The Statutory Framework for UAP: What Congress Has Enacted, What Is Pending, and What Can Be Enforced

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Key points

- The enacted framework is AARO (50 U.S.C. §3373), the protected disclosure channel (§3373b), the UAP Records Collection (FY2024 NDAA §§1841-1843), and funding limits (FY2024 §1687; IAA §7343).
- §3373b(b)(1) is the strongest protection in UAP law: an authorized disclosure "is not a violation of section 798 of title 18, or other provision of law relating to the disclosure of information."
- On the site's premise that AARO is part of the concealment, use the channel for its legal protection but never rely on AARO to act; verify the 72-hour notice to the committees and report in parallel to an inspector general.
- The Records Collection has no express cause of action. Enforce discrete duties through the APA and use FOIA in parallel; Collection releases can support a FOIA public-domain demand (*Scott v. CIA*).
- The House-passed H.R. 8800 would add a Review Board, eminent domain over recovered technology, a precedence clause, and APA review; after *Trump v. Slaughter* the Board's removal protection is unlikely to survive.
- The statutes are themselves official acknowledgments of the subject matter, which weakens Glomar responses about the existence of UAP records.

1. Summary

Since 2021 Congress has built a UAP framework in five annual defense and intelligence authorization acts. The enacted law creates and directs the All-domain Anomaly Resolution Office (AARO), 50 U.S.C. §3373. It establishes a protected channel for disclosures to AARO that overrides nondisclosure agreements and classification rules and forbids reprisal, 50 U.S.C. §3373b. It requires every federal office to identify UAP records and transmit them to a UAP Records Collection at the

National Archives, with public release unless the originating authority shows by clear and convincing evidence that a statutory ground for postponement applies, and with full release after 25 years unless the President certifies continuing harm (FY2024 NDAA §§1841-1843, 44 U.S.C. §2107 note). For fiscal year 2024 it also barred spending on UAP-related activities concealed from Congress (FY2024 NDAA §1687).

What the enacted law does not do is equally important. It establishes no independent review board, no eminent domain over privately held material, no express private right of action, and no judicial review provision. The House-passed FY2027 NDAA (H.R. 8800) would add a Senate-confirmed review board with subpoena power, a federal exercise of eminent domain over "recovered technologies of unknown origin and biological evidence of non-human intelligence" held by private parties, a rule that the Act takes precedence over contrary "judicial decision[s]" and "common law doctrine," and an express preservation of APA review. As of this writing the Senate has not acted.

For practitioners, the enacted framework is most useful in three ways: the §3373b disclosure channel and its legal protections (Issue C1); the record-transmission duties of the Records Collection, which can be enforced, if at all, through the APA within the limits the JFK Act litigation has drawn; and the statutory acknowledgments themselves, which narrow the government's privilege and Glomar defenses in litigation (Issues A1, B1).

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2. Enacted provisions

2.1 AARO: 50 U.S.C. §3373

Enacted by FY2022 NDAA §1683 (Pub. L. 117-81) and rewritten by FY2023 NDAA §6802 (Pub. L. 117-263), with later amendments by FY2024 NDAA §7341 (Pub. L. 118-31) and FY2026 NDAA §§1671(a), 1672(b) (Pub. L. 119-60, Dec. 18, 2025). Key features:

- **Definition.** "Unidentified anomalous phenomena" means (A) airborne objects that are not immediately identifiable; (B) transmedium objects or devices; and (C) submerged objects or devices that are not immediately identifiable and that display behavior or performance characteristics suggesting that they may be related to the objects in (A). 50 U.S.C. §3373(n)(8). The Code contains no definition of "non-human intelligence"; the term appears in the Records Collection's description of covered records (§1841(a)(1)(C)) and is defined only in the pending H.R. 8800 (§1773(13)).
- **Duties.** AARO standardizes collection and analysis of UAP incidents, including adverse physiological effects, across the Department of War and the intelligence community, and prepares classified and unclassified reports to Congress. §3373(c).
- **Historical record report.** AARO must report on the historical record of the intelligence community's involvement with UAP, including "any program or activity that was protected by restricted access that has not been explicitly and clearly reported to Congress." §3373(j). Volume 1 issued in March 2024. The FY2025 NDAA (§6802, Pub. L. 118-159) sunset the related GAO audit requirements 90 and 180 days after delivery of the final volume.

