

UACDL LISTSERV POLICIES AND PROTOCOLS

Welcome to the UACDL Listserv. This service is a group email of UACDL attorney members where users can share ideas, swap motions and briefs, post novel legal questions, exchange information on judges, prosecutors, and experts, and inform members about matters of general interest to criminal defense lawyers. UACDL attorney members are automatically added to the UACDL Listserv when they join.

The Listserv is a powerful tool for members but is also subject to abuse on occasion. Messages that are not related to criminal defense tend to create unneeded and unwanted email traffic and add to users' already busy workloads.

Important Note on the size of messages and moderating the Listserv: The Listserv has a built in size restriction of 40 KB to prevent malware from being sent to list members. Thus, once a message has been replied to several times, the accumulated size of the post may quickly exceed the 40 KB limit. Keep in mind that the size limit includes any disclaimers or other standard images that are included in the email such as firm logos or signature lines.

When a message exceeds the 40 KB size level, either the UACDL President, Past President, President-elect or Executive Director must manually approve the message. Although the approval process takes just a few seconds, these moderators must be aware that a message has been held up. Because these persons have regular day jobs, they may not have access to the Listserv for several hours.

Further, although messages are "moderated" and held up for "moderator approval" please do not be misled by these terms. No one checks the messages for content. Rather, once the 40 KB size restriction is reached, messages are automatically held up by the Listserv. When that happens, one of the moderators listed above simply must click a button and send the message on its way. Moderators do not read the content of messages before approving them. No censoring of any kind takes place. Rather, in the rare event that a message violates the Listserv rules below, the UACDL Board of Directors may take action against a user after the fact.

I. Rules of Listserv Usage

To ensure that use of the Listserv remains a helpful resource, the following policies, protocols, disclaimer, and tips for usage apply:

- Only UACDL attorney members may use the UACDL Listserv.
- All Listserv messages must include the ***first and last names of the author***. A signature line with the member's name and address is preferred.
- All messages must include a subject line that describes the nature of the message and which would generally allow users to determine the contents of the message.

- To protect the integrity of the Listserv and its members, ***no messages may be disseminated to anyone outside of the UACDL listserv without the express permission of all authors.***
- **Caution.** Be aware that UACDL also uses a separate email service that announces upcoming seminars, delivers the quarterly *Defender* newsletters, and alerts the membership of important information. This service looks different from Listserv messages in that it includes a header that looks like the UACDL website. Messages sent from this service are important announcements sent from the UACDL offices that all members should read.

II. Rules to Reduce Listserv Traffic

- Send replies intended for only one person or a few people to these individuals only. **Warning: Simply clicking the Reply button will automatically send the response to everyone on the List.** The UACDL Board of Directors has decided that sharing valuable information to all members outweighs the increased traffic caused by setting the default on the Listserv to send to all. In the Board's experience, erring on the side of sharing more information is better than risking valuable comments being sent to the original sender only. This policy requires users to use good judgment when replying to messages.
- To send a message to an individual person, users must create a new message by manually typing in the intended receiver's email address or by right clicking on the receiver's email address and selecting the option to send a message to the receiver. In any event, most email programs include a feature that recognizes a person's email address after typing in the first few letters of a person's name or email address.
- Any message that asks for responses that would not be of general interest to the List as a whole must include a notation in the subject line that the message is "**Off Topic.**" Also, the body of the message should include a note for replies to be sent "**Off List**" to the sender. Senders must also include their email address in the body of the message.
- To comment on a post or to send a personal message to the sender when the comments are unrelated to UACDL's mission of protecting and defending constitutional liberties, send the response to the original sender only and any others you wish to include. Do not send personal messages or comments to the entire list.

III. Prohibited Uses of the Listserv

- No personal messages unrelated to UACDL's mission of preserving criminal defendants' constitutional rights are allowed. Examples of discouraged personal messages include:
 - thank you notes and comments that are directed to one or a few people only,
 - business solicitations or advertisements
 - personal political opinions
 - political campaigning

- Personal insults, attacks on others' character, and inferring bad motives (including in retaliation to rule violators) are strictly forbidden. Violations may result in removal from the Listserv or even from UACDL.
- The disclosure of any Listserv communications to non-criminal defense lawyers is grounds for removal from the Listserv or from UACDL. **No matter how offensive or personally important a post may be, Listserv users may not disclose Listserv communications to others who are not engaged in criminal defense.**
- Before posting a request for research assistance or advice, users first must have expended reasonable efforts to find the answer themselves. The Listserv is not to be used for blanket requests for help in hopes that someone has already researched and briefed an issue and will be willing to hand over the fruits of that person's labor.
- Avoid criticizing specific persons, especially judges, prosecutors, fellow criminal defense lawyers, etc. Because the Listserv is not a secure forum, users should keep in mind that disparaging comments can be attributed to other users or UACDL as a whole. Although logically a person's comments should only reflect that person's own views, others may infer, albeit incorrectly, that the failure to rebut one person's comments means that others adopt the comments. Regardless of the fallacy of this reasoning, Listserv comments should be offered with the assumption that non-criminal defense lawyers will see them.
- Advocating or campaigning for a party or candidate is not allowed on the Listserv. But, sharing information of a political nature that would be of interest to the membership as a whole is allowed. For example, notice of an upcoming political debate between candidates for office may be of general interest to the list membership.

