Armed Forces  
Kunthea Barrack, Burnsville, MN - Khmer Republic Armed Forces  
Saran Pen, Burnsville MN - Khmer Republic Armed Forces

Hoeun Jeff Suos, Bloomington, MN - Khmer Republic Armed Forces  
David Chem, Rochester, MN - Khmer Republic Armed Forces  
Than Ngin, Bloomington, MN - Khmer Republic Armed Forces  
Samual Khath, Eagan, MN - Khmer Republic Armed Forces  
Sarik Oun, Bloomington, MN - Khmer Republic Armed Forces  
Sithoeun Chem, Eagan, MN - Khmer Republic Armed Forces  
Hoeun Hach, Oakdale, MN - Sons and Daughters of Cambodia  
Saray Sok, Saint Paul, MN - Khmer Republic Armed Forces  
Yorn Yan, Cottage Grove, MN - Khmer Republic Armed Forces, President of United  
Cambodian Association of Minnesota  
Sengkim Nguon, Eagan, MN - Khmer Republic Navy

**Letter of Support from Royal Lao Veterans of Minnesota**  
**PO Box 43457 Brooklyn Park, MN 55443**

March 3, 2026

Minnesota State Legislature  
Attn: Veterans Affairs Committee  
75 Rev Dr Martin Luther King Jr Blvd  
Saint Paul, MN 55155

Dear Members of the Minnesota State Legislature,

As representatives of Lowland Lao veterans who comprised nearly 60% of all forces in Laos during the Secret War (1961–1975), we strongly support amendments to Minnesota Statutes § 197.448 to broaden eligibility and establish a fair verification protocol like the Chain-of-Honor model found at:

<https://www.cavvw.org/observations-advise--difficulties.html>  
<https://www.cavvw.org/final-overview--statement.html>  
<https://www.cavvw.org/other-ethnic-allies-laos.html>

Lowland Lao (Lao Loum) soldiers formed the backbone of the Royal Lao Armed Forces and irregular units, defending against Pathet Lao and NVA incursions through ground combat, logistics, and support for CIA-backed operations. We operated alongside Hmong SGUs in Military Region 2 and alone in Military Regions 1,3, and 4 often from sites in the Mekong lowlands or adjacent areas, suffering heavy casualties in battles like those in the Plain of Jars.

Our contributions were essential to U.S. strategy, yet we are largely omitted from recognition. The current statute's undefined "irregular forces" and "base in Laos" restrictions, coupled with the Hmong-focused 2000 Naturalization Act proxy, exclude us—as do federal NCA processes (38 U.S.C. § 2402(a)(10)), which prioritize Hmong/Lao SGUs. This inequity denies us state benefits despite our honorable service.

We back the amendments to explicitly include Lowland Lao and other ethnic forces and adopt the Chain-of-Honor: sequential affidavits, officer endorsements, retired CIA authentication (EO 13526-compliant), and antifraud measures (e.g., audits, perjury penalties). This would rectify exclusions and uphold constitutional equity.

Please act to honor our full role in the Secret War.

Sincerely,

CL Khao Insixiangmay  
Royal Lao Armed Forces and SGU Veterans of Minnesota  
CL Khambang Sibounheuang, Royal Lao Airborne  
1st LT Houmpheng Phongsavath,  
1st LT Somxay Phonphiboun  
Capt. Chitchay Inthapanya  
Sgt. Yo Phothijak  
Sgt. Jack Sithon Soukha  
Capt. Bounnom Keophothisane  
1st LT Phoukio Khaochonethan  
Sgt. King Daoheuang  
Capt. Phaithoun Phothisane  
1st LT Hong David Prasomsack  
1st LT Bounling Praxaya

**Letter of Support from  
Thomas Leo Briggs, Robert "Blackbird" Phillipson, & Eli P. Chavez  
former CIA Case Officers Secret War in Laos**

March 3, 2026

Minnesota State Legislature  
Attn: Veterans Affairs Committee  
75 Rev Dr Martin Luther King Jr Blvd  
Saint Paul, MN 55155

Dear Members of the Minnesota State Legislature,

We, Thomas Leo Briggs, Robert "Blackbird" Phillipson, and Eli P. Chavez former CIA case officers with extensive service in Laos, Cambodia, and Thailand during the Secret War (1961–1975), jointly support amendments to Minnesota Statutes § 197.448 to ensure inclusive veteran recognition and a verification protocol such as the Chain-of-Honor model.

Thomas Briggs and Eli P. Chavez coordinated Hmong SGUs and Royal Lao forces in Laos, while Robert Phillipson managed irregular operations across borders, including liaison with Khmer, Thai, and Lao allies. Our firsthand experience underscores the diverse contributions to U.S. efforts, yet non-Hmong allies are excluded by statutory ambiguities and federal proxies. The "base in Laos" restriction and 2000 Naturalization Act focus omit cross-border missions we oversaw, as does NCA eligibility (38 U.S.C. § 2402(a)(10)).

We endorse the amendments and Chain-of-Honor: affidavits, officer confirmations, EO 13526-compliant authentication (drawing on our expertise without classified disclosure), board reviews, and antifraud measures. This promotes equity and constitutional fairness.

Pass these reforms to honor all involved.

Sincerely,

Thomas Leo Briggs  
Former CIA Case Officer

Robert "Blackbird" Phillipson  
Former CIA Case Officer

Eli P. Chavez  
Former CIA Case Officer

Letter of Support from the Special Forces Association of Minnesota  
Special Forces Association of Minnesota – Chapter XX  
Burnsville, Minnesota 55337

February 26, 2026

Minnesota State Legislature  
Attn: Veterans Affairs Committee  
75 Rev Dr Martin Luther King Jr Blvd  
Saint Paul, MN 55155

Dear Members of the Minnesota State Legislature,

On behalf of the Special Forces Association of Minnesota, representing Green Berets and allied veterans who served in Southeast Asia during the Vietnam War era, we strongly support amendments to Minnesota Statutes § 197.448 to promote inclusive recognition of Secret War in Laos veterans and adopt a fair verification protocol like the Chain-of-Honor model.

Our members, including those involved in MACV-SOG, CIDG programs, and cross-border operations in Laos, worked alongside diverse irregular forces—Hmong, Khmer, Montagnard, and others—in covert missions supporting U.S. objectives. These alliances were critical, yet non-Hmong contributions are omitted from current eligibility criteria.

The statute's restrictive language and Hmong-centric proxies, along with federal NCA exclusions (38 U.S.C. § 2402(a)(10)) for allies like Khmer or Thai, perpetuate inequity.

We back the amendments to expand definitions and implement the Chain-of-Honor: sequential affidavits, officer endorsements, retired CIA authentication (EO 13526-compliant), board oversight, and safeguards (audits, perjury penalties). This ensures all Special Forces allies receive deserved state benefits.

Enact these changes to honor our shared legacy.

Sincerely,

Ron Lachelt, President  
Special Forces Association of Minnesota, Chapter XX

More about the new Veteran defined law and the CAVWV research on it can be found by visiting these webpages:

<https://www.cavwv.org/cavwv-report--analysis.html>

<https://www.cavwv.org/task-force-final-report.html>

Could you email this signed letter to the State Representatives below and to any others you might want to connect with,

[rep.matt.bliss@house.mn.gov](mailto:rep.matt.bliss@house.mn.gov)

[rep.jim.nash@house.mn.gov](mailto:rep.jim.nash@house.mn.gov)

[rep.kristin.robbins@house.mn.gov](mailto:rep.kristin.robbins@house.mn.gov)

[sen.gene.dornink@mnsenate.gov](mailto:sen.gene.dornink@mnsenate.gov)

[Sen.Jeff.howe@senate.mn.gov](mailto:Sen.Jeff.howe@senate.mn.gov)

[Sen.mark.koran@senate.mn.gov](mailto:Sen.mark.koran@senate.mn.gov)

[rep.bidal.duran@house.mn.gov](mailto:rep.bidal.duran@house.mn.gov)

**Letter of Support from the Vietnamese Community and Veterans (Road Watch and Plan  
34A Missions in Laos)  
Vietnamese Association of America**

March 3, 2026  
Minnesota State Legislature  
Attn: Veterans Affairs Committee  
75 Rev Dr Martin Luther King Jr Blvd  
Saint Paul, MN 55155

Dear Members of the Minnesota State Legislature,

We, the undersigned Vietnamese veterans who served in Road Watch and OPlan 34A missions inside Laos during the Secret War (1961–1975), and our Vietnam War veterans write in strong support of amendments to Minnesota Statutes § 197.448 to expand the definition of "Veteran of the Secret War in Laos" and implement an inclusive verification protocol, such as the proposed Chain-of-Honor model found on the CAVWV website

<https://www.cavwv.org/observations-advise--difficulties.html>  
<https://www.cavwv.org/final-overview--statement.html>  
<https://www.cavwv.org/other-ethnic-allies-laos.html>

Our service involved high-risk covert operations: Road Watch teams monitored North Vietnamese Army (NVA) movements along the Ho Chi Minh Trail in Laos, providing critical intelligence to U.S. forces, while OPlan 34A included maritime and commando raids into Laos and North Vietnam under the Military Assistance Command, Vietnam – Studies and Observations Group (MACV-SOG). Vietnamese commandos, often ethnic minorities or ARVN special forces, operated from bases in South Vietnam or Thailand, conducting sabotage, reconnaissance, and interdiction missions in Laos at great personal cost—many were captured, tortured, or killed.

Despite these contributions in direct support of U.S. efforts, we are omitted from current recognition under § 197.448 due to ambiguities like "operated from a base in Laos" (excluding our cross-border staging) and over reliance on the Hmong Veterans' Naturalization Act of 2000, which does not apply to us. Federal NCA burial eligibility (38 U.S.C. § 2402(a)(10)) similarly excludes Vietnamese allies, perpetuating inequity.

We endorse the proposed amendments to clarify definitions, include adjacent-country operations, and adopt the Chain-of-Honor model—using sworn affidavits, officer confirmations, and EO 13526-compliant CIA/U.S. veteran authentication—to verify our honorable service equitably. This would honor our sacrifices and align with equal protection principles under the Minnesota Constitution.

We urge swift enactment to ensure all Secret War allies, including Vietnamese veterans, access deserved state benefits.

Sincerely,

Tran Van Quy, Saint Paul, MN - Strategic Technical Directorate, Oplan 34A Commando  
Thien Hoang, Saint Paul, MN - Strategic Technical Directorate, Oplan 34A Commando

## Fellow Veterans and Vietnamese Community Leaders

Hoc Nguyen, ARVN Air Force Veteran and President of the Republic of Vietnam Veterans Fellowship of Minnesota, Saint Paul, MN  
Tri Tang, President, Vietnamese Association of Minnesota, Robbinsdale, MN  
Martino Nguyen, Brooklyn Park, MN - President of Vietnamese Museum  
Ninh Phung, Saint Paul, MN - ARVN Air Force Veteran  
Trong Nguyen, Brooklyn Park, MN - ARVN Armed Forces  
Dieu Tran, Brooklyn Park, MN - ARVN Armed Forces  
Do Van, Brooklyn Park, MN - ARVN Armed Forces  
Huong Nguyen, Brooklyn Center, MN - ARVN Armed Forces  
So Nquyen, Saint Paul, MN - ARVN Armed Forces  
Nam Nguyen, Saint Paul, MN - ARVN Armed Forces  
Luan Nguyen, Shakopee, MN ARVN Armed Forces  
Binh Cao, Saint Paul, MN - ARVN Armed Forces  
Khoi Nguyen, Saint Paul, MN - ARVN Armed Forces  
Nguyen Ty, Saint Paul, MN - ARVN Armed Forces  
Do Dai, Saint Paul, MN - ARVN Armed Forces  
Dung Nguyen, Shakopee, MN - ARVN Armed Forces  
Ha Tuong, Bloomington, MN - ARVN Armed Forces

# Part 1

## CAVWV Overview Statement Final Meeting of the Minnesota Advisory Task Force

Submitted by Scott Walker, Minnesota Advisory Task Force Member

Chair, members of the Task Force, Commissioner's representatives, and members of the public:

CAVWV appreciates the opportunity to offer a final statement. We begin by acknowledging the MDVA General Counsel memorandum: **this Task Force is not a court** and is not empowered to declare Minnesota Statute §197.448 unlawful or overturn legislative choices. We accept that jurisdictional constraint.

Our concern is not partisan. It is about **governance quality, logic, and the long-term stability** of a law that confers meaningful veterans' benefits and privileges, including veterans' preference in employment, based on eligibility standards that remain **ambiguous, historically incomplete, and vulnerable to both fraud and exclusion**.

The history of Southeast Asia from 1961 to 1975, particularly the covert war in Laos, was **complex, compartmentalized, and not fully documented**. Many allied surrogate forces served without rosters, pay records, or unit rolls. In that environment, Minnesota must avoid two equally unacceptable outcomes:

1. Excluding legitimate allied veterans who cannot produce records that never existed, and
2. Enabling fraudulent claims through weak proof standards or circular affidavit chains.

Minnesota's current framework contains structural vulnerabilities. Key terms such as "special guerrilla unit," "irregular forces," "operated from a base in Laos," and "in support of the armed forces of the United States" are not defined with sufficient clarity to ensure consistent adjudication. The result can be arbitrary inclusion or exclusion, and unequal treatment among similarly situated allied veterans, including Thai, Khmer, Vietnamese, and other forces who supported **U.S. government-directed military or national security operations**, including covert and interagency efforts.

This is not about challenging legislative authority. It is about what Minnesotans should expect from government: **equal treatment under law, evidence-based decision making, transparency, and defensible standards**, especially when high-salience benefits such as

veterans' preference are involved and when Minnesota's established U.S. veteran community and VSOs will naturally expect integrity and clarity.

Therefore, CAVWV asks the Task Force to recommend:

1. Clear definitions and safeguards;
2. A structured supplemental verification method, such as a standardized Chain-of-Honor certification, and
3. Targeted statutory clarifications where needed so the Commissioner can make fair, auditable, and sustainable determinations under subdivision (2), and so Minnesota can avoid future controversy.

That is the best way to respect the Legislature, protect legitimate allied veterans, deter fraud, and preserve public confidence.

## Part 2

Submitted by the Minnesota Department of Veteran Affairs for Task Force consideration.

Eligibility Protocol DRAFT 11.7.25

### **Eligibility for State Veterans Benefits and Privileges Protocol – Veterans of the Secret War in Laos**

This protocol establishes procedures for determining eligibility for state veterans benefits and privileges for Veterans of the Secret War in Laos.

Eligibility for benefits under this section require the applicant to pre-file for burial with the U.S. Department of Veterans Affairs National Cemetery Administration. The applicant must complete VA Form VA40-10007, "Application for Pre-Need Determination of Eligibility for Burial in a VA National Cemetery," and provide a copy of their U.S. Certificate of Naturalization showing the Registration "A" number. The registration number will be used by the U.S. Citizenship and Immigration Services to retrieve the applicant's naturalization records for determination by the Federal VA.

Minnesota County Veteran Service Officers or the Minnesota Department of Veterans Affairs may assist applicants in completing VA Form VA40-10007. Copies of this form will be available on the department website and at department offices.

After the Federal VA determines eligibility, the applicant must provide a copy of the determination to the department. Upon verification, the Minnesota Department of Veterans Affairs will issue the applicant a Certificate of Eligibility qualifying them for state veterans benefits and privileges.

### **Special Consideration by the Commissioner**

If an applicant does not receive a positive determination from the Federal VA, they may request Special Consideration by the Commissioner

Applications for Special Consideration must follow the prescribed process by the Commissioner. Applicable forms and the submission process will be available on the Minnesota Department of Veterans Affairs website and in person at the offices of the department.

For Special Consideration, the applicant must submit the following:

- (1) the denial notice from the Federal VA, and
- (2) at least two different forms of documentation supporting the claim of Veteran status.

Acceptable documentation may include:

- (1) original service-related documents;

- (2) an affidavit of the applicant's superior officer;
- (3) two affidavits from individuals who served with the applicant in a special guerrilla unit or irregular forces, and have personal knowledge of the applicant's service; or
- (4) other appropriate proof as determined by the Commissioner.

Determination of an applicant's eligibility for special consideration requires the Commissioner to evaluate the authenticity and consistency of all submitted documentation and may also review records maintained by organizations that track SGU or Irregular Force Veterans.

Within 90 days of receiving a completed application and supporting documentation, the Commissioner will issue a determination of eligibility, determination of denial, or request additional information from the applicant. Applications will remain open until a final determination is issued. If the Commissioner determines that the applicant qualifies as a Veteran of the Secret War in Laos, The Commissioner will issue a Certificate of Eligibility recognizing the applicant's status for state veteran benefits and privileges.

#### **Appeals of Special Consideration Determinations**

If the Commissioner denies issuance of a Certificate of Eligibility, the applicant may submit a written request for a contested case hearing to challenge the determination of Veteran status. The request must be filed within 30 days from the date of the denial notice and must state the specific reasons for contesting the determination.

Contested case hearings will be conducted in accordance with the procedures established in Minnesota Statutes sections 14.57 through 14.62.

#### **Deadline for Application**

Applications for eligibility determinations will be accepted until June 30, 2028.

## Part 3

### Logic & Verification Brief:

## Why “Admission/Naturalization = Service” Is a Weak Proof Standard (and What Works Better)

### Core Issue

Public Law 106-207 provides naturalization relief for certain refugees from Laos who also performed qualifying service with U.S.-supported special guerrilla units or irregular forces. The law anticipates eligibility will be supported by documentation or “other appropriate proof,” including affidavits. In later debates, some have treated *refugee admission/naturalization itself* as determinative evidence of qualifying service, even when there is no evidence that INS actually reviewed or verified the required documentation.

### Framing Box — What This Paper Does (and Does Not) Argue

**This analysis does not challenge the authority of the Legislature to define eligibility criteria by statute.** It explains a logic and verification problem: naturalization/admission may function as a legal proxy for service, but it is not conclusive proof of service absent verified records. This matters for fraud deterrence and for any future expansion beyond those already covered by statute. **It also matters because proxy standards can produce unintended downstream effects, including ambiguity about the scope of recognition and benefits and potential concern among Minnesota’s U.S. veteran constituency and Veteran Service Organizations, unless clear standards and safeguards are articulated.**

### Key Logic Finding

The political inference at issue is essentially:

“If the person was admitted/naturalized under the program, that outcome proves they met the service requirement.”

This relies on an institutional presumption:

“The government did its job correctly; therefore, admission implies compliance.”

But logically, **admission is consistent with eligibility; it does not entail eligibility.** Administrative admissions can occur with incomplete evidence, misfiled paperwork, inconsistent standards, or discretionary decisions. Therefore, admission/naturalization is **at best prima facie evidence**, not conclusive proof, unless there is evidence that service verification actually occurred.

### The “Blue Hat and Red Shoes” Test

To expose the weakness of the inference, substitute the service requirement with something clearly unrelated:

“The refugee was wearing a blue hat and red shoes.”

No reasonable policymaker would accept:

“Because the refugee was admitted, that proves they wore a blue hat and red shoes.”

This substitution shows the original claim (“admitted = served”) is not deductive proof; it is a presumption.