- **Intercepts.** The FY2026 NDAA added §3373(l)(5): AARO's periodic briefings must include details of UAP intercepts by NORAD and U.S. Northern Command, with a summary of the number, location, and nature of intercepts and the procedures followed, and AARO must tell the committees if those commands fail to provide timely information. The first briefing after enactment must reach back to January 1, 2004. FY2026 NDAA §1671(b).
- **Data access.** As amended by FY2026 NDAA §1672(b), the DNI and the Secretary must "jointly require that each element of the intelligence community and component of the Department of Defense with data relating to unidentified anomalous phenomena makes such data available immediately to the Office in a manner that protects intelligence sources and methods." §3373(f)(1)(A).
- **Classification guides.** FY2026 NDAA §1673 required AARO, within 180 days, to account for the security classification guides that apply to UAP reporting and investigations and permitted a consolidated classification matrix, to be reported in the 2026 annual report.
- **Repeal of §3373a.** FY2026 NDAA §1672(a) repealed IAA FY2022 §413 (50 U.S.C. §3373a) as a duplicative reporting requirement.

2.2 The authorized disclosure channel: 50 U.S.C. §3373b

FY2023 NDAA §1673 requires the Secretary, in consultation with the DNI, to establish a secure mechanism for authorized reporting of (A) any UAP event and (B) "any activity or program by a department or agency of the Federal Government or a contractor … relating to unidentified anomalous phenomena, including with respect to material retrieval, material analysis, reverse engineering, research and development, detection and tracking, developmental or operational testing, and security protections and enforcement." §3373b(a)(1). The mechanism must be staffed by cleared personnel, must share disclosures promptly with AARO regardless of classification, and must notify the defense and intelligence committees within 72 hours when a disclosure relates to a restricted access, special access, or compartmented program not "explicitly and clearly reported" to them. §3373b(a)(4).

The protections for the person making the disclosure are the strongest in UAP law. An authorized disclosure:

> "(A) shall not be subject to a nondisclosure agreement entered into by the individual who makes the disclosure; (B) shall be deemed to comply with any regulation or order issued under the authority of Executive Order 13526 … or chapter 18 of the Atomic Energy Act of 1954 …; and (C) is not a violation of section 798 of title 18, or other provision of law relating to the disclosure of information." 50 U.S.C. §3373b(b)(1).

Federal and contractor supervisors may not take or threaten personnel actions in reprisal, enforced through procedures consistent with 10 U.S.C. §1034 and 50 U.S.C. §3234. §3373b(b)(2).

These protections reach further than the Department of War's September 14, 2026 PURSUE waiver, which by public accounts supersedes only the civil and administrative enforcement provisions of NDAs and SAP indoctrination agreements for communications to the PURSUE team. Subsection (b)(1)(C) is a statutory exemption from criminal disclosure laws for authorized disclosures to AARO.

Counsel advising a cleared client should route disclosure through the §3373b mechanism, confirm in writing that the channel used qualifies as the "mechanism for authorized reporting," and avoid any disclosure outside it. Issues C1 through C3 develop the details.

Using a channel run by an office the site assumes is compromised. The site's working premise is that AARO is a deliberate disinformation source and part of the concealment; a former UAP Task Force director has described it as "really a front for the Legacy Program" (Jay Stratton, *Out of the Shadows* ch. 62 (2026)). The statute still matters on that premise, because the protection in §3373b(b)(1) attaches to the act of authorized disclosure, not to anything AARO later does with it. The practical consequences are three. First, never rely on AARO to act on, preserve, or accurately characterize a disclosure. Second, use §3373b(a)(4)(B) as a check: ask the defense and intelligence committees, through the member's office, to confirm that they received the 72-hour notification for a disclosure concerning an unreported program. Third, make the same disclosure in parallel to an inspector general or the Intelligence Community Inspector General, whose channels are independent of AARO (Issue C1).

