

Designing a UAP Truth Commission: Compulsion, Immunity, and Accountability

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Key points

- Program participants will not testify fully without protection, and every protective tool has a known cost: immunity makes later prosecution hard (*North*; *Poindexter*), pardons do not reach state crimes or civil claims, and civil shields need a compensation fund.
 - South Africa's amnesty-for-disclosure model was upheld (*AZAPO*); Northern Ireland's conditional immunity was held incompatible with ECHR Articles 2 and 3 (*Dillon*).
 - A U.S. commission should combine subpoena power, a DOJ-coordinated immunity process with evidence secured first, a narrow civil shield, and carve-outs for homicide and torture ([Form B3-1](#)).
 - An executive amnesty order can announce pardon policy but cannot bind states or bar civil suits.
 - Counsel to a witness should assess exposure and negotiate a proffer before any testimony.
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1. Summary

If disclosure confirms decades of concealment, the people who know the most will be program participants: officials, service members, and contractor employees who may have violated statutes on appropriations, reporting to Congress, records, or worse (Issues D1, D3, F2). They will not testify fully without protection. Protection, in turn, is politically contested and, where serious harms are alleged, constrained by human-rights norms.

U.S. law offers three main tools, each with a known failure mode:

- **Use and derivative-use immunity** (18 U.S.C. §§6002-6005) compels testimony but makes later prosecution difficult. The Iran-Contra prosecutions of Oliver North and John Poindexter were reversed because witnesses at trial had been exposed to the defendants' immunized congressional testimony. *United States v. North*, 910 F.2d 843 (D.C. Cir. 1990), modified, 920 F.2d 940 (D.C. Cir. 1990); *United States v. Poindexter*, 951 F.2d 369 (D.C. Cir. 1991).

- **Pardons** (Art. II, §2) can cover federal offenses before charges are filed, but not state offenses or civil liability, and acceptance carries political cost.
- **Statutory civil immunity** can extinguish federal claims, subject to due process and takings limits for vested claims, and its reach over state-law claims depends on preemption.

The leading foreign model, South Africa's Truth and Reconciliation Commission, granted individual amnesty in exchange for full disclosure of politically motivated acts, and its Constitutional Court upheld the scheme. *Azanian Peoples Organization (AZAPO) v. President of the Republic of South Africa*, [1996] ZACC 16, 1996 (8) BCLR 1015 (CC), paras. 17-19 (amnesty as the incentive for perpetrators to disclose the truth), 32 (no breach of international law), 38 and 50-51 (extinguishment of civil claims against perpetrators and the state upheld). The case is reported at 1996 (4) SA 671 (CC); SAFLII's header gives the first page as 672. The closest modern counterpart, the United Kingdom's Northern Ireland Troubles (Legacy and Reconciliation) Act 2023, offered conditional immunity for truthful accounts. The Belfast High Court declared the immunity provisions (ss. 7(3), 12, 19-22, 39, 41, 42(1)) incompatible with Articles 2 and 3 of the European Convention on Human Rights and also held them of no force and effect under article 2 of the Windsor Framework. *Re Dillon's Application*, [2024] NIKB 11, para. 710-(ii) (Colton J., Feb. 28, 2024). The government did not pursue its appeal on the immunity point and announced that the immunity would be repealed; as of October 15, 2026, legislation.gov.uk showed no enacted repeal of s. 19, so the provisions remain on the statute book but disappplied.

A U.S. UAP commission should therefore combine (1) a statutory commission with subpoena power and cleared staff; (2) a carefully sequenced immunity process coordinated with the Department of Justice to preserve prosecutions of the most serious conduct; (3) a statutory civil-liability shield limited to specified conduct and conditioned on full and truthful testimony; (4) whistleblower protections extending 50 U.S.C. §3373b; and (5) carve-outs from any immunity for homicide, torture, and similar grave acts, which also addresses the human-rights objection that defeated the Northern Ireland scheme.