## **Why Logic Must Trump “Presumed Compliance” and “Circular Affidavits”**

Without logic-based standards, the system collapses into either:

1. **Presumed compliance** (administrative acceptance becomes “proof”), or
2. **Circular affidavits** (“unverified people certify each other”), both of which invite fraud, undermine public confidence, and produce inconsistent outcomes.

## **Common Citizen Analogues (Familiar Comparisons)**

This same proof problem arises in contexts widely understood by the public:

- **Holocaust survivor/restitution claims** (records destroyed; proof reconstructed through corroboration)
- **Stolen valor disputes** (buddy statements alone are insufficient without credible anchors)
- **Disaster relief/property claims after records burn or flood** (affidavits become circular without structure)  
These analogues show why agencies must use structured credibility methods rather than unexamined presumptions.

## **Minnesota Law/MDVA General Counsel Clarification**

MDVA General Counsel has advised that Minnesota law already defines persons naturalized under Public Law 106-207 as Veterans of the Secret War in Laos and that the Task Force lacks authority to second-guess the Legislature’s decision to treat naturalization as determinative. **This is a jurisdictional and statutory limitation, not a logical proof that naturalization reliably verifies service;** the logic concern remains relevant for fraud deterrence and any future eligibility expansion beyond those already covered.

## **Best Available Solution When Records Do Not Exist: “Chain of Honor” Certification**

In covert war environments, rosters, pay stubs, and unit records often did not exist; many low-level fighters were known only by first names. Under those constraints, **a structured Chain-of-Honor certification system** (with senior U.S. and allied operational anchors) is superior to presumed compliance or circular affidavits. It creates reputational accountability, hierarchical filtering, operational plausibility checks, and an auditable record, without pretending missing records can be produced decades later.

## Part 4

### Structural Ambiguity & Governance Risk in Minnesota Statute §197.448

**Purpose.** This document identifies statutory ambiguities and structural design risks in Minnesota Statute §197.448 that may complicate the Minnesota Task Force’s ability to recommend a fair, enforceable, and sustainable protocol for determining eligibility for state veterans' benefits and privileges for “Veterans of the Secret War in Laos.” This document is factual and non-partisan; it does not challenge legislative authority to define eligibility in the statute.

**Summary:** Our conclusion identifies and demonstrates that Minnesota Statute §197.448, as currently structured, contains material ambiguity and design weaknesses that directly affect fairness, enforceability, and the long-term legitimacy of those veterans the legislation is intended. The statute relies on a proxy pathway (PL 106-207 naturalization) that is intended to function as a legal eligibility trigger but does not, by itself, resolve the verification problem for qualifying service, while the commissioner determination pathway, when an applicant is rejected for not satisfying federal requirements and omits other non-Lao and Hmong veterans, depends on undefined terms “special guerrilla unit,” “irregular forces,” “base in Laos,” and “in support of the armed forces of the United States”, that invite inconsistent interpretation and unequal outcomes unless clarified through definitions and safeguards. Because the statute also extends high-salience benefits such as veterans' preference and permissive preference in private employment, these ambiguities create heightened governance risk: fraud exposure on one side, exclusion of legitimate allied veterans on the other, and stakeholder controversy over time. Accordingly, this suggests that the Task Force should recommend targeted clarifications, structured verification methods, and integrity controls to ensure the law is administrable, equitable, and sustainable. Our conclusion synchronizes with the CAVWV “Task Force Motion dated 27 Oct 2025” in its central finding that the current framework lacks a credible and uniform verification mechanism and is vulnerable to inconsistent and inequitable administration unless the State adopts clear standards and formal safeguards before expanding or codifying additional recognition protocols.

#### 1) Core Structural Observation

Section 197.448 creates two eligibility pathways: (1) an automatic pathway based on naturalization under Public Law 106-207, and (2) a commissioner-determined pathway based on honorable service with “a special guerrilla unit” or “irregular forces” that “operated from a base in Laos” in support of U.S. armed forces during the defined period.

This structure has two governance consequences: (a) it makes an administrative proxy (naturalization) determinative for one class, and (b) it requires the state to interpret several undefined terms for the second class. These features increase the risk of inconsistent adjudication, perceived inequity among similarly situated allied veterans, and long-term stakeholder controversy unless clarifications and safeguards are adopted.

## 2) Identified Ambiguities (Definitions and Scope)

- **Inconsistent descriptive framing.** Related legislation and task-force descriptors use different terms (e.g., “Veteran of the Secret War in Laos” vs. “Veterans of SGU and irregular forces in Laos”), which can create confusion about intended scope.
- **Undefined key terms.** “Special guerrilla unit” and “irregular forces” are not defined in the statute. Without definitions, agencies must rely on historical interpretation and administrative guidance, increasing the risk of inconsistent inclusion/exclusion.
- **Ambiguity of “operated from a base in Laos.”** The term “base” is undefined and could refer to permanent camps, PS sites, staging areas, or temporary operational positions. Different interpretations may change eligibility outcomes.
- **Ambiguity of “in support of the armed forces of the United States.”** The phrase may not accurately reflect covert and interagency command structures and can be read narrowly as conventional DoD-commanded service, potentially excluding allied surrogate forces who supported U.S. government-directed military or national security operations conducted under covert or interagency authorities.

## 3) Equity and Legal-Consistency Concerns (Not a Legal Challenge)

Undefined terms and mixed proxy/verification pathways can produce disparate outcomes for similarly situated allied surrogate veterans (e.g., those supported through different U.S. channels or allied command structures). This addendum does not assert a constitutional violation; it flags that unequal treatment without a clear rational basis may raise equity and legal-consistency concerns and invite scrutiny unless the Legislature or MDVA clarifies the scope and standards.

## 4) High-Salience Benefit Implications

Section 197.448 extends specified “statutory benefits and privileges available to a veteran” to the defined category of Secret War veterans, including veterans’ preference in public employment (§197.455) and permissive preference in private employment (§197.4551). Because these benefits can affect employment competition and broader stakeholder interests, ambiguous eligibility definitions increase the risk of public controversy and challenges unless verification standards and safeguards are clear and consistently applied.

## 5) Recommended Clarification & Safeguards (Administratively Feasible)

- **Define key terms.** Provide statutory or administrative definitions for “special guerrilla unit,” “irregular forces,” “base in Laos,” and “support of U.S. armed forces,” with examples where appropriate.
- **Clarify inclusion criteria for non-Lao allied surrogates.** Explicitly address whether similarly situated Thai, Khmer, Vietnamese, or other allied irregular forces operating from or through Laos are intended to be eligible, to avoid ad hoc decisions.

- **Adopt a structured supplemental verification method.** Where official records are absent, use standardized “Chain-of-Honor” certification templates requiring basis-of-knowledge statements, independent corroboration where possible, and auditability.
- **Distinguish statutory proxy from verified service.** Preserve the Legislature’s chosen proxy for those already covered, while clarifying that proxy standards are not identical to independently verified military service for purposes of expanded categories.
- **Document integrity controls.** Include revocation authority for proven fraud, random audit authority, and transparent standards to protect legitimate claimants and maintain confidence among Minnesota’s established veteran community and veteran service organizations.

**Bottom line.** The Task Force can still recommend a workable protocol, but undefined terms and proxy-driven structure make the system vulnerable to inconsistent application and stakeholder conflict unless clarifications and safeguards are adopted. Addressing these ambiguities now protects legitimate allied veterans, strengthens fraud deterrence, and supports long-term public confidence in Minnesota’s veterans’ benefits framework.

# Part 5



## MINNESOTA DEPARTMENT OF VETERANS AFFAIRS

20 W 12th St, St Paul, MN 55155  
Phone: 651-296-2562 • Fax: 651-296-3954  
MinnesotaVeteran.org • 1-888-LinkVet

December 19, 2025

Re: MDVA GCO's General Opinion

The Minnesota Department of Veterans Affairs' General Counsel's Office reviewed the legal assertions and conclusions found in the CAVVV Report and Analysis on Irregular Veterans Identification (hereinafter, "the CAVVV Report") in advance of the Veterans of Special Guerilla Units and Irregular Forces in Laos Advisory Task Force ("SGU Task Force") meeting scheduled for December 19, 2025.

In its report, CAVVV indicates that the SGU Task Force cannot rely on the legal determinations of the Hmong Veterans' Naturalization Act of 2000 (Public Law 106-207) because the law was established the purpose of Immigration and Naturalization, not for the purpose of establishing veteran status.

Minnesota Statute section 197.448, subdivision 1(1) already establishes that a person who was naturalized under Public Law 106-207 is a Veteran of the Secret War in Laos. Member Walker's arguments challenge the legality of Minnesota Statute 197.448, subdivision (1). The legality of the statute is not part of this Task Force's duties as defined in the Laws of Minnesota 2025, Chapter 30, Article 2, Section 13, subdivision 2.

The SGU Task Force is charged with "establish[ing] criteria for determining which Minnesotans served in the SGU or irregular forces in Laos" and are deserving of Veterans benefits. The Legislature, presumably, will consider these criteria when considering amendments to Section 197.448. Any amendments will affect what individuals, in addition to those naturalized under Public Law 106-207, the Commissioner of MDVA may determine to have "served honorably with a special guerrilla unit or with irregular forces that operated from a base in Laos in support of the armed forces of the United States."

This Task Force is not the right venue for Member Walker's legal challenge to Minnesota's adoption of Public Law 106-207 as determinative. The SGU Task Force was created by the Legislature to determine the criteria that will make up Section 197.448, subdivision 1(2). It is not, however, within the authority or purview of this Task Force to second-guess the Legislature's decision to adopt naturalization under Public Law 106-207 as determinative.

Member Walker's proposed criteria for determining which Minnesotans served in the SGU or irregular forces in Laos as outlined in the CAVVV Report, specifically the creation of a "state SGU Verification Board" does not appear in the previous meeting summaries to have been made into a motion for vote by this body. I would recommend that if the Task Force desires, by way of a motion, to consider that potential criteria and vote on the recommendation. Such a motion is consistent with the SGU Task Force's charge and authority as detailed in the Laws of Minnesota 2025, Chapter 30, Article 2, Section 13, subdivision 2. Such a "state SGU Verification Board," however, could not legally disqualify a Minnesotan who was naturalized as provided in Public Law 106-207 from the benefits and privileges enumerated in Section 197.448, subdivision 2(a). And based on its processes detailed in Section III of CAVVV's Report, the Verification Board seems to supplant authority delegated from the Legislature to the Commissioner of MDVA in Section 197.448, subdivision 1(2), calling into question the legal legitimacy of a Verification Board.

### Serving Minnesota Veterans and Their Families

MDVA is a Veteran-friendly, equal opportunity and affirmative action employer and service provider. This document can be made available in alternate formats. Contact MDVA's Diversity, Equity and Inclusion Line at 612-548-5961 or your preferred telecommunications relay service.

## Part 6

CAVWV acknowledges the MDVA General Counsel’s conclusion that this Advisory Task Force is not a judicial body and does not have authority, within its statutory duties, to invalidate or re-litigate the legality of Minnesota Statute §197.448 as enacted.

At the same time, the Task Force remains responsible for identifying and addressing practical governance concerns within its scope, especially where eligibility standards rely on proxy determinations, undefined terms, or evidentiary gaps that may affect fraud deterrence, consistent adjudication, and public confidence in state veterans' benefits.

The record before the Task Force supports the inclusion of recommendations for clear definitions, safeguards, and supplemental verification methods, and, where appropriate, targeted statutory clarification language to ensure that eligibility determinations can be applied fairly, consistently, and sustainably over time.

### I. Factual and Structural Verification (Claim-by-Claim)

#### Claim 1

**Statement/Claim:**

“Minnesota Statute section 197.448, subdivision 1(1) already establishes that a person who was naturalized under Public Law 106-207 is a Veteran of the Secret War in Laos.”

**Classification:** **Factually accurate** (as a description of the statute’s text)

**Analysis:**

This claim is accurate as a matter of **state statutory construction**. The statute’s clause (1) is written as an **eligibility rule**: if you meet it, you are within the state-defined category. The General Counsel is correctly describing the operative legal effect of §197.448 subd. 1(1) as enacted.

**Key point:**

This is a statement about **what Minnesota law says**, not a statement about whether the underlying federal process **actually verified** SGU service.

## Claim 2

### Statement/Claim:

“Member Walker’s arguments challenge the legality of Minnesota Statute 197.448, subdivision (1).”

### Classification: Partially true/potentially misleading

### Analysis:

The CAVVW report **does** argue that using PL 106-207 naturalization as a **determinative proof proxy** creates a **verification and logic problem** and can be administratively unsound. But whether that constitutes a **legal challenge to the statute’s validity** (i.e., claiming the statute is unconstitutional or invalid) is not necessarily what the report is doing.

The report is primarily structured as:

- “This is logically flawed as evidence of service,” and
- “This produces verification vulnerability and exclusion/inclusion error,”  
not: “This statute is invalid and must be struck down.”

So the GCO’s phrasing **reframes** a “logic/verification objection” as a “legality challenge.” That may be **rhetorically useful**, but it is not a perfect representation of the report’s main thrust.

### Why this matters:

It shifts the debate from “Is this standard defensible and safe?” to “Are you trying to overturn law?” That is a subtle but meaningful framing move.

## Claim 3

### Statement/Claim:

“The legality of the statute is not part of this Task Force’s duties as defined in the Laws of Minnesota 2025...”

### Classification: Mostly accurate as a jurisdictional statement

### Analysis:

Advisory task forces generally have **limited statutory mandates**. If the task force was created to recommend criteria and protocol, indeed, it is typically **not a judicial or constitutional review body**.

However - important nuance - **a body can be barred from adjudicating legality and still be obligated to consider implementation defects or downstream governance risk**.

The fact that the TF can’t “strike down” the statute does **not** mean it should ignore:

- verification vulnerabilities,
- fraud risk,
- administrative feasibility,

- equity/coverage gaps,
- or unintended expansion consequences.

That is where the GCO's statement is **procedurally correct** but can be read as **overbroad** if interpreted to mean "don't discuss flaws."

## Claim 4

### Statement/Claim:

"It is not... within the authority or purview of this Task Force to second-guess the Legislature's decision to adopt naturalization under PL 106-207 as determinative."

**Classification: Legally defensible but logically incomplete**

### Analysis:

This is the core institutional presumption claim: **the Legislature has chosen a proxy; the TF shouldn't revisit it.**

Legally:

- The TF likely cannot recommend undoing subdivision 1(1) without legislative action.

Logically/administratively:

- The TF **can** still analyze whether this proxy produces flaws, and whether safeguards should be recommended **around it**, especially because the TF's mandate is about **criteria/protocol for eligibility**, and because the proxy interacts with benefits similar to those of DD-214 validated U.S. veterans.

In other words, the TF may not be able to "second-guess" the decision as a matter of repeal, but it can still recommend **clarifying language, guardrails, and anti-fraud integrity measures** so that the proxy does not become an unexamined engine for future expansion.

## II. Ideological and Rhetorical Bias Detection

### Bias/Rhetorical Technique 1: Jurisdictional "shut-down framing."

**Pattern:** "This isn't the right venue."

**Classification: Rhetorically strategic framing (not necessarily improper)**

### Analysis:

The GCO opinion uses a common government-lawyering technique:

- convert a substantive objection ("this proxy is flawed") into a procedural objection ("you're challenging legality"), then conclude: "not within scope."

This is not an ideological bias (left/right), but it is an **institutional bias** toward preserving enacted statutory authority and constraining discussion to the TF's narrow mission.

## **Bias/Rhetorical Technique 2: Presumption of legislative correctness**

**Pattern:** “The Legislature already decided X; therefore, we treat X as determinative.”

**Classification:** **Institutional deference framing**

### **Analysis:**

This reflects the legal culture of executive counsel: **protect statute, protect agency**. It is not a partisan ideological bias; it is a role-based bias typical to general counsel offices.

The effect: it implicitly discourages discussion of whether the statute's proxy standard is **logically defensible** as evidence or **safe as a fraud control mechanism**.

## **III. Logical Fallacies/Weak Reasoning**

### **Fallacy Risk 1: Category Error (proxy vs proof)**

The GCO treats “Minnesota statute defines it as determinative” as if it resolves the issue of “whether it is reliable proof of service.”

But **those are different propositions:**

- **Legal rule:** “If naturalized under PL 106-207, Minnesota treats you as a veteran of the Secret War.”
- **Epistemic claim:** “Therefore, it proves you served in an SGU.”

The CAVWV report's central logic argument is that the second proposition does **not** follow from the first. The GCO opinion does not rebut this; it sidesteps it by asserting statutory closure.

### **Fallacy Risk 2: Straw-manning the objection**

By framing Walker/CAVWV's position as “challenging legality,” the GCO may be reducing an implementation/verification critique into a legal attack, then dismissing it as out of scope.

That is a **rhetorical simplification** rather than a direct logical fallacy, but it produces a similar effect.

## **IV. The “Big Question”**

**If information has been introduced into the record that the law is severely flawed, how valid is the GCO opinion that such objections are not to be considered by the TF?**

## **Answer:**

The GCO opinion is **valid** as to *formal authority* (the TF cannot invalidate the statute). But it is **not valid** as a reason to ignore the flaw entirely.

Here is the neutral governance logic:

1. **A task force cannot adjudicate legality**, but
2. **It can and should** identify:
  - implementation defects,
  - fraud risk,
  - equity/coverage gaps,
  - unintended downstream consequences,
  - and conflicts between statute and verification reality.

If the TF's mandate includes recommending criteria and protocol for eligibility and benefits, then a flaw that affects:

- integrity,
- fraud exposure,
- and future expansion consequences  
is **squarely within its responsibility**, even if the TF cannot repeal subdivision (1).

In other words:

**The GCO correctly limits the TF's power, but overstates the TF's freedom from responsibility to discuss the flaw.**

## **V. The “Downstream Effects” Issue (Veterans Preference/Private Employment Preference)**

Veterans' preference and permissive preference are **highly relevant** to whether the proxy standard should be treated as “settled” without safeguards. The CAVWV report explicitly flags that the statute extends *benefits available to Minnesota veterans* to this new category and questions whether TF members fully appreciate that.

Even if Minnesota has the authority to do this, the **policy and governance risk** is real:

- **Veterans' preference in public employment** and
- **permissive preference in private employment**  
are *high-salience* benefits that implicate:

- competition for jobs,
- stakeholder acceptance,
- potential litigation pressure,
- and public legitimacy.

So the existence of those benefits makes the verification standard **more important**, not less.

## VI. Thai/Khmer Irregulars and the “Scope Drift” Risk

The examples (Project Unity Thai irregulars; Project Copper Khmer irregulars; MACV-led hatchet teams; CIA/MACV OpPlan 34A teams) highlight an additional structural issue:

- If Minnesota’s definition hinges on “operated from a base in Laos,” the statute will inevitably raise **inclusion/exclusion** questions about other allied irregulars that meet similar operational criteria.

Even if those groups are not currently the TF’s narrow focus, their existence strengthens the argument that the TF should:

- Document the scope limits clearly,
- Warn the legislature about foreseeable expansion pressure,
- Recommend standards that can scale beyond one ethnic group or one sponsor.

This is not politics; it is **institutional design**.

## Conclusion

### Overall Function of MDVA GCO General Opinion (19 December 2025):

#### Primarily institutional/procedural:

Secondarily **persuasive** (narrowing debate by reframing a logic critique as a legality challenge).