Executive branch objection during enactment. DoD opposed the House version of the provision (H.R. 7900, §1663) in a "Priority Department of Defense Language Appeal" to the FY2023 NDAA conferees, released under FOIA as DoD 23-F-0241. DoD argued that the provision "could intrude on the President's constitutional authority to manage classified information, information security, and information security systems," that a publicly acknowledged system for receiving classified and compartmented information posed counterintelligence risks, that the requirement for "widely known" and "easily accessible" staff endangered AARO personnel, and that existing authorities let the Secretary "authorize Department personnel to receive information, regardless of classification, in a protected manner consistent with Executive Order 13526, Executive Order 12968." It urged that the House provision be dropped or revised. The enacted §3373b nonetheless created the mechanism and the subsection (b)(1) protections. Counsel defending a client who relied on §3373b should expect the government to repeat the Article II argument (Issue A2) and should answer that DoD raised it, and Congress enacted the statute over it.

2.3 The UAP Records Collection: FY2024 NDAA §§1841-1843

This is the enacted part of the Schumer-Rounds UAP Disclosure Act of 2023 (S. Amdt. 797). Key provisions:

- **Scope.** The Collection consists of "record copies of all Government, Government-provided, or Government-funded records relating to unidentified anomalous phenomena, technologies of unknown origin, and non-human intelligence (or equivalent subjects by any other name with the specific and sole exclusion of temporarily non-attributed objects)." §1841(a)(1)(C). "Government-funded" reaches contractor records produced with federal funds. The one exclusion, "temporarily non-attributed objects," is undefined in the enacted text. Read with the 2023 bill it was taken from, it covers objects that are unidentified only for the moment and are later resolved as ordinary (balloons, drones, debris). An agency that wants to keep a record out of the Collection will try to fit it into that exclusion, so requests should ask whether any record was withheld on that ground and on what attribution.
- **Agency duties.** Each head of a "Government office" must identify and organize UAP records and prepare them for transmission (§1842(a)(1)); must review them within 300

days of enactment for public disclosure and transmission (§1842(c)(1)); and must transmit them. NARA asked agencies to begin transfers before September 30, 2025.

- **Prohibitions.** No UAP record may be "destroyed, altered, or mutilated in any way"; no record previously made public may be withheld, redacted, postponed, or reclassified; and no record "created by a person or entity outside the Federal Government" may be withheld, redacted, postponed, or reclassified, except for names or identities protected under §1843. §1842(a)(2).
- **Postponement.** Disclosure may be postponed only if "the original classification authority makes a determination that there is clear and convincing evidence" that one of four grounds applies: (1) a threat to military defense, intelligence operations, or foreign relations of such gravity that it outweighs the public interest, where disclosure would reveal a protected agent, a currently used source or method not officially disclosed, or another matter whose disclosure "would demonstrably and substantially impair the national security"; (2) a Privacy Act violation; (3) an unwarranted invasion of personal privacy that outweighs the public interest; or (4) compromise of a current understanding of confidentiality with a cooperating individual or foreign government. §1843(a).
- **Periodic review and the 25-year rule.** Postponed records must be reviewed periodically by the originating agency and the Archivist; continued postponement requires an unclassified written description of the reason, published in the Federal Register; and every UAP record must be disclosed in full no later than 25 years after its creation unless the President certifies that continued postponement is necessary because of an identifiable harm to military defense, intelligence operations, law enforcement, or foreign relations that outweighs the public interest. §1842(g)(2). Many Cold War-era UAP records are already past 25 years, which makes the certification requirement immediately relevant.
- **Withdrawal.** Senior agency officials may withdraw records from the Collection only if they are both unrelated to UAP and properly classified, with notice to congressional leadership and the oversight committees. §1843(b).
- **Oversight.** Senate HSGAC, Armed Services, and Intelligence, and House Oversight, Armed Services, and Intelligence share oversight jurisdiction. §1841(e).