2. Models

2.1 U.S. congressional investigations

- **Church Committee (1975-76)**. Senate Select Committee established by S. Res. 21 (94th Cong.); obtained classified records; held public and closed hearings; produced the reports that led to FISA and the permanent intelligence committees. It relied on voluntary cooperation and subpoenas and did not use immunity grants. Frederick A.O. Schwarz Jr., its chief counsel, later urged Congress to use the model for a commission on post-2001 detention and surveillance (Senate Judiciary testimony, Mar. 4, 2009).
- **Iran-Contra (1987)**. The House and Senate select committees immunized North and Poindexter under 18 U.S.C. §6005. Independent Counsel Walsh's office "canned" its evidence before the immunized testimony, but the D.C. Circuit held that the government must prove that trial witnesses' testimony was not shaped by exposure to the immunized testimony, witness by witness and even where the prosecution did not cause the exposure. *North*, 910

F.2d at 854, 872 (the inquiry “must proceed witness-by-witness; if necessary, it will proceed line-by-line and item-by-item,” with the prosecution proving by a preponderance that no use was made of immunized testimony); *Poindexter*, 951 F.2d at 392-93 (convictions reversed because the government failed to show that a key witness’s testimony was not shaped by exposure to the defendant’s immunized congressional testimony). Both convictions were ultimately vacated.

2.2 Statutory commissions

- **National Commission on Terrorist Attacks (9/11 Commission).** Pub. L. 107-306, Title VI: bipartisan membership, subpoena power, access to classified material, fixed term. A template for structure.
- **Commission on Wartime Relocation and Internment of Civilians (1980-83).** Pub. L. 96-317: nine members, public hearings with over 750 witnesses, findings that internment was a “grave injustice,” followed by the Civil Liberties Act of 1988, Pub. L. 100-383 (formal apology and \$20,000 per surviving person). A template for acknowledgment and redress after official concealment.
- **Assassination Records Review Board (1994-98).** JFK Act: independent board for records, not testimony; the House-passed UAP Disclosure Act adopts this model and adds subpoena power and witness immunity eligibility (H.R. 8800 §1764(i)).
- **Rockefeller Commission (1975).** The Commission on CIA Activities within the United States, created by executive order, investigated domestic intelligence abuses before the Church Committee did. It shows the limit of executive self-investigation: no subpoena power, and a mandate set by the branch under scrutiny.

2.3 Foreign models

Model	Mechanism	Result
South Africa TRC, Promotion of National Unity and Reconciliation Act 34 of 1995	Amnesty Committee could grant individual amnesty from criminal and civil liability for acts associated with a political objective, on full disclosure (s. 20); state vicarious liability also extinguished	Upheld in <i>AZAPO</i> (1996); applications denied for incomplete disclosure
Northern Ireland Legacy Act 2023	Independent Commission for Reconciliation and Information Recovery (ICRIR); conditional immunity for persons who gave a true account	Immunity held incompatible with ECHR arts. 2-3 and disapplied under the Windsor Framework (<i>Dillon</i> , [2024] NIKB 11, para. [710]); appeal on immunity abandoned July 2024; repeal announced but not enacted as of Oct. 15, 2026;

Model	Mechanism	Result
		UK Supreme Court upheld other parts under the Windsor Framework
Colombia Special Jurisdiction for Peace (JEP)	Reduced sanctions for full truth and acknowledgment; ordinary penalties for those who do not	Ongoing; widely studied
Canada, Truth and Reconciliation Commission (2008-2015)	Created under the Indian Residential Schools Settlement Agreement; gathered survivor statements and records; no power to make findings of individual criminal liability	Final report and Calls to Action (2015); a model for documenting institutional harm through a settlement-based commission
Argentina, CONADEP (1983-1984)	Presidential commission on the disappeared; took testimony and inspected detention sites; transmitted evidence to the courts	Report <i>Nunca Más</i> (1984); its files supported later prosecutions
Chile, National Commission for Truth and Reconciliation (Rettig Commission, 1990-1991)	Presidential commission; documented deaths and disappearances; did not name perpetrators publicly	Report and reparations law; shows a design that separates truth-telling from attribution of individual guilt
Inter-American human rights system	<i>Barrios Altos v. Peru</i> (Inter-Am. Ct. H.R. 2001): self-amnesty laws for grave violations incompatible with the American Convention	Limits amnesty for killings and torture

3. U.S. legal tools in detail

3.1 Compulsory process

- **Congressional subpoenas** are enforceable by criminal contempt (2 U.S.C. §§192, 194), inherent contempt, or civil enforcement. *Trump v. Mazars USA, LLP*, 591 U.S. 848 (2020), limits subpoenas for presidential information.
- **Statutory commission subpoenas** are enforced in district court on application of the commission or the Attorney General, as the authorizing statute provides.

- **Speech or Debate protection for staff.** Members and their aides are immune from questioning about legislative acts, including the handling of classified material in committee. *Gravel v. United States*, 408 U.S. 606, 616-17 (1972). Committee staff who receive classified testimony from UAP witnesses are protected for the legislative work itself, but *Gravel* held that the clause did not protect private republication outside the legislative process.