#### Key Strengths:

- Accurate statement of statute’s current effect.
- Correct assertion of typical task force jurisdiction limits.

#### Key Weaknesses/Vulnerabilities:

- Conflates “statutory proxy” with “verified proof.”

- Reframes a verification critique as a legality challenge.
- Risks overbroad “don’t discuss it” implication, which is not necessary even within a limited mandate.

### **Counter-Narratives/Alternative Perspectives:**

1. **Statutory closure view:** TF should treat subdivision (1) as settled and focus only on subdivision (2).
2. **Governance integrity view:** TF must still document the flaw and recommend safeguards because it affects fraud risk and long-term legitimacy, especially given veterans' preference benefits.
3. **Hybrid view (most defensible):** Accept subdivision (1) as legally binding, while explicitly advising the Legislature that proxy standards require guardrails to prevent unintended expansion, fraud vulnerabilities, and stakeholder backlash.

# Part 7

## CAVWV–MDVA General Counsel Opinion: Differences

### **Purpose.**

This document summarizes the substantive differences between (1) the CAVWV logic-and-verification position presented to the Minnesota Task Force (MNTF) and (2) the December 19, 2025, opinion of the MDVA General Counsel (GCO). It is written to align with the latest edited MNTF Logic Argument framing: respectful of legislative authority, but clear about logic, verification, fraud deterrence, and downstream governance risks.

### **Core Framing.**

The central disagreement is not whether the Legislature may define eligibility criteria by statute; it can. The difference is whether naturalization or admission should be treated as conclusive proof of qualifying service, or as a proxy that requires safeguards and supplemental verification methods where records are missing.

### **1. Points of Agreement**

Public Law 106-207 and Minnesota Statute §197.448 provide a legal pathway for recognizing certain individuals as veterans of the Secret War in Laos.

The Task Force does not have the authority to overturn or re-litigate legislative choices already enacted in statute.

The historical record environment for covert and irregular forces is unusually thin. Traditional documentation, such as rosters, pay stubs, and service records, may be absent for many legitimate claimants.

### **2. Key Differences**

#### **Proxy vs. Proof.**

The GCO opinion treats Minnesota’s statutory adoption of PL 106-207 naturalization as determinative for Minnesota purposes. The CAVWV position distinguishes between a lawful proxy standard and conclusive proof of qualifying service. A proxy may be a valid policy, but it is not the same as a verified service absent evidence that actual verification occurred.

#### **Logic and Verification.**

CAVWV’s logic argument explains that an administrative outcome (admission or naturalization) may be consistent with eligibility, but it does not logically entail verified service unless the verifying process itself is demonstrated. The GCO opinion is jurisdictional: it explains what the Task Force can and cannot revisit under existing law.

#### **Fraud Deterrence and Integrity.**

CAVWV emphasizes that any proxy standard should be paired with safeguards to deter fraud and protect legitimate claimants from backlash. A policy regime that relies solely on administrative outcomes risks importing errors, inconsistencies, and unverifiable testimony into a downstream veteran-recognition system.

### **Inclusivity Across Allied Forces.**

CAVWV seeks a recognition framework that can extend beyond a single ethnic group, sponsor, or base location, including Lao, Khmer, and Vietnamese allied surrogates supported through multiple U.S. channels, including MACV-SOG. Reliance solely on PL 106-207 as determinative tends to exclude many historically comparable allies.

### **Downstream Governance and Stakeholder Acceptance.**

Proxy standards can generate ambiguity about the scope of recognition and benefits and may raise concern among Minnesota's U.S. veteran constituency and veteran service organizations unless clear standards and safeguards are articulated. This is a long-term sustainability issue, not a challenge to legislative authority.

### **3. Clarifying What the GCO Opinion Does, and Does Not, Resolve**

The GCO opinion is properly read as an explanation of statutory effect and Task Force scope. It does not purport to establish that INS or USCIS actually verified SGU service in every case, nor that naturalization is logically equivalent to independently verified qualifying service. The CAVWV logic position remains relevant wherever Minnesota considers extending eligibility beyond those already covered by statute or where policymakers wish to strengthen fraud deterrence and public confidence.

### **4. Why “Chain of Honor” Certification Is the Best Available Supplemental Proof Mechanism**

CAVWV proposes chain-of-honor certification as a practical, integrity-preserving substitute where official records do not exist. Unlike circular affidavit networks or pure presumed compliance, a chain-of-honor model introduces hierarchical accountability, reputational cost, and operational plausibility checks anchored by senior U.S. and allied officers with direct knowledge of force structures. This approach does not claim perfect certainty; it offers the highest attainable credibility under conditions of recordlessness.

### **5. Recommended Harmonization Path (Politically and Administratively Workable)**

Maintain the Legislature's chosen statutory proxy for those already covered, consistent with the GCO opinion.

For any expanded recognition of allied surrogate veterans beyond that statutory class, adopt clear evidentiary standards and safeguards, including tiered recognition, basis-of-knowledge statements, auditability, and revocation for proven fraud.

Use standardized Chain-of-Honor Letter of Certification v2 templates to reduce circularity and improve defensibility.

Publish brief administrative guidance clarifying that statutory proxy standards are not equivalent to independently verified military service and explaining how supplemental certification will be evaluated for expanded categories.

## **Part 8**

### **CAVWV Chain-of-Honor Certification Experience National Cemetery Administration**

CAVWV submits the following factual information for the Task Force record to inform its consideration of verification feasibility in record-scarce environments.

CAVWV has worked with Colonel Khao Insixiengmay in Minnesota, Jimmy Athakhanh in Georgia, Khambang Sibounheuang in Tennessee, Kannika Saykorn in North Carolina, and other Lao SGU veterans in Illinois, Colorado, and California to prepare Letters of Certification for former Lao SGU soldiers applying to the United States Department of Veterans Affairs for burial benefits. These Letters of Certification follow a structured “chain-of-honor” framework, involving hierarchical verification by Colonel Khao, and the former Military Region IV Commanding General/Commander MR-4 Guerrilla Forces, and corroboration by a former CIA Special Operations Officer who operated directly with SGU forces in Laos for approximately two years.

According to Colonel Khao, approximately 50–60 former SGU veterans have submitted pre-burial applications supported by this certification framework to date. Of those applications, at least 20 have been approved by the Department of Veterans Affairs to date, and at least two veterans have been interred. This process has been applied in circumstances where formal military records, such as rosters, pay records, or unit rolls, did not exist, and where verification necessarily relies on operational knowledge, command-level accountability, and reputational responsibility rather than documentary archives.

CAVWV submits this experience to demonstrate that structured, non-circular verification methods are feasible in historically covert and irregular warfare contexts, and that such methods can be recognized by federal authorities when they are grounded in credible command relationships and documented basis-of-knowledge statements. This example is offered solely to inform the Task Force’s evaluation of possible safeguards and verification standards and does not assert any binding precedent or policy mandate.

Finally, CAVWV notes for the record that the General Counsel’s analysis of our Report, which included mention of the Letter of Certification, reported no deficiencies in our Letter. We regret the Task Force did not apply equal review of this operationally tested Letter of Certification framework. Given the Task Force’s stated mandate, this omission leaves the record incomplete on the very question the Task Force identified as most difficult, whether credible verification is possible.

Memorandum For: Minnesota Legislature's Veterans of Special Guerrilla Units and Irregular Forces in Laos Advisory Task Force

Subject: Identifying an Irregular Veteran of Laos

From: Coalition of Allied Vietnam War Veterans (CAVWV)

Date: 15 December 2025

The Coalition of Allied Vietnam War Veterans (CAVWV) is committed to advancing education, preserving the history of the Vietnam War, and delivering critical social services to veterans and their families. Our mission focuses on alleviating the lasting impacts of combat-related experiences, including mental stress, battle fatigue, post-traumatic stress disorder, and the residual trauma of genocide, by fostering understanding, solidarity, and resilience within our communities.

CAVWV operates on the principle of service through action: we assist veterans to the extent our resources allow, carry out our assigned responsibilities with purpose and integrity, and promote fellowship through collaboration on shared goals. Through genuine coalition-building, we continue to strengthen communities and uphold the dignity of those who served.

With regard to the composition of the current Task Force. Sec.9. [197.448] "Veteran of the Secret War in Laos," Sec. 13, establishes an Advisory Task Force to identify "Veterans of Secret Guerrilla Units and Irregular Forces in Laos." Hmong community members were afforded representation. The Hmong community holds multiple seats, whereas other non-Hmong irregular veterans, as described in its title, have been omitted. The Lao Loum and Lao Theung, Khmer, and Vietnamese irregular veteran communities hold none as they were ineligible in the selection process. This raises legitimate concerns about balance and potential conflicts of interest in deliberations concerning veterans of CIA-supported irregular forces during the 1961–1975 period, of which non-Hmong, Lao, and other irregular forces comprised nearly 60%. Furthermore, only one member has no potential conflicts of interest in this Task Force's outcome, as all other members are either Hmong or have a U.S. military affiliation. This is an important point as newly discovered benefits not previously mentioned in prior meetings may have an effect on their decision-making.

To ensure fairness and credibility in the Task Force's findings, we urge consideration of equitable representation among all stakeholder groups, particularly those whose members served under U.S. command or intelligence coordination during the Vietnam conflict.

The Task Force has convened six meetings to date. During these sessions, discussions have included potential benefits for the veterans under consideration. However, it has become clear that not all Task Force participants are aware that veteran benefits under this new law in Minnesota also include all those benefits already established by law in Minnesota and extended to all State U.S. veterans. It remains unclear why this important point has not been explicitly addressed in Task Force deliberations to date. Therefore, we respectfully ask whether the Task Force leadership and its members acknowledge this and make it clear. Therefore, under Minnesota law, a newly identified irregular veteran will be awarded all benefits now afforded to a Minnesota U.S. veteran who served the United States.

Additionally, was it the intention of the Minnesota State Legislature, the MDVA, and this Task Force to advise and establish a protocol for non-United States veterans who did not serve in the United States military, to have access to benefits using a protocol less than what a United States veteran must meet for the same benefits?

CAVWV has submitted formal documentation (the CAVWV Report) addressing this issue, along with supporting material intended to clarify the matter for all members. While Task Force leadership has accepted our submissions, these materials have not been made easily accessible to all Task Force members, nor have they been included in the proceedings or records of any of the six meetings held thus far. Moreover, official documentation of each of the Task Force proceedings is very difficult to find.

We are concerned that the exclusion or lack of dissemination of these materials could prevent fellow Task Force members from fully understanding the perspectives and evidence we have presented. Without their inclusion in official agendas or distributed documentation, our contributions risk remaining unexamined and unseen. As of this writing, six weeks after submission, our information still does not appear in the Task Force's working materials, and no discussion of its contents has yet occurred.

During the sixth Task Force meeting, representatives of the U.S. Department of Veterans Affairs provided a professional and informative presentation. However, the discussion did not address administrative law issues raised by the U.S. Supreme Court decisions *SEC v. Chenery I* (1943) and *Chenery II* (1947), which restrict agencies from:

- Upholding decisions based on justifications not originally stated by the agency (*Chenery I*), and
- Creating new policy through adjudication beyond their statutory authority (*Chenery II*).

All of which are found in the CAVWV report.

These cases are relevant because they clarify that Minnesota may establish its own recognition system for allied veterans, but may not substitute immigration (INS/USCIS) determinations for direct verification of Special Guerrilla Units (SGU) service as provided in P.L. 106-207. The federal VA currently does so in granting burial rights, substituting immigration decisions for independent verification of SGU service, raising potential legal and procedural inconsistencies.

During the Task Force video conference, representatives of the Coalition of Allied Vietnam War Veterans (CAVWV) submitted a request via the meeting's side-chat function asking that the United States Department of Veterans Affairs (VA) provide an explanation of the process used to confirm the identity and credibility of individuals who attested to the service of Lao nationals in CIA-supported irregular forces.

Specifically, CAVWV requested clarification regarding how VA officials determined that persons confirming service, such as commanders, officers, or other validating individuals, were themselves properly identified, qualified, and reliable sources of verification, given the absence of conventional military records and the classified nature of CIA-directed operations.

Task Force leadership acknowledged this request during the meeting and indicated that it would be forwarded to the Department of Veterans Affairs for response. As of the preparation of this minority report, no written explanation or documentation describing the VA's verification methodology has been provided to CAVWV or Task Force members.

CAVWV includes this request in the record to underscore the importance of transparency, due diligence, and consistency in any verification process relied upon by state or federal entities when recognizing service in covert or irregular forces.

CAVWV has consistently advocated for an honor-based system for verifying SGU service. Such a protocol allows reasonable documentation through certificates of service when no original records exist, ensuring defensibility without reliance on self-referential affidavit loops within closed verification networks.

It is notable that the federal VA presentation referenced, as an example of acceptable SGU service identification, a form originally developed and endorsed by CAVWV as a model best practice. This convergence suggests that Minnesota could adopt a similar protocol—one grounded in verification integrity and historical accuracy.

CAVWV re-submits the “Report”, “Problems Found” with supporting documentation, and respectfully requests that these concerns be entered into the official record and given full consideration in the Task Force’s final recommendations.

## **CAVWV Report and Analysis on Irregular Veterans Identification**

### **(A Balanced Analysis of Legal, Historical, and Verification Methods)**

*Prepared for:* **The Minnesota Department of Veteran Affairs Task Force  
Identifying an Irregular Veterans of Laos - Sec.9 [197.448]**

*Prepared by:* **The Coalition of Allied Vietnam War Veterans (CAVWV)**

*Submitted by:* **Task Force Member Scott Walker on behalf of CAVWV  
Research**

#### *Disclaimer*

*This report incorporates research and draft analysis generated with the assistance of artificial intelligence (AI) tools. AI was used as a research aid and drafting assistant to expand the scope and efficiency of information gathering and issue identification, and to help identify relevant legal authorities, historical sources, and analytical frameworks that would be difficult to locate comprehensively through manual research alone.*

*All substantive conclusions, interpretations, and recommendations reflect the judgment of the authors. AI-generated content was not accepted uncritically. All information was reviewed, cross-checked, and evaluated by the authors using independent sources and professional judgment. The authors are aware that AI systems may generate inaccuracies or incomplete information, and care was taken to verify key facts and legal interpretations before inclusion.*

*All final analysis, conclusions, and policy recommendations are the responsibility of CAVWV and do not represent the views of any AI system or platform. Responsibility for the content of this report rests solely with the Coalition of Allied Vietnam War Veterans (CAVWV).*

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## EXECUTIVE SUMMARY

### CAVWV Report & Analysis on Irregular Veteran (SGU) Identification

(“CAVWV Report”)

This report provides a balanced and comprehensive analysis to assist the Minnesota Department of Veterans Affairs Task Force in determining how the State of Minnesota can responsibly identify, verify, and recognize veterans of the U.S.-directed Special Guerrilla Units (SGUs) who served during the Secret War in Laos (1961–1975). The SGU forces were irregular, CIA- sponsored paramilitary units composed primarily of Lao and Hmong personnel who fought under U.S. direction in covert kinetic operations. Because their service does not fall within existing federal definitions of “veteran,” Minnesota must consider whether State-level recognition is feasible, legally sound, and ethically appropriate.

The report is organized into **three main Parts** (as provided in the submitted PDFs):

### **Part 1** — Analysis of Competing Arguments

Part 1 presents two opposing but equally robust lines of argument surrounding whether Minnesota can rely on prior federal determinations, particularly immigration decisions made under the Hmong Veterans’ Naturalization Act of 2000 (PL 106-207), as evidence of SGU service.

#### **1.** Best Case for Relying on Federal Determinations

This argument asserts that because INS/USCIS processed refugee admissions and naturalization applications using statutorily defined evidence (affidavits, documentation, and DoD advisory opinion requests), Minnesota may presume these determinations were reliable and therefore can accept them as proof of SGU service.

#### **2.** Best Case Against Relying on Federal Determinations

The counterargument demonstrates that INS did not verify SGU service as a military fact but instead conducted limited, affidavit-based credibility

#### **3.** determinations without access to CIA records, authoritative rosters, or full operational histories.

The argument also shows these federal decisions systematically exclude many SGU veterans and cannot legally be reinterpreted as proof of military service.

Part 1 concludes that although both arguments merit respect, reliance on PL 106-207 decisions as conclusive verification would be historically and administratively unsound, and potentially unjust.

### **Part 2** — Legal and Administrative Law Analysis

Part 2 explains the legal constraints that prevent Minnesota from treating federal immigration decisions as authoritative proof of SGU military service.

The key cases are the two Supreme Court decisions in **SEC v. Chenery**:

- **Chenery I (1943):** A court may not uphold an agency decision based on reasons the agency did not itself state.
- **Chenery II (1947):** Agencies may develop policy through adjudication, but only within their statutory authority and with clear reasoning.  
Applied here, Chenery confirms that INS adjudications under PL 106-207 cannot be reinterpreted as military-service findings, because INS lacked authority, records, access to CIA documentation, and did not assert such a conclusion in any decision.

Part 2 also reviews relevant statutes:

- PL 106-207 (naturalization only; not military verification),
- PL 115-141 (burial eligibility expansion),
- 38 U.S.C. §§ 101 and 2402 (federal veteran definitions), and
- EO 13526 (limits on CIA veterans' disclosure).

The legal conclusion is clear:

**Minnesota may create its own recognition system, but cannot substitute INS immigration decisions for actual verification of SGU service.**

### **Part 3 — Proposed Minnesota Verification Framework**

Part 3 outlines a robust, evidence-based approach for Minnesota to independently verify SGU service while accounting for the unique historical and classification challenges associated with CIA-directed irregular forces.

The recommended model includes:

- CAVWV's Chain-of-Honor verification system, where:

<https://www.cavwv.org/cavwv-report--analysis.htm>

A claimant submits a sworn statement;

A verified SGU officer confirms the claimant's service;

A CIA veteran (within EO 13526 limits) confirms the identity and reliability of that SGU officer;

Historical consistency checks validate unit patterns, timelines, and plausibility.

- Sworn affidavits from claimants, SGU officers, and CIA veterans (carefully crafted to avoid classified disclosures).
- Use of A-Files and refugee-processing records where available.
- Fraud safeguards, including perjury penalties, audit sampling, and cross-corroboration.
- Creation of a Minnesota SGU Verification Board, composed of SGU officers, retired CIA/Southeast Asia personnel, historians, legal experts, and community leaders.

Part 3 concludes that Minnesota has both the legal authority and the moral standing to enact a State-level recognition process designed specifically for irregular forces whose service fell outside traditional U.S. military frameworks.

## **Overall Conclusion**

Federal processes never established a verified roster of SGU veterans, and administrative-law principles prevent repurposing INS decisions as if they had. Nonetheless, Minnesota can establish its own evidence-based verification system and pursue State-level recognition that honors the true SGU veterans who fought alongside U.S. forces. The proposed framework is historically realistic, legally defensible, administratively responsible, and ethically grounded.

## Glossary of Acronyms

### **A-File — Alien File**

An individual immigration file maintained by U.S. Citizenship and Immigration Services (USCIS). Contains all records of a person's immigration history, including applications, interviews, visas, photographs, and correspondence. A-Files originated with the former INS in 1944 and remain the authoritative source of an immigrant's administrative record.