2.4 Funding limitation and contractor IRAD: FY2024 NDAA §1687

Section 1687(a) provided that none of the funds authorized by the FY2024 Act "may be obligated or expended in support of any activities involving unidentified anomalous phenomena protected under any form of special access or restricted access limitations unless the Secretary of Defense has provided the details of the activity to the appropriate congressional committees and congressional leadership," including activities described in an AARO report released in fiscal year 2024. The FY2025 NDAA contains no counterpart, so the limitation lapsed with the FY2024 funds. Its significance now is historical and criminal: activities funded in violation of it during FY2024 raise Antideficiency Act and conspiracy-to-defraud questions (Issues D1, D3; compare *United States v. North*, 708 F. Supp. 375 (D.D.C. 1988), on concealment of activity barred by the Boland Amendments).

Section 1687(b), codified as a note to 50 U.S.C. §3373, is drafted differently and may remain in force. It provides that, consistent with DoD Instruction 3204.01 (independent research and development oversight), "independent research and development funding relating to unidentified anomalous phenomena shall not be allowable as indirect expenses for purposes of contracts covered by such instruction, unless such material and information is made available [to] the appropriate congressional committees and congressional leadership." Unlike subsection (a), subsection (b) is not limited to funds authorized by the FY2024 Act. A contractor that charged UAP-related IRAD to government contracts as an indirect cost without the required disclosure faces cost-disallowance and potential False Claims Act exposure (Issue D2). The current U.S. Code carries subsections (b) and (c) of §1687, but not subsection (a), as a statutory note under 50 U.S.C. §3373 headed "Limitation Regarding Independent Research and Development." The codifiers' choice to print only (b) and (c) reflects the reading that subsection (b) is permanent and subsection (a) was limited to FY2024 funds.

The intelligence counterpart: FY2024 IAA §7343. Division G of the same Act (the Intelligence Authorization Act for Fiscal Year 2024) contains a parallel provision. Section 7343(b) bars obligation or expenditure of funds authorized "by this division" for "any activity involving unidentified anomalous phenomena protected under any form of special access or restricted access limitation unless the Director of National Intelligence has provided the details of the activity" to the intelligence, armed services, and appropriations committees and congressional leadership. Section 7343(c) repeats the IRAD limitation, but its phrase "contracts covered by such instruction" has no antecedent in §7343, because the reference to DoD Instruction 3204.01 appears only in §1687(b). Pub. L. 118-31, div. G, §7343, 137 Stat. 1063-64 (Dec. 22, 2023). For an intelligence-funded UAP program, §7343(b) is the provision to cite, and the DNI (not the Secretary of Defense) is the official whose notice was required.

2.5 FY2025 NDAA: Pub. L. 118-159, Div. F, Title LXVIII

Section 6801 directs a GAO review of AARO's implementation of §3373, including coordination with non-government entities. Section 6802 sunsets the historical-record audit requirements as noted above.

2.6 Timeline of enacted and pending UAP legislation

Date	Measure	UAP provisions
Dec. 27, 2021	FY2022 NDAA, Pub. L. 117-81	§1683: establishes the office later renamed AARO (50 U.S.C. §3373)
Dec. 27, 2021	IAA FY2022 (same law)	§413: UAP reporting (50 U.S.C. §3373a; repealed by FY2026 NDAA §1672(a))
Dec. 23, 2022	FY2023 NDAA, Pub. L. 117-263	§6802: rewrites §3373; §1673: authorized disclosure channel and protections (50 U.S.C.