3.2 Immunity

- **Statute.** 18 U.S.C. §6002 confers use and derivative-use immunity on a witness compelled to testify over a Fifth Amendment claim. For congressional proceedings, §6005 requires the affirmative vote of a majority of the members present of the full House or Senate, or of two-thirds of the members of the full committee, and at least ten days' notice to the Attorney General, who may request a deferral of up to twenty days. For agencies, §6004 requires Attorney General approval. A commission must be designated an "agency of the United States" under §6001 to use §6004 (H.R. 8800 §1764(i) does this for the UAP Records Review Board).
- **Scope.** Use and derivative-use immunity is coextensive with the Fifth Amendment privilege. *Kastigar v. United States*, 406 U.S. 441 (1972). The government may still prosecute, but bears the "heavy burden" of proving that its evidence derives from independent sources.
- **Taint in practice.** *North, Poindexter*, and *United States v. Slough*, 641 F.3d 544 (D.C. Cir. 2011), show the burden. In *Slough*, Blackwater guards had given compelled statements to State Department investigators; the district court dismissed the indictment for taint. The D.C. Circuit vacated and required a segregated, witness-by-witness and defendant-by-defendant analysis, holding that a witness's evidence is excluded only if the witness would not have testified as he did absent exposure to immunized statements, and that the prosecutor's charging decision could be influenced by immunized statements (as a matter of apparent first impression in that circuit).
- **Transactional immunity** (full protection from prosecution for the transaction) is not available under federal statute but can be granted by non-prosecution agreement or created by a new statute. The NPI draft Enhanced UAP Whistleblower Protection Act would authorize the Attorney General to grant use or transactional immunity in UAP-related criminal cases (sunset 2029) ([Issue A3](#)).
- **State prosecutions.** A federal immunity grant binds states as to use and derivative use (*Murphy v. Waterfront Commission*, 378 U.S. 52 (1964)), but a federal pardon or non-prosecution agreement does not prevent state prosecution under state law, for example for homicide.

3.3 Practical sequencing to protect prosecutions

1. Before any immunized testimony, the Department of Justice should identify likely targets and "can" its existing evidence (seal and date-stamp it) so independent sources can later be proved.

2. Hold immunized testimony in closed session, restrict transcripts, and keep investigators and potential trial witnesses from exposure.
3. Prioritize lower-level participants for immunity and reserve senior decision-makers and the gravest conduct for prosecution or for conditional, non-immunized testimony.
4. Use proffer agreements (“queen for a day”) to learn what a witness knows before deciding on immunity.

3.4 Pardons, amnesty orders, and witness protection

Proposals for an amnesty order. A former director of the Navy’s UAP Task Force has urged the President to issue “an executive order, giving carefully structured amnesty protections to those involved in the Legacy Program so they can safely step out of the shadows and share what they have learned, even if only within classified channels,” and reports that the White House and the DNI have signaled immunity for those who come forward. Jay Stratton, *Out of the Shadows* chs. 66-67 (2026). An executive order of that kind can do less than its name suggests. It can announce a pardon policy and direct prosecutors not to charge, and the President may then pardon individuals; it cannot immunize anyone from state prosecution or civil suit, and it does not bind a later administration’s prosecutors except through pardons actually granted. The same author suggests the program may have operated under authorities granted by President Truman, so that participants believed they were acting lawfully (*id.* ch. 67). If so, that belief bears on mens rea and on the public-authority defense ([Issue A2](#)) whatever the order says.

Witness protection. Witnesses who report threats can be relocated and protected under 18 U.S.C. §3521 on the Attorney General’s determination. A commission statute should give its chair a way to request that protection for witnesses in its proceedings.

Pardons.

The President may pardon federal offenses before charge (*Ex parte Garland*, 71 U.S. 333 (1866); the Ford pardon of Nixon). A pardon may be conditional. *Burdick v. United States*, 236 U.S. 79 (1915), suggests that acceptance implies an admission, which matters politically. A pardon does not reach state offenses or civil claims and does not compel testimony (a pardoned witness who no longer faces federal jeopardy may be compelled to testify, subject to state-law and foreign exposure).

3.5 Civil liability

Congress can create defenses to federal claims and can preempt state tort claims within its powers, but *Hencely v. Fluor Corp.*, 608 U.S. 31 (2026), shows the Supreme Court’s reluctance to infer preemption of state tort claims against contractors acting without authorization ([Issue A1](#), D5). A statutory shield must be express. Claims that have accrued are property for due process purposes in some contexts; a shield that extinguishes them may invite takings or due process challenges, which can be addressed by providing an alternative compensation fund (as the September 11th Victim Compensation Fund and the Civil Liberties Act of 1988 did).