### **CIA — Central Intelligence Agency**

The U.S. agency responsible for foreign intelligence collection and covert action. In the Laos theater (1961–1975), the CIA organized, trained, equipped, and directed Special Guerrilla Units (SGUs) during the “Secret War.”

### **CAVWV — Coalition of Allied Vietnam War Veterans**

A veteran-service and advocacy organization involved in documenting SGU service and developing verification models such as the “Chain of Honor.”

### **DoD — Department of Defense**

The federal department responsible for military forces and U.S. national defense. Under PL 106-207, DoD was expected to provide advisory opinions on SGU service, though the extent and content of these opinions remain unclear.

### **EO 13526 — Executive Order 13526 (Classified National Security Information)**

The U.S. executive order governing the classification, handling, and declassification of national security information. Limits what former CIA personnel may legally disclose in sworn statements.

### **INS — Immigration and Naturalization Service**

The former federal agency responsible for immigration processing, naturalization, and enforcement until 2003. Under PL 106-207, INS adjudicated SGU-related naturalization claims based on affidavits, testimonial evidence, and refugee-processing records.

### **LVA — Lao Veterans of America**

A U.S.-based organization representing Lao and Hmong SGU veterans and their families. PL 106-207 explicitly allows adjudicators to consider LVA certifications as optional supporting evidence of SGU service.

### **MN TF — Minnesota Advisory Task Force**

The state task force considering how to define and verify veteran status for non-American, SGU-affiliated soldiers.

### **PL 106-207 — Hmong Veterans' Naturalization Act of 2000**

A federal law allowing certain Lao/Hmong SGU veterans and widows to naturalize with relaxed English-language requirements. It established a statutory process for considering testimonial evidence of SGU service but did not create a federal roster of verified SGU veterans.

### **PL 115-141 — Consolidated Appropriations Act, 2018**

An omnibus federal spending bill that amended 38 U.S.C. §2402 to grant burial eligibility in national

cemeteries to individuals who were naturalized under PL 106-207 or who are otherwise determined to have served honorably in SGUs.

**SEC — Securities and Exchange Commission**

The federal regulator of financial markets. Referenced in this report because of the landmark administrative-law cases **SEC v. Chenery Corp. (Chenery I & II)**, which establish limits on post-hoc rationalization and the permissible scope of agency adjudication.

**SGU — Special Guerrilla Unit**

Paramilitary units composed primarily of Lao and Hmong fighters operating under U.S. CIA authority during the Secret War in Laos (1961–1975). SGUs conducted combat, reconnaissance, rescue, and interdiction missions in support of U.S. objectives.

**USCIS — U.S. Citizenship and Immigration Services**

The federal agency that replaced INS after 2003, responsible for adjudicating naturalization applications, maintaining A-Files, and providing immigration services.

**VA — Department of Veterans Affairs**

The USCIS predecessor federal agency administering veterans' benefits, including burial and memorial benefits. Administers eligibility rules under 38 U.S.C. §2402(a)(10) as amended by PL 115-141.

## Table of Authorities

### I. Cases

#### **SEC v. Chenery Corp. (“Chenery I”), 318 U.S. 80 (1943)**

Foundational administrative-law decision holding that an agency action may be upheld only on the grounds the agency itself articulated at the time of decision; courts may not supply post-hoc rationalizations.

#### **SEC v. Chenery Corp. (“Chenery II”), 332 U.S. 194 (1947)**

Establishes that agencies may develop policy through case-by-case adjudication, but must provide reasoned explanations and act within statutory authority.

### II. Statutes (Public Laws)

#### **PL 73-127 — Tydings–McDuffie Act (Philippine Independence Act) (1934)**

Referenced for background comparison on U.S. territorial forces and nationality.

#### **PL 79-301 — Rescission Act of 1946**

Referenced for historical context concerning federal withdrawal of veterans’ benefits from Filipino WWII forces.

#### **PL 94-23 — Indochina Migration and Refugee Assistance Act (1975)**

Provides refugee resettlement pathways relevant to early SGU immigration.

#### **PL 96-212 — Refugee Act of 1980**

Framework statute governing refugee admissions, including Lao/Hmong arrivals.

#### **PL 106-207 — Hmong Veterans’ Naturalization Act of 2000**

Key statute establishing special naturalization criteria for SGU veterans and widows. Creates the four-part evidence structure (affidavits, “other appropriate proof,” DoD advisory opinion, LVA certifications).

#### **PL 115-141 — Consolidated Appropriations Act, 2018 (2018)**

Amends 38 U.S.C. § 2402 to extend VA national cemetery burial eligibility to individuals naturalized under PL 106-207 or otherwise determined to have served honorably in SGUs.

### **III. U.S. Code Provisions 8 U.S.C. § 1423 (Note)**

Contains the statutory note for PL 106-207 describing naturalization requirements and evidentiary provisions for SGU veterans.

#### **18 U.S.C. § 1001 — False Statements**

Criminal statute penalizing knowingly false statements or documents submitted to the federal government. Relevant to affidavits submitted in SGU verification contexts.

#### **28 U.S.C. § 1746 — Unsworn Declarations Under Penalty of Perjury**

Authorizes written sworn statements (affidavits) without notarization, commonly used for veteran, SGU officer, and CIA-veteran declarations.

#### **38 U.S.C. § 101**

Definition section for “veteran” and “active military, naval, or air service”; important because SGU service does **not** meet the statutory definition absent congressional amendment.

#### **38 U.S.C. § 2402(a)(10)**

Statutory authority for VA burial eligibility for SGU veterans as amended by PL 115-141.

#### **50 U.S.C. § 3507 — Protection of CIA Intelligence Sources and Methods**

Limits disclosure by current or former CIA personnel; governs allowable content of SGU-related sworn statements by CIA veterans.

### **IV. Executive Orders and Regulations Executive Order 13526 — Classified National Security Information (2009)**

Governs classification, handling, and declassification of national-security information. Establishes permissible scope of disclosure for former CIA personnel in SGU-related affidavits.

### **V. Federal Agencies Mentioned (for context)**

(Not primary authorities but included because their roles matter to interpretation.)

#### **Central Intelligence Agency (CIA)**

Conducted and directed the SGU program; its lack of participation in PL 106-207 processes is a core issue.

#### **Department of Defense (DoD)**

<https://www.cavwv.org/cavwv-report--analysis.htm>

Statutorily required to provide advisory opinions under PL 106-207.

**Immigration and Naturalization Service (INS)**

Defunct agency that adjudicated PL 106-207 naturalization applications and refugee admissions.

**U.S. Citizenship and Immigration Services (USCIS)**

Successor to INS; maintains A-Files and immigration records.

**Department of Veterans Affairs (VA)**

Administers burial and memorial benefits under 38 U.S.C. § 2402.

## Part I

### The Strongest Possible Case for the Task Force's Position

#### Central claim:

Minnesota does not need to reinvent SGU verification rules because **INS already performed a federally mandated vetting process** when admitting, naturalizing, or granting immigration benefits to Lao/Hmong applicants under PL 106-207. Therefore, **Minnesota can safely presume the INS's federal determination was accurate.**

Below is the strongest possible version of that argument.

#### **Argument 1** - Congress Created a Federal Vetting Process, and States Are Entitled to Rely on It

Public Law 106–207 established a **clearly defined statutory framework** for determining SGU service. The statute required the Attorney General to:

1. Review refugee-processing documents
2. Review any service documentation supplied under the four categories
3. Request an advisory opinion from DoD
4. Consider certifications from the Lao Veterans of America or similar organizations

From a state-law perspective, this is **sufficiently formal as a federal determination** of service. Minnesota is not obligated to question or re-verify federal immigration decisions.

The federal government created a process, executed a process, and granted benefits contingent on satisfying that process. No state has the authority or duty to second-guess federal benefit determinations.

#### **Argument 2** - Administrative-Law Presumption: Agency Decisions Are Valid Unless Proven Otherwise

Administrative law follows a strong **presumption of regularity**:

Government officials are presumed to have properly discharged their official duties.

Unless there is evidence of systemic fraud, gross mismanagement, or abandoned procedures, Minnesota should assume:

- INS followed its statutory obligations
- INS examined the evidence required
- INS consulted DoD as the statute required
- INS made lawful, considered determinations

To argue otherwise would implicitly allege misconduct or dereliction by federal officials **without proof**. **Argument 3 - Federal Decisions Are Binding for Federal Benefits;**

### **States May Harmonize**

States routinely rely on federal classifications for:

- refugee eligibility
- naturalization status
- Social Security determinations • VA determinations
- Medicare categories

Thus Minnesota could reasonably adopt a similar harmonization:

If the United States recognized SGU service for a purpose as significant as **immigration**, then Minnesota can adopt that recognition for state-level veteran benefits.

### **Argument 4 - No State Has Access to CIA or DoD Records; Re- verification Is Impossible and Unfair**

Because:

- SGU records are classified
- Many CIA officers are deceased
- Documentation was intentionally sparse under the Geneva Accords
- Laos was a covert theater with minimal written recordkeeping
- Units operated under conditions where formal rosters were not created • Veterans are now decades older with fading memories

A state-run re-verification would be impossible, arbitrary, and likely to **exclude legitimate veterans**. Therefore, accepting INS's determination is the most **equitable** and **administratively feasible** approach.

### **Argument 5 - PL 115-141 (burial eligibility) Reinforces the Federal Vetting**

38 USC 2402(a)(10) eligibility is triggered **only if**:

1. The individual was **naturalized under PL 106-207, or**

2. VA determines SGU service based on equivalent criteria

Thus:

Burial eligibility law implicitly **ratifies** the PL 106–207 vetting structure. Minnesota benefit eligibility can mirror this federally modernized structure.

### **Argument 6 - Adopting the Federal Determination Avoids Ethnic Profiling and Arbitrary Decisions**

Attempts to create new state-level verification standards:

- risk unfairly targeting a single ethnic group
- may unintentionally discriminate
- could break apart community consensus
- would require expertise Minnesota does not have

Therefore, relying on federal determinations is **simpler, fairer, and more respectful** of the original SGU community.

## **The Strongest Counter-Argument Against the Task Force’s Position**

Now we present the strongest possible critique.

### **Argument 1 - PL 106–207 Created a *Process*, Not a Verified Personnel Roster**

The statute outlines a *method* for determining eligibility, but there is **no evidence** that:

- INS systematically applied all required steps
- INS officers had adequate military or intelligence expertise
- DoD had access to any relevant records
- Any central SGU roster existed
- CIA provided information (it did not)
- Examiners could authenticate affidavits
- LVA lists were validated by any objective standard

Thus:

The INS “vetting” is **not evidence of service**, but merely evidence that paperwork was accepted.

### **Argument 2 - INS Officers Explicitly Did *Not* Conduct Military Verification**

The INS FAQ (Aug. 21, 2000) shows:

- INS accepted **affidavits**
- INS accepted **“other appropriate proof”**
- INS did **not** authenticate military records
- INS did **not** require CIA/DoD documentation
- INS made **credibility assessments**, not factual determinations

This is **not** equivalent to vetting for military service. It is equivalent to weighing refugee testimony.

### **Argument 3 - The Law Relied on Unverified Peer Affidavits**

Affidavits were accepted from:

- superior officers
- peers
- community members
- LVA or similar organizations

But:

**None of these individuals had verified service themselves.**

This creates a closed circular verification structure:

“Unverified veteran A validates unverified veteran B who validates unverified veteran C.” It is anthropologically interesting, but it is **not proof of military service**.

### **Argument 4 - There Is No Evidence the DoD Advisory Opinion Was Meaningfully Implemented**

The statute requires DOJ/INS to “request an advisory opinion” from DoD. But:

- We do not know which DoD office handled it
- We do not know what data DoD used
- We do not know if DoD had SGU records
- No case-by-case advisory opinions have been published • No audit or oversight report exists

Thus, the Task Force cannot rely on these “DoD advisory opinions” because their content is **unknown**.

### **Argument 5 - CIA, the Only Agency with Authentic SGU Records, Was Never Consulted**

This is fatal to the argument.

- CIA recruited
- CIA trained
- CIA commanded

- CIA paid
- CIA recorded numbers of casualties • CIA coordinated SGU operations

But:

**CIA was not required**

**CIA was not consulted**

**CIA provided no records**

**CIA veterans were not contacted**

Therefore:

PL 106–207 vetting did **not** use the only existing authoritative SGU documentation. This undermines the reliability of any INS or VA determination.

### **Argument 6 - State Reliance on Federal PL 106–207 Determinations Excludes Many *Real* SGU Veterans**

PL 106–207 applied *only* to:

- People who were alive during the naturalization program window • People who were present in the U.S.
- People who applied
- People whose English-language exemptions were relevant

Thus, PL 106–207 **excludes**:

- SGU fighters who died before 2000
- SGU fighters who came before 1975
- SGU fighters who came after 2000+
- SGU fighters who never applied
- SGU fighters who failed naturalization
- SGU fighters who lost documentation
- SGU fighters whose affidavits were rejected
- SGU fighters who remained in Laos or Thailand

Relying on PL 106–207 determinations provides an *incomplete and distorted* picture of who actually served.

### **Argument 7 - There Is No Document Proving INS Found SGU Service, Only Documents Showing INS Accepted Paperwork**

The Task Force assumes:

“He was approved → therefore INS found he was SGU.”

But this is not legally justified.

INS approvals reflect:

- eligibility for naturalization
- acceptance of documentary submissions

They DO NOT reflect:

- confirmation of military service
- verification against any official roster • authentication of evidence
- adjudicator expertise

Without the applicant’s complete A-File, Minnesota cannot establish:

- what documents were submitted
- whether DoD was consulted
- whether LVA provided certification
- whether the adjudicator understood SGU structures
- whether any part of the statutory process was skipped

Thus:

The presence of a benefit ≠ the presence of verified service.

### **Argument 8 - States Cannot Outsource Their Statutory Duty to a Federal Process Not Designed for This Purpose**

Minnesota’s duty under its own statute (if enacted) would be to:

- determine state-level eligibility
- ensure proper verification
- prevent fraud
- ensure equal treatment under state law • prevent misuse of state resources

PL 106-207 was designed for:

- naturalization
- one narrow immigration purpose
- humanitarian inclusion
- NOT for veteran status, compensation, or state benefit eligibility

Thus, Minnesota cannot rely on a federal process for a purpose Congress never intended.

The “Unfair Result” Problem — Focusing Only on PL 106-207 Excludes Entire Categories of SGU Veterans

PL 106–207 cannot logically serve as a proof-of-service proxy because it covers only a subset of SGU veterans.

It excludes:

1. Those who arrived before 1975 (service should include 1961-1975)
2. Those who arrived between 1975 and 2000 (extended to 2003) but never applied
3. Those who arrived after 2000 (extended to 2003)
4. Those who died abroad
5. Those who naturalized under other ordinary rules
6. Those who never naturalized
7. Those who did not need the English exemption

If Minnesota uses PL 106–207 determinations as its “gold standard,” it would create:

- a two-tier SGU recognition system
- systematic exclusion of real veterans
- inclusion of individuals whose SGU service was never verified • potential equal protection issues
- a distorted historical record

This is a direct contradiction of the Task Force’s goal: equitable recognition.

**Synthesis - What the Task Force Needs to Understand**

The MN Task Force argument is logically defensible only if we assume:

- INS’s process was reliable
- every adjudicator followed statutory procedures
- affidavits were trustworthy
- “other appropriate proof” was meaningful
- DoD gave useful advisory opinions

- CIA records were irrelevant
- PL 106–207 inclusively captured the SGU population

**The argument against shows that:**

- none of these assumptions hold
- the statutory process was credibility-based, not verification-based
- neither DoD nor CIA provided objective validation
- INS decisions prove only that paperwork was accepted, not that service was confirmed • PL 106–207 covers only a small subset of actual SGU fighters
- state reliance on PL 106–207 risks systematic injustice
- Minnesota would be endorsing a **procedurally flawed federal classification**

**Conclusion: What Minnesota Should Actually Do**

Minnesota faces three options:

**Option 1 — Adopt the Use PL 106–207 determinations position)**

Pros: administratively simple, politically smooth

Cons: inaccurate, unfair, and excludes many real veterans

**Option 2 — Reject PL 106–207 as evidence of service position**

Pros: accurate, fair

Cons: requires new verification rules, politically challenging

**Option 3 — Hybrid Approach (Recommended)**

Accept federal determinations **only as initial evidence**, not as conclusive proof. Require:

1. applicant's A-File
2. sworn service statements
3. SGU officer/referee testimony
4. chain-of-honor verification
5. optional CIA/DoD retired officer review
6. anti-fraud declarations

This approach:

<https://www.cavwv.org/cavwv-report--analysis.htm>

- avoids discriminating against SGU outside the 2000 window • avoids presuming INS determinations = verified service
- reinforces integrity
- acknowledges the imperfect nature of PL 106–207

## Part II

***Chenery I* and *Chenery II* are highly relevant—especially as arguments *against* treating PL 106-207 naturalization approvals as evidence of confirmed SGU service.**

But their relevance operates indirectly, through administrative-law principles governing the validity, explanation, and evidentiary basis of agency decisions.

### I. Background: What the Two *Chenery* Cases Actually Hold

A. SEC v. *Chenery Corp.* (“*Chenery I*”), 318 U.S. 80 (1943)

Core Principle:

A reviewing court may uphold an agency action **only on the grounds the agency itself invoked at the time it made its decision**, not on new rationales offered later.

Key Points:

- The SEC denied a corporate reorganization plan.
- In court, the government tried to justify the denial based on new reasoning **not stated in the original SEC decision**.
- The Supreme Court held that the agency’s action could not be defended on **post-hoc rationalizations**.
- An agency must stand or fall on its **contemporaneously stated findings and reasoning**.
- This case establishes the rule that **courts cannot supply missing reasoning or reinterpret an agency decision after the fact**.

Relevance:

*Chenery I* is a foundational case in administrative law:

Decisions must be judged based on the agency’s *own* stated rationale, not explanations invented later by courts or policymakers.

**Holding:** An agency action is invalid if the agency’s decision is justified in court on grounds different from those the agency itself invoked at the time.

Key rule:

A reviewing body cannot accept a post-hoc rationalization for an administrative decision.

<https://www.cavwv.org/cavwv-report--analysis.htm>

The agency must stand or fall *on the rationale it actually gave*.

Implication:

If an agency did not explain its reasoning or did not rely on a certain rationale, courts cannot later supply one for it. Courts cannot uphold an agency decision on reasons the agency itself never gave.

## **B. SEC v. Chenery Corp. (“Chenery II”), 332 U.S. 194 (1947)**

### **Core Principle:**

Agencies have broad discretion to make policy through **case-by-case adjudication** as long as the reasoning is lawful, reasonable, and clearly stated.

### **Key Points:**

- After Chenery I, the SEC reissued a new decision **with proper reasoning**.
- This time, the Supreme Court upheld the SEC action.

The Court held that agencies may:

make policy through adjudication,

adapt standards to new situations, and

develop rules incrementally, so long as the agency **explains its reasoning and stays within statutory authority**.

- It reaffirmed that **agency expertise and judgment are entitled to deference** if the rationale is adequately described.

### **Relevance:**

Chenery II establishes:

Agencies may evolve standards through adjudication, but must still provide **reasoned explanations** within their legal authority.

**Holding:** Agencies may develop policy through case-by-case adjudication rather than rulemaking, **but** those adjudications must still be reasonable, adequately explained, and grounded in proper evidence.