Date	Measure	UAP provisions
		§3373b)
Dec. 22, 2023	FY2024 NDAA, Pub. L. 118-31	§1687: FY2024 funding limit and IRAD rule; §§1841-1843: UAP Records Collection; §7341: AARO amendments; IAA §7343: intelligence funding limit
Dec. 23, 2024	FY2025 NDAA, Pub. L. 118-159	§6801: GAO review of AARO; §6802: sunset of historical-record audits
Dec. 18, 2025	FY2026 NDAA, Pub. L. 119-60	§1671: intercept briefings (§3373(l)(5)); §1672: data access, repeal of §3373a; §1673: classification guides
June 24, 2026	SA 6344 to S. 4784 (Schumer-Rounds)	UAP Disclosure Act of 2026 filed; not adopted
July 22, 2026	H.R. 8800, FY2027 NDAA (passed House)	§§1761-1773: Review Board, eminent domain, precedence clause, APA review

2.7 How the main versions compare

Feature	Enacted (FY2024 §§1841-1843)	H.R. 8800 (House, 2026)	SA 6344 (Senate amendment, 2026)
Records Collection at NARA	Yes	Yes (replaces enacted subtitle, §1772)	Yes
Clear-and-convincing postponement standard; 25-year rule	Yes (§§1842(g), 1843)	Carried forward	Carried forward
Independent Review Board	No	Yes, with subpoenas and immunity eligibility (§1764)	Yes (§__07)
Eminent domain over recovered technology and biological	No	Yes (§1767)	Yes (§__10(a))

Feature	Enacted (FY2024 §§1841-1843)	H.R. 8800 (House, 2026)	SA 6344 (Senate amendment, 2026)
evidence			
Findings and purposes	No	No	Yes (§__02)
Express APA review	No	Yes (§1769(c))	Yes (judicial review subsection)
Severability clause	No	No	Yes (§__16)
Coverage of the Executive Office of the President	Not stated	Yes (§1773(23)(A))	Yes (§__03)

3. Pending: the House-passed UAP Disclosure Act (H.R. 8800, FY2027 NDAA)

The House passed H.R. 8800 on July 22, 2026 (216-212), with the Burlison amendment as Division A, Title XVII, Subtitle D, §§1761-1773. The Senate bill, S. 4784, was reported June 15, 2026 (S. Rept. 119-127); cloture on the motion to proceed failed on July 14, 2026, and no further action had been reported as of October 2026.

The Senate text. On June 24, 2026, Senators Schumer and Rounds filed SA 6344 to S. 4784, which would add a division titled the "UAP Disclosure Act of 2026." 172 Cong. Rec. S3466-73 (daily ed. June 24, 2026). It was ordered to lie on the table, and with cloture on S. 4784 having failed, it has not been adopted. It tracks H.R. 8800 in most respects (Review Board, eminent domain over recovered technologies (§__10(a)), coverage of "the Executive Office of the President" (§__03)), with three differences that matter for litigation:

- it restores the findings, declarations, and purposes section of the 2023 bill (§__02), including findings that FOIA "has proven inadequate" for UAP records and that legislation is needed "to restore proper oversight"; those findings answer the OLC's legislative-purpose objection discussed in §4;
- it has a severability clause (§__16), so a court applying *Trump v. Slaughter* could strike the Board's for-cause removal protection (§__07) and keep the rest; and
- its authorization of appropriations still reads "$20,000,000 for fiscal year 2025" (§__14), a carry-over that conferees would need to correct.

Advocates should press conferees to take the Senate's findings and severability clause into whatever text emerges.

The provisions with the greatest practical effect are these:

- **Review Board (§1764).** An independent agency of nine members appointed by the President with the advice and consent of the Senate, nominated after considering recommendations from congressional leaders, the Secretary of Defense, the National Academy of Sciences, "[e]stablished nonprofit research organizations relating to unidentified anomalous phenomena," and the American Historical Association. Members may have had no involvement with any "legacy program" or "controlling authority." The Board may hold hearings, administer oaths, and issue subpoenas enforceable in federal court, and it is an agency for purposes of the federal witness immunity statute, 18 U.S.C. §6001, which allows immunity orders for its witnesses. Witnesses, close observers, and whistleblowers giving information to the Board receive the §3373b(b) protections. §1764(i).
- **Removal protection after *Slaughter*.** H.R. 8800 lets the President remove a Board member only "for inefficiency, neglect of duty, malfeasance in office," or incapacity, with judicial review and possible reinstatement (§1764(e)), and protects the Executive Director the same way (§1765(a)(6)). On June 29, 2026 the Supreme Court held the FTC's for-cause removal provision unconstitutional and stated: "If anything more is left of Humphrey's, we overrule it." *Trump v. Slaughter*, No. 25-332, 609 U.S. ___, slip op. at 20-21 (June 29, 2026). The Board would decide whether executive agencies may withhold their own records, issue subpoenas, and direct the disposition of recovered material, which are executive functions. A court applying *Slaughter* would likely hold the removal limits invalid and sever them, leaving a Board whose members serve at the President's pleasure. The Court noted that Congress may still "establish independent agencies to assist it with its functions" (*id.*), so a Board designed as a legislative-branch body advising Congress, without power to bind executive agencies, could keep its independence. Advocates should raise the choice in conference: independence with advisory powers, or binding powers with presidential control.
- **Eminent domain (§1767(a)).** "The Federal Government shall exercise eminent domain over any and all recovered technologies of unknown origin and biological evidence of non-human intelligence that may be controlled by private persons or entities in the interests of the public good." Material must be made available to the Board, which decides whether it constitutes such technology or evidence "beyond a reasonable doubt," whether it qualifies for postponement, and what change in its disposition is needed. §1767(b)-(c). The provision directs a taking but supplies no procedure, no condemning authority, and no compensation mechanism; the Fifth Amendment and the general condemnation statutes (40 U.S.C. §§3113-3118) would fill the gap, and compensation claims would lie in the Court of Federal Claims under the Tucker Act. Issue E1 develops the takings analysis.
- **Precedence clause (§1769(a)).** Where the subtitle requires transmission or disclosure, it "shall take precedence over any other provision of law (except [26 U.S.C. §6103]), judicial decision construing such provision of law, or common law doctrine that would otherwise prohibit such transmission or disclosure." The state secrets privilege is a common law evidentiary privilege. The clause would therefore support an argument that the privilege cannot block disclosure the Act requires, at least where the Board orders release. The government would answer that the privilege has constitutional roots in Article II and cannot be displaced by statute. Each side has authority. The Fourth Circuit has said the

privilege "performs a function of constitutional significance" (*El-Masri v. United States*, 479 F.3d 296, 303 (4th Cir. 2007)), and the Supreme Court in *Reynolds* treated it as a rule of evidence that it applied without deciding its constitutional basis (345 U.S. at 6-7). Congress has also displaced executive control of national security information before (FISA's in camera procedure, 50 U.S.C. §1806(f), which *Fazaga* read as coexisting with the privilege rather than as unconstitutional). Courts have not resolved the question.

- **Judicial review (§1769(c)).** Nothing in the subtitle precludes APA review "of final actions taken or required to be taken." This is broader than the JFK Act and would strengthen suits to compel agency compliance.
- **Contractors and private holders.** "Controlling authority" includes any "commercial company, academic institution, or private sector entity in physical possession of technologies of unknown origin or biological evidence of non-human intelligence." §1773(5). "Legacy program" covers federal, state, local, commercial, academic, and private efforts to collect, exploit, or reverse engineer such technology or to examine biological evidence of "living or deceased" NHI. §1773(11).
- **Definitions.** "Non-human intelligence" means "any sentient intelligent non-human lifeform regardless of nature or ultimate origin that may be presumed responsible for unidentified anomalous phenomena or of which the Federal Government has become aware." §1773(13). "Technologies of unknown origin" and "prosaic attribution" are defined in §1773(15), (19).
- **Transition (§1772).** Repeals FY2024 Subtitle C and transfers its records, deadlines, and pending actions into the new Collection; records already public stay public.
- **Drafting defect.** The engrossed text renumbered the sections to §§1761-1773 but left many internal cross-references pointing to the old numbers (§§1741, 1743, 1744, 1746). For example, the definition of "Review Board" refers to "section 1744" and the Controlled Disclosure Campaign Plan to "section 1746(c)(3)." If enacted without correction, courts would likely read the references as scrivener's errors and apply them to the corresponding sections, but the errors would invite litigation over the Board's powers and termination date. Advocates should press for a technical correction in conference.

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4. Can the Records Collection be enforced?