IV. Policing the Listserv

Failure to follow these measures will result in a friendly reminder from one of the list moderators or administrator. The UACDL Board of Directors will consider repeated or egregious breaches and may remove abusers from the Listserv.

One of the most effective ways to improve the Listserv is members policing themselves. Self-policing means users following the rules without being told to do so and also **gently reminding others** that a post violates Listserv rules.

V. Disclaimer Regarding Confidentiality

- The Utah Association of Criminal Defense Lawyers ("UACDL") has provided a Listserv for its attorney members to share information, communicate with its members, and provide information about upcoming events that are of general interest to the membership. UACDL does not actively police the Listserv and is not responsible for the content of messages

posted by subscribers. Membership on the list is by subscription only and subscribers affirmatively agree not to distribute list messages outside of the list itself.

- Because the Listserv is not a secure forum, members must assume that once a message is posted to the list, it is possible that information from the message may be disseminated to others beyond the listserv. Accordingly, care should be taken with all postings. Leaks have been documented previously and so users must assume that any posting could be received by nonsubscribers such as judges, prosecutors, ethics officials, law enforcement officials, etc.

VI. UACDL Listserv Discipline Procedures

The following procedures for addressing violations of the UACDL Listserv policies are detailed below to ensure notice to users, evenhanded and fair application of the policies, and to give users an opportunity to be heard and to address the fairness of disciplinary measures.

1. When a user first violates the Listserv policies, the Executive Director or designee shall personally contact the user by telephone, email, or face to face to explain the violation and to warn the user that further violations will result in more severe sanctions. The Executive Director will then document the contact in a written message sent to the user.
2. Upon a second violation, the President shall deliver a written letter to the offender that details the violation and informs the user of any discipline that the UACDL Board of Trustees has voted to take against the user. Discipline ranges from a probationary period to suspension of Listserv access, to permanent removal from the Listserv.
3. Appeals Rights - At any stage of these proceedings, users may appeal disciplinary actions to the Board. To appeal, users must deliver a letter to the President and Executive Director that explains why the discipline was inappropriate. The Executive Director will then forward the letter to the entire Board. The Board will then consider the written appeal and respond to the user no later than the next scheduled Board meeting.

VII. Tips For Managing Listserv Traffic

To ensure that the Listserv remains a valuable resource, please be respectful of other users and do not send unwanted or unnecessary messages to all users. Time is a scarce commodity, and so please respect others who do not wish to read extra messages that do not pertain to them. Users who want to manage Listserv traffic have numerous options at their disposal”

- **Daily Digests:** For members who want to review messages once or twice daily, go to the Listserv information page at <http://mailman.xmission.com/mailman/listinfo/uacdl> and select the digest option on your personal settings. To reach this page, you will need your Listserv password. This password was set for you when your email was added to the

Listserv. If you have forgotten your password, you may reset it or receive an email reminder at <http://mailman.xmission.com/mailman/options/uacdl/>.

- **Archives:** The information page also contains an archive of all Listserv postings since XMission became UACDL's Listserv administrator in January of 2009.
- **Create a Separate Email Account:** Many UACDL members have created a separate email account dedicated to Listserv messages. These members then check the email at their leisure instead of receiving messages on their personal or work email accounts.
 - Most Internet Service Providers allow subscribers to create several email addresses without extra charge. Each email program is different but new accounts can typically be created under the Tools button on your email program.
 - Even if you do not have Internet service at home or additional email accounts available, you can create a new email account free of charge on numerous services such as Yahoo, Hotmail, and Gmail.
- **Direct Messages to an Email File:** Most email programs allow users to identify email from specific senders such as UACDL and then direct those messages to a specific file on the email program. The Tools button is the most likely place to find this feature.
- **To Unsubscribe or Temporarily Suspend Service:** You may also unsubscribe to the Listserv or temporarily suspend Listserv messages while on vacation at <http://mailman.xmission.com/mailman/listinfo/uacdl> or by asking the Executive Director. However, remember that unsubscribing or suspending service will result in missed messages and updates that may be valuable to your law practice.