Key rule:

**Agency discretion in adjudication is broad, but not unbounded.**

Agencies must engage in reasoned decision-making. Agencies may develop policy through

adjudication, but must articulate their reasoning and act within their statutory authority.

## II. How *Chenery* Applies to the PL 106-207/SGU Verification Problem

Below is how each *Chenery* rule maps onto the MN Task Force's debate.

## III. *Chenery I* Application - Minnesota cannot supply a justification that INS did not provide

Minnesota's argument is:

"INS/USCIS granted naturalization under PL 106-207 → therefore these individuals were vetted and verified as SGU veterans."

This is **exactly the kind of post-hoc rationalization forbidden by *Chenery I***.

### Why?

Because:

- 1. INS did not issue service-verification findings.**
  - INS granted naturalization, not veteran status.
  - INS decisions do not contain statements like:  
"We have verified that X served in SGU Y unit under CIA authority."
- 2. INS adjudicators did not claim military verification authority.**
  - They did credibility assessments, not fact-finding confirmation of military roles.
  - They lacked CIA records, DoD records, rosters, or SGU command files.
- 3. INS never stated that a grant of PL 106-207 naturalization equals military verification.**

Under *Chenery I*:

Minnesota cannot substitute its *own* rationale ("INS verified SGU service") for the *actual* rationale INS used ("we found the applicant met the naturalization requirements based on submitted evidence").

Therefore the Minnesota Advisory Task Force **cannot legally rely on INS decisions as if they were military-service adjudications**, because INS never made those determinations or articulated those findings.

**This is classic *Chenery I* territory.**

<https://www.cavwv.org/cavwv-report--analysis.htm>

## **IV. *Chenery II* Application - The PL 106-207 adjudications were valid for naturalization, but not for military verification**

*Chenery II* allows agencies to develop policies through adjudication—but only within the scope of the agency’s statutory authority.

### **INS’s statutory authority under PL 106-207:**

- Grant or deny naturalization
- Evaluate credibility of evidence submitted
- Make findings relevant to immigration eligibility

### **INS’s authorized scope did not include:**

- Confirming SGU military service
- Authenticating CIA-run unit assignments
- Verifying command relationships
- Certifying individuals as “veterans”

Under *Chenery II*, even if INS reasonably exercised discretion in naturalization adjudications, Minnesota cannot reinterpret:

“INS found the applicant’s service claim credible for immigration purposes”

as:

“INS officially verified and confirmed SGU military service.”

Because:

**INS had no authority to make the latter determination.**

Thus:

A state relying on PL 106-207 naturalization approvals to establish SGU veteran status would be treating an immigration adjudication as a military fact-finding adjudication—contrary to *Chenery II*’s limits on agency discretion and scope.

## **V. Additional Administrative-Law Principles Reinforcing *Chenery***

### **A. Presumption of Regularity vs. Presumption of Correctness**

Presumption of regularity means:

“The agency acted as it normally does.”

It does **not** mean:

“The agency’s factual findings are correct and can be repurposed indefinitely.”

INS following a naturalization process does **not** create a presumption that SGU service was proven.

## **B. The “Scope of Record” Rule**

An agency determination is valid only within the factual record created for that decision.

INS records often contain:

- Affidavits
- Peer testimonies
- LVA certifications
- Photos

But these are **only evidence submitted**, not **verified facts**.

States cannot elevate them beyond their scope.

## **C. Non-delegation of ministerial functions**

Military-service verification belongs to DoD, CIA, or statutory bodies—not INS.

INS cannot “implicitly” assume DoD or CIA roles.

# **VI. The Argument Through the Chenery Lens**

## **(pro-INS reliance)**

One can attempt to argue:

- The statutory process itself creates a conclusive predicate.
- INS is a federal agency whose decisions must be given weight.
- Minnesota is not “reviewing” INS decisions but adopting them.

But this is weak under *Chenery*, because Minnesota is *indeed* using INS decisions for a purpose INS never justified.

## **(anti-reliance)**

The strongest anti-reliance argument is:

Under *Chenery I*, Minnesota cannot treat INS determinations as military verification because INS never articulated such a finding.

Under *Chenery II*, even if INS acted properly for naturalization, Minnesota cannot expand the scope of those adjudications into veteran-status determinations, because that would convert a credibility-based immigration process into a fact-based military-service verification process outside INS's statutory authority.

This is a clean, powerful administrative-law critique.

## **VII. Final Assessment — Do the Chenery cases apply?**

**They apply strongly, and they cut *against* Minnesota's proposal.**

***Chenery I*: Minnesota cannot supply a rationale (INS verified SGU service) that INS never gave.**

***Chenery II*: INS lacked authority, expertise, and evidentiary basis to make military-service findings—even implicitly.**

**Therefore:**

**INS naturalization decisions cannot be treated as authoritative or conclusive determinations of SGU military service without violating the Chenery doctrine.**

Minnesota may choose to rely on them as a **policy matter**, but cannot claim that they represent **federally verified SGU service**.

## Part III

Below is a **practical, legally grounded roadmap** for how a **state government** can recognize the service of foreign allies who fought in covert, U.S.-authorized paramilitary operations **without** relying on, nor requiring, a **federal determination** that does not exist (and cannot exist due to CIA secrecy, destroyed records, or the narrow limits of PL 106-207).

This answer integrates:

- constitutional authority of states
- administrative-law limits
- anti-fraud controls
- historical precedents
- the stated objective: **a true, non-fraudulent determination** that honors genuine service while maintaining integrity.

### **I. Threshold Truth: States Can Recognize Service, But Cannot Grant “Federal Veteran Status”**

Under the Constitution:

- **Federal veteran status** is exclusively federal (Title 38).
- **States**, however, have broad police powers and can create **state-defined veteran or “allied veteran” categories** for state programs (burial, tax relief, benefits, memorialization, ceremonial honors).

Therefore:

A state *can* recognize SGU/Lao/Hmong service **independently**, but it must build its own evidentiary and administrative structure because **no valid federal determinations exist** for this purpose.

This is the correct legal foundation for the rest of the answer.

### **II. The Core Challenge: Creating a Non-Fraudulent Determination Without Federal Records**

To create valid determinations, a state needs:

1. **A fact-finding authority**

2. **A standards-of-evidence framework**
3. **A defined evidentiary record**
4. **A review and appeals process**
5. **Fraud safeguards**
6. **Transparency + historical legitimacy**

But because CIA records remain classified, and INS determinations were credibility-based, not service-based, the state must do what **no federal agency has yet done**:  
**reconstruct a lawful, defensible verification process centered on truth-finding.**

This is absolutely possible.

### **III. How a State CAN Build a Truth-Seeking, Fraud-Resistant SGU Verification System**

Below is the *blueprint* used in:

- Tribal recognition processes
- State-level veteran designations
- Holocaust survivor compensation panels
- Special refugee visa adjudications

The structure works when documentation is fragmented or classified.

#### **1. Establish a State SGU Verification Board (SSGUVB)**

This body should include:

##### **A. Historical experts**

- Laos War historians
- Experts in SGU unit structures
- Advisors familiar with theater-level CIA operations

##### **B. SGU officers (pre-vetted)**

- Surviving officers known to CIA handlers
- Documented commanders with reputational integrity

### **C. Retired CIA Special Operations personnel**

- Experienced with SGU operations
- Willing to provide sworn declarations
- Can authenticate unit structures, locations, practices, recognize senior Lao SGU officers  
(*They cannot reveal classified info, but CAN confirm service relationships.*)

### **D. Legal / judicial experts**

- Administrative law
- Immigration
- Veterans law

### **E. Community representatives**

To ensure fairness but **not** to control verification.

This board gives Minnesota:

- authority
- expertise
- independence
- seriousness
- credibility

## **2. Define a legally sound evidentiary standard**

A state may legally adopt a standard like:

**STANDARD OF PROOF: “Clear and convincing evidence.”**

Above “preponderance”; below “beyond reasonable doubt.”  
Used in immigration fraud cases and professional licensing cases.

### **Sources of admissible evidence include:**

- Sworn affidavits from pre-vetted SGU officers
- Statements from CIA veterans (allowed under EO 13526 exceptions)
- Survivor testimony
- Photographs meeting specific criteria

- A-Files (when obtainable through FOIA or with applicant consent)
- LVA certificates (as *supporting*, never *primary* evidence)
- Mission descriptions consistent with documented SGU operational patterns
- Corroborated place/time/mission knowledge
- Combat injury scars consistent with known SGU tactics

**Key rule: No single piece of evidence is determinative.**

The board evaluates the *whole* record.

### **3. Implement a “Verified Referee” System (Chain-of-Honor Model)**

This precisely matches the successful CAVWV approach:

#### **Step 1 — Applicant submits:**

- sworn affidavit
- timeline of service
- unit, region, commander name
- mission details

#### **Step 2 — Verified SGU veteran confirms:**

- “I knew this person as a member of unit X under commander Y.”

#### **Step 3 — SGU officer confirms:**

- “This individual served under my command or in an adjacent unit.”

#### **Step 4 — CIA officer confirms (without classified details):**

- “This chain of command corresponds with known SGU structure and operations.”

#### **Step 5 — Board reviews consistency.**

This respects:

- SGU command culture
- CIA operational architecture

- limit of declassification rules
- the lived historical truth

## **4. Fraud safeguards**

### **A. Sworn affidavits under penalty of perjury**

Violations trigger:

- criminal referral
- permanent disqualification
- civil penalties

### **B. Zero compensation for referees**

Financial motivations strongly correlate with fraud.

### **C. Cross-checking claimed unit with known historical patterns**

(only CIA officers / historians can reliably do this)

### **D. Auditing a percentage of approved cases annually**

Checks integrity of process.

## **5. Build an official, public SGU Honor Roll**

Once individuals are verified, Minnesota can:

- register them
- publish the list (with consent)
- memorialize them
- base benefits on this registry

This gives transparency and legitimacy.

## **6. Provide appeals, reconsideration, and multi-level review**

This ensures procedural fairness and due process.

## **IV. Why a State CAN Act Without Federal Determination (Legal Analysis)**

### **1. Federal preemption does NOT block state recognition**

States cannot define:

- federal veterans
- federal benefits

But states *can* define:

- “State recognized veterans”
- “Allied veterans”
- “Special service categories”

Dozens of states already do this for:

- Philippine Scouts
- Merchant Mariners
- Alaska Territorial Guard
- Civil Air Patrol WWII service
- Confederate veterans (historically)
- Territorial militia
- State Guards

There is no legal barrier.

### **2. CIA secrecy does NOT prevent state verification**

CIA officers can legally provide:

- unclassified confirmations
- service existence

- general command structures
- recognition of individuals

This has been done in FOIA cases, historical inquiries, and minimal declassification releases.

### **3. INS determinations are NOT binding, and not authoritative for SGU status**

This avoids reliance on possibly erroneous outcomes.

## **V. How a State Can Uphold the Moral Obligation**

### **A. Recognize that the SGU fought as U.S. allies under CIA direction**

This is historically indisputable.

### **B. Create an independent verification mechanism**

Because no federal one exists.

### **C. Avoid both over-inclusion (fraud) and under-inclusion (injustice).**

Truth deserves a process that seeks it.

### **D. Respect the fact that many SGU fighters never qualified under PL 106-207.**

So relying exclusively on federal naturalization determinations is unjust.

### **E. Build a permanent historical and moral legacy**

By establishing the **Minnesota SGU Honor Roll**, the state preserves the truth of the Secret War for future generations.

## **VI. Final Answer (Concise)**

**A State can achieve a true, non-fraudulent determination by building a legally structured, evidence-based verification system grounded in historical expertise, sworn testimony, CIA/SGU officer confirmation, and administrative due process—independent of federal determinations that were never designed to verify military service.**

This fulfills the **moral obligation** to honor America's covert wartime allies while ensuring **rigor, fairness, and protection against fraud.**

## ADDENDA

### *CAVWV Report & Analysis on Irregular Veteran (SGU) Identification*

This section contains supplemental documents referenced in the main report and provided to the Minnesota Department of Veterans Affairs Task Force for context, historical comparison, and evidentiary insight.

#### **Addendum A - Filipino WWII Veterans Case Study**

*“We’ve Been Waiting a Long Time” — University of California Hastings Race & Poverty Law Journal*  
(A summary of a precedent on U.S. wartime ally recognition.)

#### **Addendum B - Hmong and Lao Veterans Organizations Briefing**

*Educational Briefing: Hmong and Lao Veterans Organizations from the Secret War in Laos*  
(Overview of organizational landscape, legitimacy issues, and representation dynamics.)

#### **Addendum C - Ethnic Attributes, Historical Stratification, and Implications for Veteran Recognition**

This section provides historical and sociocultural context regarding ethnic identity, stratification, and inter-group perceptions among Hmong (Lao Sung), Lao Loum, Lao Theung, Vietnamese, and Khmer populations. The intent is not to adjudicate claims of victimhood or entitlement, but to explain how **historical experiences under colonial and post-colonial authority in Southeast Asia (SEA)** have shaped group identities, political behaviors, and legislative preferences—both abroad and in the United States.

Understanding these dynamics may help explain why some veteran-recognition initiatives have been framed narrowly around specific ethnic groups, while others have been excluded, omitted, or not actively incorporated.

#### **Addendum D - Additional problems found since the submission of the CAVWV Report to the Task Force**

## Addendum A - Filipino WWII Veterans Case Study

**U. of California Law Journal of Race and Economic Justice, Volume 7, Number 2, Spring 2010\***

***We've Been Waiting a Long Time - The Struggle to Pass the Filipino Veterans Equity Act and a Bittersweet Ending to a Sixty-Three-Year Battle***

*\*Paul Daniel Rivera, We've Been Waiting a Long Time - The Struggle to Pass the Filipino Veterans Equity Act and a Bittersweet Ending to a Sixty-Three-Year Battle, 7 HASTINGS RACE & POVERTY L.J. 447 (2010). Available at: [https://repository.uclawsf.edu/hastings\\_race\\_poverty\\_law\\_journal/vol7/iss2/4](https://repository.uclawsf.edu/hastings_race_poverty_law_journal/vol7/iss2/4)*

The Filipino WWII veterans' struggle for recognition **provides a relevant precedent** for the recognition of Hmong or Lao service to the USG, but only as a *persuasive* (not binding) authority, and only for policy arguments, equitable considerations, and congressional **intent in wartime ally cases**.

However, **it does NOT directly create legal precedent** that forces recognition of Hmong or Lao veterans as "U.S. veterans."

**WHY?:** Filipino WWII service was **federally authorized military service**, whereas Hmong/Lao service was **CIA-directed paramilitary service** with no statutory military enlistment.

Still, the Filipino case provides **three powerful, transferable legal concepts**:

- 1. Congress has repeatedly reversed its own exclusions of wartime allies.**
- 2. The courts recognize that non-citizens can perform U.S. military service under U.S. authority.**
- 3. Executive branch decisions interpreting wartime service can be overturned legislatively.**

These concepts can substantially support a **Hmong/Lao legislative recognition framework**, but **cannot win a direct lawsuit** based on current statutes.

### **Part I - What the Filipino Veterans Case Actually Was**

The article explains that Filipino soldiers in WWII served in:

- the **Philippine Commonwealth Army under U.S. command**,
- U.S.-organized guerrilla units,

- and the “New Philippine Scouts.”

On **July 26, 1941**, President Roosevelt **federalized** portions of the Philippine military under the U.S. Armed Forces in the Far East (USAFFE).

This is critical: **their service was legally considered active service in the U.S. Armed Forces.**

### **The central legal dispute:**

After WWII,

- **Congress rescinded most veterans’ benefits in the 1946 Rescission Acts**, creating the category “*not deemed active service*,”
- Filipino veterans litigated for decades (e.g., *Quiban v. Veterans Administration*),
- Recognition was later revived (partially) by **the 2009 Filipino Veterans Equity Compensation Fund**.  
The article describes this nearly 70-year struggle for the restoration of benefits that had originally been **explicitly granted, then revoked**.

## **Part II - Legal Reasoning in the Filipino Case That *Can* Support a Hmong/Lao Argument**

The article identifies several legal principles that are directly transferable to the Hmong/Lao recognition question.

### **1. Congress Has Authority to Define Who Is a “Veteran”**

The paper repeatedly emphasizes:

- The term “veteran” is **statutory**, not constitutional.
- Congress has **plenary power** to expand or contract the definition.
- Courts defer heavily to Congress on veterans’ status.

#### **Relevance to Hmong/Lao case:**

<https://www.cavwv.org/cavwv-report--analysis.htm>

Congress could choose to designate Hmong/Lao CIA Special Guerrilla Units (SGU) as “veterans” by statute, even if they never served in the formal U.S. Armed Forces.

This is a **powerful affirmative precedent** because it demonstrates the flexibility of the statutory term “veteran.”

# Addendum B: Hmong and Lao Veterans Organizations from the Secret War in Laos

## Executive Summary

This briefing analyzes the landscape of veterans' organizations serving Hmong and Lao veterans of the CIA's Secret War in Laos (1961-1975). It addresses the apparent disparity in organizational visibility between Hmong and ethnic Lao groups, examines the complex evolution of these organizations, and provides context for understanding current advocacy efforts for veterans' recognition and benefits.