The enacted Records Collection contains no private right of action and no judicial review clause. The closest precedent is litigation under the JFK Act, on which the UAP provisions were modeled.

- *Mary Ferrell Foundation v. Biden*, 2024 WL 4880527 (9th Cir. Nov. 25, 2024) (unpublished): the Ninth Circuit dismissed the interlocutory appeal from the order dismissing most claims and affirmed denial of preliminary injunctions. A request to compel NARA to collect additional records was unlikely to succeed because an APA claim under 5 U.S.C. §706(1) lies only where an agency "failed to take a discrete agency action that it is required to take," *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 64 (2004). The balance of harms weighed against enjoining presidential postponement memoranda.

- *Mary Ferrell Foundation v. NARA*, 2026 WL 412367 (N.D. Cal. Feb. 13, 2026): claims against the President had been dismissed; the remaining APA (or mandamus) claims failed on summary judgment. NARA was not obliged to obtain originating agencies' unredacted versions of records; the claim concerning destroyed records failed for lack of a "substantial likelihood" that referral to the Attorney General would recover anything; and an executive order "does not create or modify private rights in a way that can give rise to legal actions."
- *Assassination Archives & Research Center v. Department of Justice*, 43 F.3d 1542, 1543-45 (D.C. Cir. 1995): the JFK Act creates no private right of action, and a requester cannot use FOIA's procedures to obtain the JFK Act's more generous release standards. The FBI had released one of four paragraphs under FOIA and, applying the JFK Act's criteria, all but a line and a half, but the court held that the requester's FOIA claim was judged by FOIA's exemptions alone.
- *Scott v. CIA*, 916 F. Supp. 42, 47, 50 & n.8 (D.D.C. 1996): the son of a former CIA Mexico City station chief sought his father's manuscript and files. The court dismissed the JFK Act claims for lack of a private right of action, following *Assassination Archives*, but held that records released through the JFK collection could still support a FOIA public-domain argument. The requester had to list the specific information already public, with documentation, and the agency then had to release it or explain, by declaration, why formal release of that information would still harm national security. The court rejected the government's objection that this imported the JFK Act's standards into FOIA, because the rationale for releasing public-domain information does not depend on how the information became public. *Id.* at 50 n.8.

Applying these decisions to the UAP Collection:

1. **Name agencies as defendants and leave the President out.** Presidential certifications under §1842(g)(2)(D) are unlikely to be reviewable. Agency failures to perform discrete, mandatory duties are the better target.
2. **Identify discrete duties.** The strongest candidates are (a) the duty to transmit identified UAP records; (b) the bar on withholding records created outside the government (§1842(a)(2)(C)); (c) the bar on re-withholding records already public (§1842(a)(2)(B)); (d) publication in the Federal Register of an unclassified reason for each continued postponement (§1842(g)(2)(B)); and (e) the 25-year deadline for records whose postponement has not been certified.
3. **Use FOIA in parallel.** FOIA supplies an express cause of action and de novo review, but under *Assassination Archives* a FOIA claim is decided on FOIA's own exemptions; the Collection's stricter postponement standard (§1842(g)) cannot be imported into it. Releases from the Collection still count in a FOIA case: under *Scott*, a requester who lists specific information the Collection has made public can require the agency to release the matching withheld text or justify withholding it. A FOIA request for the same records, combined with an APA claim for violation of the Collection's specific duties, gives a court two routes. The pending H.R. 8800 would expressly preserve both.

4. **Use the destruction bar early.** §1842(a)(2)(A) forbids destruction or alteration of UAP records. Counsel aware of a risk of destruction should send a preservation demand to the agency and NARA and ask the Archivist to act under 44 U.S.C. §3106 (unlawful removal or destruction; referral to the Attorney General).