4. Human-rights constraints

If NHI are treated as rights-holders ([Issue F2](#)), or if UAP programs injured humans (experiencers, workers, service members), international human-rights law disfavors amnesty for grave violations:

- ECHR Articles 2 and 3 require effective investigation of killings and torture; the Belfast High Court applied that requirement to strike conditional immunity in the Legacy Act. The United States is not a party to the ECHR, but U.K. and European participants in any multinational disclosure would be bound.
- The ICCPR (Arts. 2(3), 6, 7) and the Convention Against Torture (Art. 4, 7, 14) require investigation, prosecution or extradition, and remedies for torture; the United States is a party to both.
- The OHCHR's *Study on the Right to the Truth* (E/CN.4/2006/91) links truth commissions to the state's duty to investigate and provide remedies, and treats amnesty for gross violations as incompatible.

A commission statute that excludes torture, killings, and enforced disappearance from immunity, and that provides for victims' participation and remedies, will avoid most of these objections.

5. Design recommendations for a UAP Truth and Reconciliation Commission

1. **Charter.** Statutory commission, independent agency, bipartisan appointment with Senate confirmation; members without involvement in legacy programs (H.R. 8800 §1764(b)(4) offers language).
2. **Mandate.** Establish the history of UAP programs, including retrieval, exploitation, concealment from Congress, funding, treatment of witnesses and whistleblowers, and any harm to humans or NHI; recommend reforms and redress.
3. **Access.** Statutory override of SAP access restrictions (10 U.S.C. §119; agency SAP rules) for cleared commission staff; access to contractor facilities and records; authority to examine material.
4. **Powers.** Subpoena power enforceable in D.D.C.; designation as an agency under 18 U.S.C. §6001.
5. **Immunity process.** Proffer, then a DOJ-coordinated §6004 application, with (a) mandatory pre-testimony evidence canning by DOJ; (b) closed sessions; (c) a statutory list of excluded conduct (homicide, torture, cruel treatment, enforced disappearance) for which no immunity or civil shield is available.
6. **Conditional civil shield.** Federal and state civil liability for covered program conduct (for example, appropriations and reporting violations, breach of contract, violations of records laws) extinguished for witnesses who give full and truthful testimony, with a compensation fund for injured persons in place of extinguished claims.

7. **Whistleblower protection.** Extend 50 U.S.C. §3373b(b) protections to all commission witnesses and prohibit reprisal, including clearance actions, with a private right of action ([Issue C1](#)).
8. **Public and closed proceedings.** Public hearings for acknowledged matters; closed sessions with classified transcripts; declassification review of the final report on a fixed schedule.
9. **Victims.** Participation rights for injured persons and their families; a redress program.
10. **Sunset and records.** Fixed term; records transferred to the UAP Records Collection.

6. Practice points for counsel to witnesses

- Never allow a client to testify about program conduct without first assessing federal, state, and foreign criminal exposure and civil exposure.
- Seek a proffer agreement before any interview; negotiate the scope of derivative use.
- If the client will receive immunity, document what the client had already disclosed before the immunized testimony (to support the government's independent-source showing later, or to oppose it).
- Use the 50 U.S.C. §3373b channel for disclosures to AARO, which carries its own statutory protection ([Issue A3](#), C1). On the site's premise that AARO is part of the concealment, make the disclosure for its legal effect only, and give the substance in parallel to an inspector general or the committee.

Tool	What it protects against	What it leaves open	Effect on later prosecution of others
Use and derivative-use immunity (18 U.S.C. §§6002-6005)	Federal and state use of the testimony	Prosecution on independent evidence; civil claims	Heavy <i>Kastigar</i> burden; risk of taint (<i>North</i> , <i>Poindexter</i>)
Transactional immunity (by statute or agreement)	Prosecution for the transaction	State prosecution unless the statute reaches it; civil claims	None for the witness's own conduct
Pardon	Federal prosecution and punishment	State prosecution; civil claims	None; testimony can then be compelled
Conditional civil shield (statute)	Federal and state civil liability for covered conduct	Excluded grave conduct; due process and takings limits	None; needs a compensation fund
Non-prosecution or	Use of proffer	Other sovereigns;	Limited if evidence is

Tool	What it protects against	What it leaves open	Effect on later prosecution of others
proffer agreement	statements; agreed charges	matters outside the agreement	canned first
<ul style="list-style-type: none"> Keep in mind that federal immunity does not protect against foreign prosecution. 			