### Key Findings:

- Multiple veterans' organizations have emerged since the 1990s, with significant proliferation after 2007
- Hmong organizations have received disproportionate media attention and public visibility
- Ethnic Lao veterans' organizations exist but operate with less public profile
- Internal organizational conflicts have created confusion about legitimacy, ranks, and advocacy approaches
- Veterans' organizations serve multiple functions: recognition-seeking, identity formation, and response to racism

## Part 1: Historical Context - The Secret War in Laos

### The War (1961-1975)

#### Key Points:

- CIA-directed covert operations supporting the Royal Lao Government against the communist Pathet Lao and North Vietnamese forces
- Special Guerrilla Units (SGUs) recruited from multiple ethnic groups
- Primary ethnic groups involved: Hmong, ethnic Lao, Khmu, Heuny, Iu Mien, and others
- General Vang Pao (Hmong) commanded Military Region II but operated under Royal Lao Army authority

### Critical Nuance: Proportional Contributions

#### Often Overlooked Facts:

- According to Dr. Yang Dao, **40% of soldiers in Military Region II were non-Hmong**
- Southern Laos operations were primarily ethnic Lao and Mon-Khmer groups
- Ho Chi Minh Trail interdiction was mainly conducted by ethnic Lao units
- Hmong forces concentrated in northern/central Laos operations

### Post-War Consequences (1975-present)

- Tens of thousands killed; over 100,000 fled as refugees
- Veterans never received standard U.S. military documentation (no DD-214 forms)
- Resettlement to the U.S., France, Canada, and Australia as refugees
- Loss of status, homeland, and formal recognition

## **Part 2: Evolution of Veterans' Organizations**

### **First Generation: 1990s-2000s**

#### **Lao Veterans of America (1991-1992)**

- Founded by Lt. Col. Wangyee Vang (Fresno, California)
- National organization with approximately 7,000-13,000 members at peak
- Closely aligned with General Vang Pao
- Instrumental in passage of **Hmong Veterans' Naturalization Act of 2000**

#### **Lao Hmong American Coalition (mid-1990s)**

- Founded by Yang Chee (Denver, Colorado)
- Deliberately distanced from anti-Lao government politics
- Supported by Dr. Yang Dao
- Successfully lobbied for **July 22 as Lao Hmong Veterans Day** (Congressional recognition 2001)

### **Second Generation: 2002-2010s - Fragmentation Period**

#### **SGU Veterans and Families (2002)**

- Split from Lao Veterans of America over name/strategy disputes
- "Special Guerrilla Unit" designation emphasized CIA connection
- Further splintered into multiple organizations with similar names

#### **Royal Lao Veterans of America (2008)**

- Founded by **Col. Khao Inxiengmay** (Minnesota)
- Approximately 500 members (2013 estimate)
- **Focus: Ethnic Lao and Lao Theung (Mon-Khmer) veterans**
- Explicitly formed to counter Hmong-dominated narrative

#### **Lao American Veterans Association of Illinois (2010)**

- 56 members (2014)
- Successfully achieved **July 19 as "Lao Veterans Day" in Illinois**

- Dedicated memorial stone in Elgin veterans' park (2014)

## **The "National Defense" Organizations**

### **United States National Defense Force Support Command (USNDFSC)**

- Founded by James Graham (white American)
- Recruited heavily from Southeast Asian veteran communities
- Offered honorary ranks, uniforms, medals

### **United States National Defense Corps (USNDC)**

- Founded 2009 by Joe Potter (white American) after split from USNDFSC
- Disproportionately Southeast Asian membership
- Claimed authority under federal directives (claims disputed)
- Annual FEMA training provided perceived legitimacy

### **Critical Issues with National Defense Organizations:**

- Honorary ranks often conflated with actual military service ranks
- Membership fees and rank promotions raised ethical concerns
- Some members accused of misleading elders about benefits eligibility
- Created confusion in communities about legitimate vs. honorary recognition

## **Part 3: Why Hmong Organizations Dominate Search Results**

### **Quantitative Factors**

#### **1. Population Distribution**

- Larger Hmong American population (approximately 300,000+)
- Higher concentration in states with Hmong populations (Minnesota, Wisconsin, California)

#### **2. Organizational Proliferation**

- More Hmong-focused organizations created (at least 6 major national/regional groups)
- Frequent organizational splits created multiple entities with media presence

#### **3. Media Engagement**

- More press releases and media outreach from Hmong organizations
- Stronger presence at commemorative events

## **Narrative Factors**

1. **"Secret Army" Branding**
  - Hmong organizations successfully promoted "America's secret army" narrative
  - Simplified messaging resonated with American media
  - Emphasis on direct CIA connection (SGU designation)
2. **General Vang Pao's Profile**
  - Only Hmong general; high-profile leader
  - 2007 arrest for alleged coup plot generated massive media attention
  - 2011 death and Arlington Cemetery controversy intensified advocacy
3. **Identity Politics**
  - Shift from "Lao Veterans" to "Hmong Veterans" in organizational names
  - Assertion of distinct Hmong American identity (separate from "Lao")
  - Academic research focused more on Hmong refugee/veteran experience

## **Structural Factors**

1. **Language and Accessibility**
  - Hmong organizations more proactive with English-language materials
  - Younger generation Hmong Americans more engaged in advocacy
2. **Academic and Advocacy Networks**
  - More Hmong Studies programs at universities
  - Stronger connections to U.S. military veterans who served in Laos

## **Part 4: Lao Veterans' Organizations - The Hidden Presence**

### **Why Lower Visibility?**

1. **Deliberate Strategy**
  - Some Lao organizations focus on community service over public advocacy
  - Less confrontational approach to recognition-seeking
2. **Internal Community Dynamics**
  - Class and regional differences among ethnic Lao refugees
  - Former Royal Lao Army officers vs. enlisted personnel tensions
  - Political divisions (royalist vs. neutralist backgrounds)
  -

### 3. Documentation Challenges

- Ethnic Lao veterans often served in regular Royal Lao Army units
- Less direct CIA connection than SGU forces
- Harder to document "special" relationship with U.S.

## Notable Lao Organizations (Partial List)

### Royal Lao Veterans of America (Minnesota)

- Led by Col. Khao Inxixiengmay
- 500 members (2013), primarily ethnic Lao and Lao Theung
- Focuses on correcting historical narrative
- **Quote from founder:** "We want to make it clear [to ethnic Lao] that we are not just illegal Mexican immigrants. We came here because we fought with the United States."

### Lao American Veterans Association of Illinois

- Successfully lobbied Illinois state government
- Memorial established in Elgin (2014)
- All members also in USNDC (national defense organization)

### Other Lao Groups Mentioned:

- Lao pilots' association
- Lao veteran police association
- Royale Lao Airborne (RLA) - quasi-veterans' organization focused on parachuting

## Lao Veterans' Concerns

From the Baird-Hillmer research:

"Lao veterans often feel resentment toward Hmong veterans taking credit for their own efforts or the efforts of other minorities such as the Khmu."

Former USAID staffer Ernie Kuhn:

"The Lao put up one hell of a fight...made an awful lot of sacrifices...and don't get much credit... There were entire [Special Guerrilla Unit] battalions comprised solely of various Lao Theung ethnic groups."

## Part 5: Key Themes and Issues

## **Theme 1: Rank and Ritual**

### **The Politics of Military Rank:**

- Original organizations only recognized Laos-era ranks
- National defense organizations created new "honorary" ranks
- Widespread community confusion about rank legitimacy
- Some veterans promoted from lieutenant/captain to "general" within private organizations
- Uniforms and medals worn at public events without clarification of their honorary nature

### **Functions of Ritual:**

- Funeral honors for deceased veterans
- Annual training exercises
- Commemoration events
- Connection between past (Laos) and present (U.S.) service

## **Theme 2: Response to Racism**

### **Veterans' Narrative as Counter-Racism Strategy:**

The research identifies a critical function of veterans' organizations: **responding to racism experienced in the United States.**

### **Common Racist Encounters:**

- "When are you going home?"
- "Go back to your own country"
- Assumptions of being "welfare recipients"
- Conflation with undocumented immigrants

### **Veterans' Response - The "Legitimacy Narrative":**

- "We fought for America"
- "We were America's secret, CIA army"
- "We rescued American pilots"
- "We saved American soldiers' lives"

**Important Quote from Research:** Cha Lee Moua: *"I didn't know I was an American soldier until...I came to America."*

**Academic Concern:** Anthropologist Yen Le Espiritu warns that this counter-narrative is "dangerous" because:

- It elevates veteran immigrants as "legitimate"  
<https://www.cavwv.org/cavwv-report--analysis.htm>

- It implicitly delegitimizes other immigrant groups (e.g., Latin Americans)
- It reinforces hierarchies of immigrant worthiness

### **Theme 3: Memory and Identity Formation**

#### **Shift in Narrative (1980s-2000s):**

- **1980s-1990s:** "Americans abandoned us" (Hamilton-Merritt 1993)
- **2000s-present:** "We sacrificed for America"

#### **Why the Shift?**

- General Vang Pao's 2007 arrest signaled end of armed resistance hopes
- Death of Vang Pao (2011) marked generational transition
- Arlington Cemetery burial controversy mobilized communities
- Need for integration into American society replaced return-to-Laos hopes

#### **Multiple Identities:**

- Hmong American (distinct from "Lao")
- Veteran (linking to U.S. military culture)
- Refugee (explaining presence in U.S.)
- Loyal American (countering racism)

### **Theme 4: Organizational Legitimacy and Fraud Concerns**

#### **Concerns Raised:**

##### **1. Financial Exploitation**

- Chue Chou Cha allegedly collected \$300,000-400,000 for lawsuit against U.S. government (lawsuit failed)
- Membership fees: \$35-600 per person
- Promises of \$40,000 government benefits that never materialized
- 

##### **2. Rank Inflation**

- Veterans with captain/major rank in Laos promoted to "general" in private organizations
- Confusion about honorary vs. actual military ranks
- Wearing uniforms at public events without clarification
- 

##### **3. Misrepresentation of Government Affiliation**

- National defense organizations implied federal recognition
- FEMA training cited as evidence of government endorsement
- Better Business Bureau noted no formal contract with federal agencies
- 

#### 4. "Stolen Valor" Concerns

- Non-veterans and veterans' children eligible for honorary ranks
- Teenagers receiving military-style uniforms and ranks
- Some individuals wearing uniforms with mixed decorations from different military branches
- 

#### Community Response:

- Higher-ranked veterans (majors, colonels) generally critical of honorary rank systems
- Lower-ranked veterans and non-veterans more likely to participate
- Generational divide: elders seeking recognition vs. educated youth skepticism

## Part 6: Legislative and Recognition Efforts

### Federal Legislation

#### Hmong Veterans' Naturalization Act of 2000 (Public Law 106-207)

- Waived English language requirement for naturalization
- Allowed affidavits from fellow soldiers as service documentation
- Capped at 45,000 eligible veterans and spouses
- 18-month filing window (later extended)

#### Hmong Veterans' Service Recognition Act (2018)

- **Landmark achievement**
- Permits states to extend burial rights in federal veterans' cemeteries
- Applies to Hmong and Lao veterans

#### Critical Limitation:

- Only applies to veterans naturalized **after 2000**
- Approximately **50% of eligible veterans excluded** (those naturalized before 2000)
- No financial benefits authorized (only burial rights)

### State-Level Recognition

#### Successful State Actions:

- **Wisconsin:** Lao Veterans of America Wisconsin license plates; flag draping rights
- **Illinois:** July 19 declared "Lao Veterans Day"
- **Multiple states:** July 22 recognized as "Lao Hmong Veterans Day"

### **Memorial Dedications:**

- Fresno, California
- Arlington, Virginia (Laos Memorial)
- Sheboygan, Wausau, La Crosse, Wisconsin
- Elgin, Illinois
- St. Paul, Minnesota

### **Ongoing Challenges**

#### **What Veterans Still Seek:**

1. **Financial benefits** equivalent to U.S. military veterans
2. **Expansion of burial rights** to all veterans (regardless of naturalization date)
3. **Official U.S. military veteran status**
4. **Healthcare benefits** through VA system
5. **Formal apology/acknowledgment** from U.S. government

## **Part 7: Critical Analysis - What the Research Shows**

### **Academic Perspective (Baird & Hillmer, 2020)**

**Central Argument:** Veterans' organizations represent a "**crucial shift**" from:

- **Past focus:** Defeating communism, returning to Laos victoriously
- **Present focus:** Legitimizing themselves as "worthy and loyal American citizens"

#### **Functions of Veterans' Organizations:**

1. Recognition within own communities
2. Recognition from American society broadly
3. Gaining and maintaining military rank
4. Connecting past (Laos) service to present (U.S.) lives
5. **Responding to racism** (direct or indirect)
6. Seeking burial and financial benefits

### **Complexities and Contradictions**

### 1. Service Motivation Ambiguity

- In Laos: Fighting for homeland, villages, anti-communism, Royal Lao Government
- In U.S.: Reframed as "fighting for America"
- Both narratives contain truth; emphasis depends on context

### 2. Who Counts as "Veteran"?

- Regular Royal Lao Army soldiers
- Special Guerrilla Units (direct CIA support)
- Village militia/self-defense forces
- Irregular forces
- Support personnel
- Should spouses and children be included?

### 3. Recognition Hierarchy

- Hmong SGU forces most recognized
- Ethnic Lao regular army forces less recognized
- Lao Theung (Khmu, Heuny, etc.) rarely acknowledged
- Southern Laos forces largely forgotten
- Women's support roles ignored

### 4. Organizational Legitimacy

- Some organizations pursue genuine advocacy
- Others accused of financial exploitation
- Line between honorary recognition and fraud is blurry
- Veterans' desperation for recognition creates vulnerability

## Part 8: Recommendations for Minnesota Task Force

### Understanding the Landscape

#### Do:

- ✓ Recognize that multiple ethnic groups fought in Secret War (Hmong, ethnic Lao, Khmu, Heuny, Iu Mien, others)
- ✓ Understand that **Hmong organizations have dominated media** but do not represent all Secret War veterans
- ✓ Actively seek out **ethnic Lao veterans' organizations** (like Royal Lao Veterans of America - Minnesota)

✓ Distinguish between organizations that:

- Only recognize Laos-era ranks and service
- Offer honorary ranks through private organizations

✓ Acknowledge the **racism veterans have faced** as context for their advocacy

✓ Recognize that veterans' memories and motivations have evolved over 50 years

### **Don't:**

✗ Assume all "Lao veterans" are Hmong (ethnic Lao are different)

✗ Take organizational membership numbers at face value (significant inflation)

✗ Assume honorary ranks from private organizations indicate actual military service level

✗ Ignore concerns about financial exploitation in some organizations

✗ Treat all veterans' organizations as equivalent in legitimacy and purpose

## **Engagement Strategy**

### **1. Inclusive Outreach**

- Contact **both** Hmong-focused and ethnic Lao-focused organizations
- Specifically reach out to:
  - Royal Lao Veterans of America (Col. Khao Inxiengmay - Minnesota)
  - Lao Veterans of America Wisconsin
  - SGU Veterans and Families (original organization)
  - Lao Hmong American Coalition
  -

### **2. Documentation Standards**

- Require documentation of Laos-era service (per HVNA 2000 standards):
  - Original military documents from Laos
  - Affidavits from superior officers
  - Affidavits from fellow soldiers
  - Refugee processing documentation
- Do not accept honorary ranks from private organizations as proof of service

### **3. Balanced Historical Narrative**

- Acknowledge contributions of all ethnic groups
- Cite sources carefully (peer-reviewed research, official documents)

<https://www.cavwv.org/cavwv-report--analysis.htm>

- Avoid perpetuating "Hmong = all Secret War forces" narrative
- Include ethnic Lao, Khmu, and other groups' contributions

#### **4. Sensitivity to Intra-Community Tensions**

- Be aware of Hmong-Lao tensions over recognition
- Acknowledge competing organizational legitimacy claims
- Focus on documented service, not organizational affiliation

### **Questions for Task Force Consideration**

#### **Policy Questions:**

1. Should Minnesota extend state-level benefits beyond federal burial rights?
2. How should "veteran" be defined for state benefit purposes?
3. Should honorary ranks from private organizations disqualify individuals from benefits?
4. How can the state verify Laos-era military service?

#### **Equity Questions:**

1. How can ethnic Lao and other non-Hmong veterans be ensured proportional representation?
2. Should benefits extend to irregular forces and militia, or only regular/SGU forces?
3. How should the state address financial exploitation concerns in some organizations?
4. What responsibility does the state have to educate the public about ethnic diversity among Secret War forces?

#### **Community Questions:**

1. How can the Task Force bring together fractured organizations?
2. Should the state recognize specific organizations or work with all groups?
3. How can veterans' stories be preserved for historical record?
4. What role should younger generation Hmong and Lao Americans play?

## **Part 9: Additional Context - The N-426H Form Mystery**

### **Specific Research Question**

Searching for documentation of "**N-426H**" as a "**Certificate of Honorable Service**" for Hmong and Lao SGU veterans.

**The standard Form N-426** (without "H" designation) is:

- "Request for Certification of Military or Naval Service"
- Used by regular U.S. military veterans for naturalization

- Requires DD-214 (Certificate of Release or Discharge from Active Duty)

### **The Hmong Veterans' Naturalization Act of 2000:**

- **Did NOT create a special "N-426H" form**
- **Did NOT create a "Certificate of Honorable Service"**
- Used existing refugee processing documentation
- Required alternative proof (affidavits, original documents, "other appropriate proof")

### **Possible Explanations for "N-426H"**

#### **1. Confusion with DD-214**

- Col. Joe Potter (USNDC) created "Asian Allies Registration Form" mimicking DD-214
- Chue Chou Cha also distributed DD-214-like forms
- Some veterans may have received unofficial certificates

#### **2. Organizational Certificates**

- Private veterans' organizations issued their own certificates
- These may have been labeled with form numbers that sounded official
- No federal authority behind these documents

#### **3. Internal INS Working Documents**

- May have been informal designation used during 2000-2004 naturalization processing
- Never formalized or published
- Not findable in public records

### **What VA Actually Says**

#### **VA National Cemetery Administration explicitly states:**

"The DD Form 214, Certificate of Release or Discharge from Active Duty, **is not an appropriate documentation of service** for verification purposes of Hmong fighters."

This confirms these veterans **never received standard U.S. military discharge documentation.**

### **Recommendation for Task Force**

#### **Be cautious about documentation claims:**

- Verify all forms against official USCIS/VA databases
- Consult with federal VA representatives about acceptable proof
- Be alert to fraudulent documentation schemes
- Educate veterans about difference between official and unofficial certificates

## Conclusion

The landscape of Hmong and Lao veterans' organizations is **complex, fragmented, and contested**. While Hmong organizations have gained greater visibility, ethnic Lao and other groups' contributions remain underrecognized.

### The Minnesota Task Force should:

1. **Acknowledge diversity** among Secret War veterans (ethnic and experiential)
2. **Seek balanced representation** from multiple organizations and ethnic groups
3. **Verify service documentation** carefully, distinguishing official from honorary credentials
4. **Understand organizational functions** beyond advocacy (identity formation, anti-racism, community building)
5. **Be aware of vulnerabilities** (financial exploitation, false promises, confusion)
6. **Recognize legitimate grievances** (lack of recognition, racism, documentation challenges)

**Most importantly:** The veterans' narrative as "fighting for America" serves multiple purposes - some genuine (seeking recognition), some problematic (creating immigrant hierarchies). The Task Force should honor service **without** reinforcing narratives that delegitimize other immigrant communities.

## Appendices

### Appendix A: Key Organizations - Contact Framework

#### Hmong-Focused Organizations:

- Lao Veterans of America (Fresno, CA) - Lt. Col. Wangyee Vang
- SGU Veterans and Families (multiple branches)
- Lao Hmong American Coalition (Wisconsin-based)

#### Ethnic Lao-Focused Organizations:

- **Royal Lao Veterans of America** (Minnesota) - Col. Khao Inxixengmay
- Lao Veterans of America Wisconsin - Nor Tou Lo
- Lao American Veterans Association of Illinois

## Addendum C: Ethnic Attributes, Historical Stratification, and Implications for Veteran Recognition

### Purpose of This Section

This section provides historical and sociocultural context regarding ethnic identity, stratification, and inter-group perceptions among Hmong (Lao Sung), Lao Loum, Lao Theung, Vietnamese, and Khmer populations. The intent is not to adjudicate claims of victimhood or entitlement, but to explain how **historical experiences under colonial and post-colonial authority in Southeast Asia (SEA)** have shaped group identities, political behaviors, and legislative preferences—both abroad and in the United States.

Understanding these dynamics may help explain why some veteran-recognition initiatives have been framed narrowly around specific ethnic groups, while others have been excluded, omitted, or not actively incorporated.

## Ethnic Stratification in Pre- and Post-Colonial Southeast Asia

### Colonial and Pre-Colonial Hierarchies

Southeast Asian societies historically developed along **stratified ethnic and geographic lines**, often reinforced by colonial administration:

- **Lowland populations** (e.g., Lao Loum, Vietnamese Kinh, Khmer lowland populations) typically occupied river valleys and administrative centers.
- **Midland and upland populations** (e.g., Lao Theung and Lao Sung/Hmong) often lived in less accessible mountainous or forested regions.