The executive branch's position on presidential records. On April 1, 2026, the Office of Legal Counsel advised the Counsel to the President that the Presidential Records Act "is unconstitutional because it exceeds Congress's enumerated and implied powers and aggrandizes the Legislative Branch at the expense of the constitutional independence and autonomy of the Executive," and that the Act "is invalid in its entirety." *Constitutionality of the Presidential Records Act*, 50 Op. O.L.C. __, slip op. at 1, 49-50 (Apr. 1, 2026). The opinion treats *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977), as limited to a former President's records and reasons that Congress may reach presidential papers only for a valid legislative purpose. The enacted Records Collection does not define "Government office," but H.R. 8800 would expressly reach UAP records of "the Executive Office of the President" (§1773(23)(A)). Counsel should expect the executive branch to resist, on the OLC's reasoning, any attempt to compel transmission of White House UAP records under either statute. The best answers are that the Collection serves an identifiable legislative purpose, oversight of UAP programs and their funding (the same Act limits funds for unreported UAP programs, FY2024 NDAA §1687), which is the element the OLC found missing from the PRA, and that an OLC opinion binds the executive branch but not the courts. The legislative-purpose answer would be stronger if stated in the statute: the 2023 Senate bill contained a findings, declarations, and purposes section (§__02), but neither the enacted subtitle nor H.R. 8800 does. Advocates should ask conferees to restore it. Litigants should direct claims at agency-held copies of presidential-level records where possible, since those are agency records under FOIA and the Collection.

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5. The statutes as official acknowledgment

Every enacted provision is an official act of the United States. The FY2023 and FY2024 provisions acknowledge, at minimum, that Congress found it necessary to legislate for "material retrieval, material analysis, reverse engineering" programs relating to UAP, to require reporting of restricted access programs "not explicitly and clearly reported to Congress," to bar funding for unreported UAP activities, and to collect records relating to "technologies of unknown origin, and non-human intelligence." These provisions do not themselves establish that such programs exist, and the government will say so. They do make it harder for an agency to argue that merely confirming the existence of records on those subjects would harm national security, which is the premise of a Glomar response (Issues A1, B1).

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6. State law

No state has enacted a UAP statute comparable to the federal provisions. A search of all state statutes in October 2026 (terms "unidentified anomalous phenomena," "unidentified aerial phenomena," "unidentified flying object," "UFO," and "UAP") found one enactment. New Jersey's aviation grant program, N.J.S.A. 18A:3B-42.1 (L. 2025, c. 269, §4, eff. Jan. 12, 2026), directs the Secretary of Higher Education to award $2,500,000 a year in grants to public institutions of higher

education that participate in the federal Unmanned Aircraft Systems Collegiate Training Initiative, and lists among the program's purposes to "support the establishment of a Center for the Study of Unidentified Aerial Phenomena" (§42.1(a)(2)). Applicants must describe their "capacity to support" such a center (§42.1(c)(2)). The statute does not define the phenomena, create reporting duties, or address records; its significance is that a state has appropriated money for UAP research at public universities, whose records are then reachable under the state's open public records law.

Pending proposals include Vermont H.654 (2026), which would create a Vermont Airspace Safety and Unidentified Anomalous Phenomena Task Force to evaluate reports, assess airspace and public safety risks, coordinate with academic institutions and federal agencies, and recommend reporting and response improvements, and a Connecticut proposal reported in March 2026 to fund study and public reporting. Check each legislature's site for current status before citing these.

State public-records laws reach state police, aviation, emergency management, and university records of UAP events (Issue B1). Some state legislatures have also considered resolutions supporting federal disclosure.

7. Practice points

- Cite the current codification (50 U.S.C.A. §3373 effective Dec. 18, 2025) and check a citator for pending legislation that would amend it.
- For cleared clients, use the §3373b mechanism; its protections exceed the PURSUE waiver.
- For records requests, invoke §§1842-1843 alongside FOIA and ask agencies to state whether each record has been transmitted to RG 615 and, if postponed, which §1843(a) ground was found by clear and convincing evidence and where the Federal Register notice appears.
- For private holders of material, monitor H.R. 8800 §1767 and prepare for a takings analysis (Issue E1); preserve chain-of-custody and acquisition records.
- For legislators and advocates, propose technical corrections to the H.R. 8800 cross-references, an express compensation and procedure provision for §1767, and an express private right of action.