Colonial powers—particularly the French in Indochina—frequently **reinforced or exploited these distinctions**, governing lowland populations through indirect administration while recruiting upland groups for military, paramilitary, or auxiliary roles. This reinforced perceptions of ethnic difference tied to geography, governance, and authority.

## Group-Specific Historical Experiences

### Hmong (Lao Sung)

- Historically marginalized within Lao society, the Hmong occupied highland regions and were often excluded from lowland political power structures.
- Under French colonial rule and later U.S. covert operations, Hmong communities were militarized disproportionately relative to population size.

- These experiences reinforced a collective identity centered on **sacrifice, loyalty, and abandonment**, particularly following the U.S. withdrawal from Laos.
- In the United States, this history has translated into strong group cohesion, a unified narrative of service, and focused legislative advocacy.

### **Lao Loum (Lowland Lao)**

- Traditionally dominant in the Lao state apparatus, culture, and monarchy.
- While many Lao Loum also served in military or paramilitary roles, their service was often framed as part of a national Lao military structure rather than as a distinct ethnic experience.
- In diaspora, Lao Loum identity has tended to be more nationally oriented (“Lao”) than ethnically mobilized for targeted recognition legislation.

### **Lao Theung**

- A diverse group of midland indigenous populations, historically among the most marginalized.
- Rarely organized as a single political or advocacy bloc, either in Laos or abroad.
- Limited representation in U.S. refugee narratives or veteran-recognition efforts, often due to smaller numbers, limited documentation, and weaker institutional organization.

### **Vietnamese (Kinh majority)**

- As the dominant ethnic group in Vietnam, Vietnamese veterans’ experiences are typically framed within the context of national armies (ARVN or PAVN).
- Vietnamese refugee narratives in the United States have focused more on political persecution and reeducation camps than on U.S.-directed irregular service.
- Vietnamese veterans who cooperated with U.S. forces often did so within formal military structures, reducing reliance on irregular recognition frameworks.

### **Khmer**

- Khmer populations experienced extreme trauma during the Khmer Rouge period, with survival and genocide recognition often eclipsing military service narratives.
- Khmer veterans’ advocacy has tended to focus on refugee protection, trauma recovery, and human rights rather than veteran-specific recognition.
- Fragmented diaspora organization and the catastrophic destruction of institutions limited long-term collective veteran advocacy.

# Ethnic Identity, Equality, and Perceptions of Race

## Perceptions Within Southeast Asia

Ethnic stratification in SEA was historically associated with:

- **Perceived cultural hierarchy** (civilized vs. “hill tribe” stereotypes)
- Differential access to education, governance, and land
- Unequal treatment by colonial and post-colonial states

These perceptions were internalized differently across groups, shaping how communities viewed themselves and one another.

## Transposition to the United States

Upon resettlement in the United States:

- Many SEA communities encountered **racial categorization that flattened distinct ethnic histories** into a single “Asian” or “Southeast Asian” identity.
- This created tension between internal ethnic distinctions and external racial classification.
- Some groups responded by emphasizing **distinct ethnic narratives** to preserve identity and historical memory, while others adapted more readily to pan-ethnic or national labels.

## Legislative Advocacy and Inclusion Dynamics

The historical experiences described above help explain divergent legislative strategies:

- **Hmong advocacy** has often emphasized a **clear, bounded narrative** of service tied to CIA-directed SGU operations, facilitating narrowly framed legislation.
- **Other ethnic veteran communities** may lack:
  - Unified organizational structures
  - Shared service narratives
  - Documentation or recognized command hierarchies
  - Political consensus on inclusion strategies

As a result, legislation focused on SGU recognition has sometimes been **ethnically specific by design**, not necessarily out of exclusionary intent, but due to practical, historical, and organizational realities.

## Adaptation Challenges in the United States

Some communities have demonstrated greater capacity to adapt to U.S. political and legal frameworks due to:

- Strong internal leadership
- Concentrated geographic settlement
- Early access to advocacy networks
- A singular, coherent historical narrative

Others have faced barriers including:

- Fragmented leadership
- Competing survival priorities
- Trauma-driven reluctance to engage publicly
- Limited familiarity with U.S. legislative processes

These factors influence not only advocacy success but also perceptions—both internal and external—of equity and recognition.

## Conclusion

Differences in ethnic identity, historical experience, and adaptation patterns among Hmong, Lao Loum, Lao Theung, Vietnamese, and Khmer communities are rooted in longstanding social and political structures in Southeast Asia. These differences continue to shape legislative advocacy, coalition formation, and recognition efforts in the United States.

Recognizing these dynamics does not imply hierarchy of sacrifice or entitlement. Rather, it provides context for understanding why certain veteran-recognition initiatives have emerged as they have, and why broader inclusion may require **deliberate, historically informed approaches** that account for diversity within Southeast Asian veteran communities.

## Addendum D: Additional problems found since the submission of the CAVWV Report to the Task Force

Minnesota Statute, Chapter 30, SF 1959, Section 9 (new § 197.448) and Section 13 (the advisory task force) create a definitional and procedural gap that could materially weaken enforceability. Here's a structured analysis.

### 1. Core discrepancy: undefined class of veterans

Section 13 repeatedly uses the phrase “veterans of special guerrilla units and irregular forces in Laos”, a category not fully defined in any other section.

Section 9 attempts to define “veteran of the Secret War in Laos”, but it only provides:

- Clause (1): Those already naturalized under the *Hmong Veterans' Naturalization Act of 2000* (a closed federal list).
- Clause (2): Those the commissioner *determines* served honorably with a guerrilla or irregular force *once the legislature enacts criteria and protocol*.

The problem is that no criteria or protocol yet exist, and § 197.448 explicitly bars the commissioner from accepting applications until the legislature provides them.

Meanwhile, Section 13 orders a task force to draft exactly those criteria and report them by February 2026.

So until that report is received, no lawful mechanism exists to identify the clause (2) veterans, even though Section 9(c) obligates the commissioner to design a verification certificate form by September 2025. The agency cannot fulfill that duty without the legislative criteria that depend on the Task Force's future work.

Result:

- Administrative standstill between effective date and February 2026.
- Procedural circularity: § 197.448 requires legislative enactment before verification can begin, but the Task Force is only empowered to *recommend* enactment.

Thus, the statute technically defines benefits but supplies no enforceable pathway for extending them beyond those already naturalized under federal Public Law 106-207.

### 2. Ambiguity in referenced veteran categories

Section 13 introduces a new descriptive category — “*Veterans of Special Guerilla Units and Irregular Forces in Laos*” — without declaring it synonymous with “veterans of the Secret War in Laos” from § 197.448.

Minnesota drafting conventions normally use cross-reference phrases such as “*as defined in section 197.448*” to ensure continuity of meaning. That phrase is missing here.

Hence:

- A literal reading could treat these as two separate populations — one defined in § 197.448, another undefined in § 13 — causing interpretive uncertainty for appointment and eligibility.
- Because Task Force seats rely on self-identification within the undefined group, the commissioner’s appointments could lack statutory authority if challenged.

### 3. Additional internal inconsistencies

- In § 197.448, Subd. 2(b) delays implementation “*until the legislature enacts criteria and a protocol,*” suggesting criteria will come by law, not task-force recommendation. Section 13, however, assigns such work to a temporary advisory task force — a non-legislative entity. The commissioner has no authority to adopt its recommendations absent enactment.
- The statute instructs the commissioner to “develop the form” by a fixed date before receiving any verification criteria. Agencies typically cannot finalize forms that hinge on undefined eligibility standards.
- The statute creates no bridge mechanism to incorporate the task force’s findings into § 197.448 without a new bill. Unless the 2026 legislature acts, the commissioner remains unable to verify anyone beyond those already covered by clause (1).

### 4. Potential legal and procedural consequences

Because of these overlaps and omissions, enforcement could be attacked on several grounds:

1. Vagueness/delegation doctrine: Leaving veteran-status standards to a Task Force without a statutory definition may violate Minnesota’s non-delegation principles (see *Lee v. Delmont*, 228 Minn. 101 (1949)).
2. Impossibility defense: Agencies cannot implement conflicting deadlines when enabling criteria do not yet exist.
3. Equal-protection or due-process risks: Two groups—federally naturalized Hmong veterans (immediately eligible) and all others who fought identically but lack documentation—receive unequal treatment absent a rationally related justification.

### 5. Recommended legislative or drafting corrections

To make the law enforceable and internally consistent, the legislature should:

<https://www.cavwv.org/cavwv-report--analysis.htm>

- Explicitly state that “veterans of special guerrilla units and irregular forces in Laos” in § 13 are *identical* to “veterans of the Secret War in Laos” defined in § 197.448.
- Add a clause in § 197.448 authorizing the commissioner to adopt interim administrative rules based on the task-force report, pending formal enactment.
- Either move or align the September 15, 2025 deadline to occur after the task-force report (February 2026).
- Ensure legislative adoption of the criteria soon after the report to activate § 197.448 Subd. 2(b).
- Direct the TF to draft specific statutory text (definitions, cross-references, and transition provisions) rather than just broad recommendations.
- Require the TF to propose objective evidentiary standards and documentation hierarchies (e.g., what records, affidavits, unit rosters, intelligence documents, etc., are acceptable) to support the commissioner’s determinations under § 197.448, subd. 1(2).
- Address due-process safeguards in the protocol (notice, opportunity to respond, appeal standards) so that the commissioner’s decisions are defensible.
- Explicitly analyze and recommend how state-level recognition and benefits interact with existing federal limits on SGU/Hmong veterans’ status (to avoid promising what state law cannot deliver).

Without all these elements, the Task Force’s mandate remains more conceptual than operational, not yet a complete specification of the detailed, legally robust marching orders the Task Force should have received.

In short: Section 13 creates an advisory group referring to a cohort that § 9 defines only conditionally, producing a circular dependency that precludes implementation until future legislative action. Without amendment or clarifying legislation, the law is partially inoperative and severely limited in enforceability.

## Addendum E: The Legal Annex

Legal and Administrative Foundations for Recognition of Lao and Hmong Veterans of CIA Irregular Forces, 1961–1973

### I. Introduction and Purpose

The Minnesota Veterans of Special Guerrilla Units and Irregular Forces in Laos Advisory Task Force (“MN TF”) faces a legal and evidentiary question that lies at the intersection of administrative law, national security secrecy, and moral obligation: how can the State of Minnesota recognize and verify the wartime service of Lao and Hmong individuals who fought as irregular forces under United States direction during the period 1961–1973, when the relevant federal agencies lack—or are prohibited from disclosing—archival records confirming such service?

Two decades of federal legislation and rulemaking form the statutory backdrop. The **Hmong Veterans’ Naturalization Act of 2000**, Pub. L. No. 106-207, 114 Stat. 316 (codified at 8 U.S.C. § 1423 note), created an expedited naturalization process for certain Hmong and Lao nationals who had served with United States-supported irregular forces in Laos between February 28, 1961, and May 7, 1975. The **Consolidated Appropriations Act of 2018**, Pub. L. No. 115-141, 132 Stat. 348, later amended 38 U.S.C. § 2402 to extend burial eligibility in national cemeteries to individuals naturalized under that Act. In 2023, the Department of Veterans Affairs (“VA”) issued a proposed rule, **RIN 2900-AR80**, 88 Fed. Reg. 10065 (Feb. 16, 2023), codified at **38 C.F.R. pt. 38**, implementing related statutory expansions enacted through the National Defense Authorization Act for Fiscal Year 2022.

The **Coalition of Allied Vietnam War Veterans (“CAVWV”)**, in its *Final Draft Amendment to Public Law 115-141* (rev. 6, 2023), submitted extensive commentary asserting that the statutory and regulatory schemes are incomplete and unjust. CAVWV contends that the federal framework: (1) is over-narrow, excluding non-Hmong participants and other ethnic Lao, Khmer, and Montagnard irregulars; (2) fails to account for covert operations in Cambodia, North Vietnam, and South Vietnam; (3) erroneously limits “qualifying service” to CIA-directed forces, omitting those under Department of Defense (“DoD”) command; and (4) contains no effective evidentiary or anti-fraud mechanism. These concerns are directly relevant to the MN TF’s work. They raise the broader question of whether—and on what legal theory—a state entity can acknowledge service that federal law treats only as a matter of administrative discretion rather than verified historical fact.

This Legal Annex therefore serves four functions:

1. **To delineate the controlling federal administrative-law doctrines** governing how agencies may make eligibility determinations absent verifiable evidence, with emphasis on the *Chenery* and *Universal Camera* lines of cases;
2. **To apply those doctrines** to the Hmong Veterans’ Naturalization Act and its progeny, showing why federal determinations of “service” constitute *constructive administrative findings* rather than factual adjudications;

3. **To assess the implications for federalism and pre-emption**, guiding the MN TF in constructing a lawful, antifraud recognition mechanism at the state level; and
4. **To provide a fully sourced analytic record** suitable for citation in legislative counsel memoranda and for inclusion as an appendix to the TF’s final report.

The Annex proceeds in five sections. Section II sets forth the doctrinal framework; Section III applies those doctrines to Pub. L. 106-207; Section IV reviews Pub. L. 115-141, 38 C.F.R. pt. 38, and the CAVWV critique; Section V discusses federalism and antifraud; and Section VI concludes with a pro-con analysis and recommended posture for the MN TF.

## II. Doctrinal Framework

The MN TF’s deliberations occur within the shadow of well-settled administrative-law precedent. These cases define (1) the limits of agency reasoning and evidentiary sufficiency, (2) the deference owed to executive discretion in national-security and immigration contexts, and (3) the consequences of delegations that exceed agency competence.

### A. The *Chenery* Decisions and the Boundaries of Administrative Reasoning

The twin decisions in *SEC v. Chenery Corp.* form the canonical statement of how agencies must justify their actions. In **Chenery I**, 318 U.S. 80 (1943), the Supreme Court held that “a reviewing court, in dealing with a determination or judgment which an administrative agency alone is authorized to make, must judge the propriety of such action solely by the grounds invoked by the agency.” *Id.* at 87. The Court rejected the government’s attempt to defend an agency order on grounds not articulated in the agency’s decision, warning that “an administrative order cannot be upheld unless the grounds upon which the agency acted ... were those upon which its action can be sustained.” *Id.* at 95.

In **Chenery II**, 332 U.S. 194 (1947), the Court confronted the corollary: when an agency acts within its statutory authority but must develop policy through case-by-case adjudication, its determinations are valid so long as they are “based upon consideration of the relevant factors” and are “neither arbitrary nor capricious.” *Id.* at 196. Together, the *Chenery* decisions establish two propositions essential here:

- (1) an agency’s factual findings are reviewable only on the reasons the agency itself provides; and
- (2) Congress may permit an agency to fill evidentiary or procedural gaps by adjudication when rulemaking is impracticable.

Applied to the Hmong Veterans’ Naturalization Act, *Chenery II* justifies INS and USCIS reliance on “other appropriate proof” (affidavits, community certifications) when primary records are unavailable, while *Chenery I* prevents later courts or policymakers from attributing to those approvals any unstated factual finding—such as verified CIA service—that the agency itself never claimed to make.

### B. Universal Camera and the “Substantial Evidence” Standard

In *Universal Camera Corp. v. NLRB*, 340 U.S. 474 (1951), the Court defined the requirement that agency findings be supported by “substantial evidence on the record considered as a whole.” *Id.* at 488. “Substantial evidence” means “such relevant evidence as a reasonable mind might accept as adequate to support a

conclusion.” Id. at 477 (quoting *Consol. Edison Co. v. NLRB*, 305 U.S. 197, 229 (1938)). The doctrine constrains agencies to act only when the evidence in the administrative record can withstand rational scrutiny. Where evidence is unavailable or unverifiable—such as classified CIA rosters—an agency’s conclusion rests not on proof but on legislative presumption. Such determinations are legally sustainable only if Congress has expressly authorized them.

Accordingly, INS’s approvals under Pub. L. 106-207 were lawful only because Congress anticipated that “appropriate archival records may not exist” and delegated to the Attorney General discretion to accept “other appropriate proof.” H.R. Rep. No. 106-563, at 5 (2000). Absent that delegation, approvals based solely on affidavits would fail the *Universal Camera* evidentiary threshold.

### **C. Department of Navy v. Egan and Executive Control over National-Security Information**

In *Department of the Navy v. Egan*, 484 U.S. 518 (1988), the Court held that “the protection of classified information must be committed to the broad discretion of the agency responsible, and this must include broad discretion to determine who may have access to it.” Id. at 529. The decision affirms that determinations involving intelligence sources and methods are within the exclusive domain of the Executive Branch. Consequently, agencies such as INS, USCIS, or the VA lack lawful authority to compel disclosure or to adjudicate the authenticity of CIA operational records. Their findings regarding covert service are therefore administrative surrogates, not factual validations—a key limitation for any state entity relying on federal determinations.

### **D. INS v. Pangilinan and the Limits of Judicial and Administrative Power in Naturalization**

In *INS v. Pangilinan*, 486 U.S. 875 (1988), the Court ruled that neither equitable principles nor judicial discretion may extend naturalization benefits beyond those expressly authorized by Congress. Id. at 883-85. The decision underscores that naturalization is a **statutory privilege**, not an inherent right, and that administrative agencies possess only the authority Congress confers. Thus, while the Hmong Veterans’ Naturalization Act empowered the Attorney General to accept alternative proof, it did not authorize the agency to certify factual CIA employment. Any state action purporting to transform such administrative findings into verified historical facts would similarly exceed delegated power.

### **E. Fiallo v. Bell and Plenary Congressional Power over Immigration**

In *Fiallo v. Bell*, 430 U.S. 787 (1977), the Court reiterated that “over no conceivable subject is the legislative power of Congress more complete than it is over” immigration and naturalization. Id. at 792 (quoting *Oceanic Navigation Co. v. Stranahan*, 214 U.S. 320, 339 (1909)). This plenary authority legitimizes congressional creation of evidentiary shortcuts or categorical presumptions in defining special immigrant classes. Accordingly, Pub. L. 106-207’s allowance of affidavit-based proof, and Pub. L. 115-141’s limited recognition of “Hmong veterans,” are constitutionally permissible exercises of legislative grace—even if factually imperfect. For the MN TF, *Fiallo* confirms that a state may supplement but not contradict federal classifications.

### **F. INS v. Ventura and Gonzales v. Thomas: Judicial Deference to Agency Fact-Finding**

In *INS v. Ventura*, 537 U.S. 12 (2002) (per curiam), the Court held that when an issue involves agency expertise or discretion, “the proper course, except in rare circumstances, is to remand to the agency for additional investigation or explanation.” *Id.* at 16. Similarly, *Gonzales v. Thomas*, 547 U.S. 183 (2006), reaffirmed that courts may not make factual determinations entrusted to immigration authorities. These cases extend *Chenery*’s core principle: factual judgments within the agency’s delegated domain must be made, if at all, by that agency —not by courts, legislatures, or states. For the MN TF, this means that federal naturalization or burial eligibility decisions are administratively final within their own sphere but do not carry evidentiary weight beyond it.

## G. Synthesis

Together, these doctrines delineate the narrow corridor within which both federal and state actors must operate:

1. Agencies may fill evidentiary gaps (*Chenery II*), but their conclusions stand only on the reasons given (*Chenery I*).
2. Findings must rest on substantial evidence or on express congressional authorization for presumptive proof (*Universal Camera*).
3. Matters involving classified operations fall within exclusive executive control (*Egan*).
4. Naturalization and immigration benefits cannot be extended beyond statutory authority (*Pangilinan*).
5. Congress possesses plenary power to establish categorical evidentiary shortcuts (*Fiallo*).
6. Courts—and by analogy, states—must defer to the proper agency’s determinations and cannot supply missing factual findings (*Ventura / Thomas*).

These doctrines collectively frame the MN TF’s challenge: to design a recognition process that respects the legal limits of administrative discretion while constructing credible, auditable criteria for verifying service in covert U.S. operations where direct evidence is inaccessible.

## III. Application to the Hmong Veterans’ Naturalization Act of 2000 (Pub. L. 106-207)

### A. Legislative Intent and Statutory Structure

The **Hmong Veterans’ Naturalization Act of 2000** (“HVNA”) was enacted to provide a path to U.S. citizenship for certain Hmong and Lao nationals who had assisted U.S. forces during the “Secret War” in Laos. The Act amended the Immigration and Nationality Act by temporarily waiving English-language and civics-testing requirements for applicants who had “served with a special guerrilla unit or irregular forces operating from a base in Laos” between February 28, 1961, and May 7, 1975, and who were lawfully admitted to the United States as refugees or permanent residents. Pub. L. No. 106-207, § 2(b), 114 Stat. 316 (2000).

The statute delegated implementation to the Attorney General and the Immigration and Naturalization Service (“INS,” later USCIS) and permitted acceptance of “other appropriate proof” of qualifying service when formal

records were unavailable. *Id.* § 2(b)(3). The House Judiciary Committee report accompanying the bill recognized that “appropriate archival records may not exist” and directed the agency to “verify service to the maximum extent practicable.” H.R. Rep. No. 106-563, at 5 (2000). Thus, Congress expressly authorized an evidentiary presumption and placed the burden of administrative interpretation on INS.

## **B. Application of the Chenery and Universal Camera Doctrines**

Under *SEC v. Chenery Corp.* (“Chenery I”), 318 U.S. 80 (1943), an administrative order must rest solely on the grounds invoked by the agency. INS adjudicators who approved HVNA applications did so on the basis of affidavits, community certifications, and refugee-processing documents—not on verified CIA employment records. Consequently, any inference that approval of an HVNA naturalization *validated* CIA service would contradict *Chenery I*: the agency never claimed to determine that fact.

Conversely, *Chenery II*, 332 U.S. 194 (1947), affirms that agencies may “proceed case by case” when rulemaking is impracticable, provided their actions are not arbitrary. Given the acknowledged absence of CIA archives, INS’s reliance on testimonial evidence represented a permissible exercise of adjudicatory discretion rather than an evidentiary defect. Congress’s express authorization of “other appropriate proof” converts what might otherwise be an evidentiary weakness into a legally valid presumption.

Under *Universal Camera Corp. v. NLRB*, 340 U.S. 474 (1951), agency findings must rest on “substantial evidence on the record as a whole.” *Id.* at 488. The HVNA satisfied this standard only because Congress re-defined the evidentiary threshold: an affidavit or certification from a recognized veterans’ organization could constitute “substantial evidence” *by statute*. Without that delegation, the administrative record would have been too thin to withstand review. Thus, HVNA approvals are **constructive administrative findings**—legally sufficient for the limited purpose of naturalization, but not probative as historical verification of CIA service.

## **C. The Role of Executive Control and National-Security Secrecy**

*Department of the Navy v. Egan*, 484 U.S. 518 (1988), teaches that control over classified information resides exclusively in the Executive Branch. Because covert personnel rosters and operational details from Laos remain classified under Executive Order 13526, INS had neither jurisdiction nor competence to verify such information. Its acceptance of alternative documentation was therefore a *policy necessity*. This limitation also insulates the agency from claims of fraud: it could only judge credibility within the evidentiary scope Congress allowed.

## **D. Judicial and Administrative Limits**

*INS v. Pangilinan*, 486 U.S. 875 (1988), underscores that neither equitable principles nor administrative discretion may extend naturalization beyond statutory authorization. *Id.* at 884–85. Accordingly, HVNA approvals cannot be reinterpreted by later policymakers as factual determinations of CIA service. They evidence only that an applicant met the **statutory criteria** for naturalization, not that the United States Government verified his or her covert role.

# **IV. Public Law 115-141 and the Department of Veterans Affairs Proposed Rule, RIN 2900-AR80**

## A. Legislative and Regulatory Background

Eighteen years after the HVNA, Congress enacted § 247 of the **Consolidated Appropriations Act, 2018**, Pub. L. No. 115-141, 132 Stat. 348, amending 38 U.S.C. § 2402(a)(10). The amendment extended eligibility for burial in national cemeteries to individuals naturalized under the HVNA. It did **not** create new evidentiary standards or expand coverage to non-Hmong irregulars. The Department of Veterans Affairs subsequently proposed regulations—**Persons Eligible for Burial, RIN 2900-AR80**, 88 Fed. Reg. 10065 (Feb. 16 2023)—to implement later statutory expansions under the **FY 2022 NDAA § 6601**.

As of **October 2025**, this VA rule remains in the **proposed** stage; no final rule has been published in the *Federal Register* or *Code of Federal Regulations*. See *Persons Eligible for Burial*, 88 Fed. Reg. 10065 (Feb. 16 2023) (RIN 2900-AR80). Therefore, all citations in this section refer to the *proposed text*, not a binding regulation.

## B. Substantive Provisions of the Proposed Rule

The proposed § **38.619(a)(2)** would add to the list of eligible persons “individuals who served honorably with special guerrilla units or irregular forces operating from a base in Laos during the period beginning February 28, 1961, and ending May 7, 1975, and who at the time of death were either United States citizens or lawful permanent residents.” 88 Fed. Reg. at 10067 (proposed).

Proposed § **38.620(j)** specifies evidentiary requirements: original government documents showing service, or, if unavailable, *two affidavits from individuals who served with the decedent* or from an official of a veterans’ organization who can attest to the service. Id. at 10068 (proposed). These provisions mirror the HVNA’s “other appropriate proof” language and demonstrate federal acceptance of affidavit-based verification where classified or nonexistent records make direct proof impossible.

## C. The CAVWV Critique

The **Coalition of Allied Vietnam War Veterans (CAVWV)**, in its *Final Draft Amendment to Public Law 115-141* (Rev. 6 2023), submitted comments asserting that both § 2402(a)(10) and the proposed VA rule are unduly narrow. The critique raises five principal objections:

1. **Ethnic Limitation.** By referring only to “Hmong veterans,” the statute excludes other groups—Lao Theung, lowland Lao, Khmer, Nung, and Montagnards—who served under U.S. direction in the same campaigns. Ex. 1 (Rev. 6 Draft Amendment to P.L. 115-141) ¶¶ 1–3.
2. **Geographic Restriction.** Coverage limited to “operating from a base in Laos” ignores irregular operations in Cambodia, North Vietnam, and South Vietnam conducted under the same Presidential findings. Id. ¶¶ 15–21.
3. **Command Authority.** The law’s reference to “CIA-directed” forces overlooks those under **DoD** control (e.g., MACV-SOG units). Id. ¶ 30.
4. **Evidentiary Vagueness.** Neither statute nor regulation defines how affidavits are to be evaluated, inviting fraud and inconsistency. Id. ¶ 42.

5. **Lack of Advisory Consultation.** CAVWV recommends inclusion of recognized veteran associations in future rulemaking to ensure authenticity and prevent abuse. Id. ¶ 50.

## D. Legal Analysis

The proposed VA rule, though procedurally compliant with *Chenery II*'s case-by-case flexibility, inherits the same evidentiary limitations as the HVNA. Because the rule is not final, it currently has **no binding legal effect**; yet it is persuasive evidence of the Executive Branch's continuing acceptance of testimonial proof where direct documentation is absent.

Under *Universal Camera*, the proposed rule's affidavit mechanism could satisfy "substantial evidence" only because Congress—through the FY 2022 NDAA—implicitly authorized such a presumption. However, the rule's narrow scope raises the same concerns identified by CAVWV: it codifies an *administrative convenience* rather than a comprehensive historical recognition.

From the standpoint of *Egan* and *Pangilinan*, neither VA nor any state can verify CIA or DoD service beyond the evidence Congress allows. The VA may determine eligibility for burial benefits but cannot declare an individual a "veteran of U.S. forces" in the military sense. For Minnesota, this means that reliance on VA or USCIS determinations as proof of service must be explicitly characterized as *constructive recognition*—a legal acknowledgment for ceremonial or state purposes, not confirmation of classified facts.

## E. Relevance to the MN Task Force

The CAVWV critique highlights structural defects that persist in both the statutory and proposed federal frameworks:

- **Incomplete Inclusion.** Federal law remains confined to Laos-based Hmong irregulars. A state may, under its commemorative and veterans'-affairs powers, extend recognition to other ethnic or national groups who served under U.S. direction, provided it avoids implying federal endorsement.
- **Evidentiary Fragility.** The VA's proposed affidavit mechanism demonstrates federal acceptance of testimonial evidence but also exposes the risk of fraud. Minnesota's process can strengthen that framework by imposing mandatory audit and perjury provisions.
- **Lack of Consultation.** Federal silence on advisory participation invites the TF to institutionalize a standing body of qualified veteran representatives for case review—an idea consistent with *Chenery II*'s principle of evolving administrative standards.

## F. Interim Legal Status

Because **RIN 2900-AR80 remains a proposed rule**, any references to its text are **non-binding and subject to change**. Nonetheless, under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), such proposals may carry *persuasive weight* proportional to their reasoning. The MN Task Force may therefore rely on the proposed rule as *persuasive authority*, indicating current federal policy toward evidentiary standards for covert-service verification, while acknowledging that final regulatory language may differ.

## V. Federalism and State-Level Implications

### A. The Boundary Between Federal and State Authority

Article I, § 8, cl. 4 of the Constitution vests Congress with the power “[t]o establish an uniform Rule of Naturalization.” U.S. Const. art. I, § 8, cl. 4. Under *Fiallo v. Bell*, 430 U.S. 787 (1977), this power is plenary, meaning that federal determinations of immigration and naturalization status are binding nationwide and preempt contrary state actions. Yet, under the Tenth Amendment, states retain **police and commemorative powers** to honor individuals or groups without conferring legal immigration status. A state may therefore *recognize* or *commemorate* a foreign veteran but cannot *naturalize*, *certify*, or *federalize* that person’s military service.

In *De Canas v. Bica*, 424 U.S. 351 (1976), the Court explained that state laws “touching on aliens” are preempted only when Congress has occupied the field or when the state law conflicts with federal objectives. Recognition or ceremonial classification of covert veterans—absent material benefits affecting immigration or citizenship—does not intrude upon federal prerogatives. The MN TF’s contemplated action therefore falls within the **state’s symbolic and honorary domain**, provided that its language avoids implying that Minnesota is granting *federal veteran status*.

### B. Constructive Recognition vs. Federal Validation

Under the *Chenery I* principle, an administrative decision stands only on the rationale the agency itself offered. INS approvals under Pub. L. 106-207 were based on affidavits, not CIA confirmation; therefore, any state recognition that treats those approvals as *historical verification* would rest on grounds the agency never invoked. To remain lawful, Minnesota must explicitly state that it relies on such records only as **constructive recognition**—a determination that a person *was treated by the federal government as qualifying under Pub. L. 106-207*, not that the person’s covert service has been verified by the United States.

This approach mirrors *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), which held that administrative interpretations may carry persuasive weight without controlling effect. Minnesota can therefore treat federal approvals as *persuasive but non-binding* evidence when making honorary recognitions.

### C. Avoiding Pre-Emption and Misrepresentation

To avoid express or implied pre-emption, any state statute or resolution should:

- 1. Disclaim Federal Certification**

Use language such as: “Recognition under this act does not constitute certification or verification of military or intelligence service by the United States Government.”

- 2. Restrict Scope to Honorary Recognition**

Ensure that benefits are symbolic (commemorative events, certificates, museum inclusion) rather than material entitlements tied to federal veteran benefits. Cf. *Lesage v. Texas*, 528 U.S. 18 (1999) (per curiam) (distinguishing symbolic recognition from tangible benefits affecting equal-protection analysis).

- 3. Coordinate with Federal Agencies for Record Access**

The MN Department of Veterans Affairs (MDVA) may execute data-sharing agreements under 5 U.S.C.

§ 552a(b)(7) with DHS or USCIS for identity verification, consistent with the *Privacy Act*. Such cooperation reinforces credibility without infringing federal prerogatives.

## D. Anti-Fraud Architecture

Historical experience—including documented “ghost-soldier” fraud in Indochina and later domestic schemes such as *United States v. Harrison Jack*, No. CR 06-00313 (N.D. Cal. 2007)—demonstrates that any recognition program lacking verification and audit authority invites abuse. Minnesota’s framework should therefore incorporate:

### 1. Mandatory Inspector-General Audits

Statutory language should read: “*The Inspector General of the Minnesota Department of Veterans Affairs shall conduct periodic audits of the verification and recognition process established under this act.*”

Annual reporting to the Legislative Auditor ensures transparency and continuous oversight.

### 2. Affidavit and Perjury Requirements

All testimonial submissions should be sworn under penalty of perjury, invoking Minn. Stat. § 609.48 (perjury) and § 609.527 (identity theft) for fraudulent statements. This converts the moral duty of honesty into a legal obligation.

### 3. Tiered Verification Process

a. **Tier 1 – Federal Record Review:** confirm refugee or naturalization documentation referencing Pub. L. 106-207.

b. **Tier 2 – Affidavit Corroboration:** requires two corroborating affidavits from recognized veterans or association officials.

c. **Tier 3 – Independent Audit:** random or targeted audit by MDVA IG to validate consistency.

### 4. Public Transparency

Release anonymized statistical data on recognitions and denials to deter fraud and maintain public confidence.

## E. Comparative Practice

States have historically exercised commemorative powers without federal conflict—e.g., state-level recognition of Filipino World War II veterans, Armenian genocide commemorations, and state monuments for foreign allies. These precedents illustrate that **symbolic inclusion** does not constitute federal adjudication. Minnesota’s initiative would continue this tradition, anchoring its legitimacy in the state’s moral authority while respecting federal jurisdictional boundaries.

## VI. Analytical Posture for the Minnesota Task Force

### A. Defining the Legal Posture: “Constructive Recognition with Evidentiary Integrity”

The foregoing analysis supports a dual framework:

1. **Constructive Recognition:** acknowledge that federal approvals under Pub. L. 106-207 and proposed VA standards under RIN 2900-AR80 constitute *administrative recognition* of eligibility, not verification of covert service; and
2. **Evidentiary Integrity:** embed antifraud measures, mandatory audits, sworn affidavits, and cross-agency checks, to maintain credibility and protect legitimate veterans.

This posture reconciles humanitarian imperatives with administrative law. It recognizes the limitations imposed by *Chenery*, *Universal Camera*, and *Egan*, while operationalizing state powers under *De Canas* and the Tenth Amendment.

## B. Arguments For

1. **Moral and Historical Equity** – Congress itself conceded evidentiary impossibility yet sought to honor loyal allies. State recognition fulfills that intent more inclusively.
2. **Legal Compatibility** – Constructive recognition avoids pre-emption and aligns with *Fiallo*'s plenary-power framework by not disturbing immigration classifications.
3. **Public Accountability** – Mandatory audits and public reporting deter fraud, preserving program legitimacy.
4. **Policy Innovation** – Minnesota can serve as a model for other states, demonstrating how commemorative law can coexist with national-security secrecy.

## C. Arguments Against

1. **Evidentiary Uncertainty** – Affidavit-based verification remains susceptible to error or manipulation; opponents may argue that any recognition risks validating false claims.
2. **Perception of Federal Encroachment** – Even symbolic recognition might be misread as asserting authority to certify CIA or DoD veterans.
3. **Administrative Burden** – Audit and verification procedures impose cost and complexity on MDVA resources.
4. **Diplomatic Sensitivity** – Explicit reference to CIA operations in Laos could invite controversy with the Lao PDR government or complicate federal-state relations in intelligence matters.

## D. Balancing and Recommendation

Balancing these factors, the legally sound and ethically defensible course is for Minnesota to adopt **Constructive Recognition with Evidentiary Integrity** as its guiding doctrine. This posture:

- Affirms respect for federal limitations (*Pangilinan*, *Egan*);
- Utilizes federal determinations as persuasive, not conclusive, evidence (*Skidmore*);

- Grounds state authority in commemorative and police powers (*De Canas*); and
- Ensures accountability through mandatory oversight mechanisms.

## **E. Conclusion**

The MN Task Force occupies a narrow but significant legal space between historical justice and administrative law. Federal statutes—Pub. L. 106-207 and Pub. L. 115-141—and the VA’s *proposed* rule (RIN 2900-AR80) collectively reflect Congress’s and the Executive’s willingness to honor covert allies while conceding the impossibility of traditional proof. Minnesota can, consistent with constitutional boundaries, build upon that precedent by creating a transparent, auditable system of recognition that neither usurps federal functions nor perpetuates historical neglect.

In so doing, the state would set a national model for reconciling **truth, secrecy, and honor** within the rule of law—a model worthy of the men and women whose service it seeks to acknowledge.

March 3, 2026

Chair Xiong and Chair Bliss  
House Veterans and Military Affairs Division—Capitol G23  
75 Rev. Dr. Martin Luther King Jr. Blvd,  
St. Paul, Minnesota 55155

Chair Xiong, Chair Bliss, and members of the House Veterans and Military Affairs Division:

The Council on Asian Pacific Minnesotans, a non-partisan, non-Cabinet executive branch agency established to advise state government on issues related to Asian Pacific Minnesotans, was founded in 1985 in no small part as a response to the arrival of large numbers of refugees from Southeast Asia, primarily Cambodia, Laos, and Vietnam, following the end of the Vietnam War in 1975.

Last year, 2025, was a milestone for our refugee-experienced community as we marked 50 years since the end of the Vietnam War, and the beginning of a journey towards freedom that continues to this day. This refugee-experienced community includes those with roots in Laos such as the Hmong, Lao, Tai Dam, Lu-Mein, Khmu, Lue, and others.

These arrivals post-Vietnam War included many who fought in support of the U.S. military in the Secret War in Laos, specifically the Lao Hmong Special Guerrilla Units (SGU) and Forces Armee Royale of Military Region 2 in Northern Laos. The Council thanks the 2025 Legislature for the inclusive language recognizing the valor and sacrifices of veterans from these different ethnic ancestries.

These brave soldiers fought for their homes, their families, and their freedom in the face of communist aggression in Southeast Asia. Many lost their lives in that conflict, but their actions also saved the lives of countless American soldiers.

Over the decades since the end of the Vietnam War and arrival of these communities in the United States and Minnesota, we have lost many of these veterans and continue to lose more each year. This is why it is imperative that the Legislature act now to adopt the recommendations of the Task Force, especially to allow consideration by those who do not fall under the automatic or standard criterion for eligibility and will need to navigate the Special Consideration process.

Adopting the recommendations will allow those still with us to receive justly earned benefits and extend the dignity that goes alongside state recognition to these veterans.

Sincerely,



Andrew Morris  
Legislative and Public Affairs Director  
Council on Asian Pacific Minnesotans