



Whether it's Mel Gibson or your Own (ex) Spouse, When Is It OK to Record Their Verbal Rants?

SmolenPlevy Family Law Attorneys Explain the Hows and Whys of Recording Verbal Abuse.

(Vienna, VA)—The recent recordings of what sounds to be Mel Gibson berating his ex-girlfriend bring to light a serious legal issue faced by many: When can someone legally record the verbal abuse and threats made by a spouse or significant other?

Alan Plevy and Kyung (Kathryn) Dickerson, family law attorneys at SmolenPlevy in Vienna, VA say the laws as to when a person may record vary from state to state. For instance, Virginia and DC require only one party to the conversation to consent to its recording but Maryland requires all parties to a conversation to consent. Whether it's over-the-phone or in person, Plevy warns that recording someone improperly could lead to criminal charges and in some states civil suits. Also some states have specific laws against the use of hidden cameras.

Dickerson suggests a simple approach to dealing with the recording laws. She says when someone wishes to record their spouse or ex verbally abusing them, a person should:

- 1) Take out the recording device, whether it's audio or video, and show it to the other spouse.
- 2) Start recording.
- 3) Tell the other person "on tape" that they are being recorded and record the entire conversation, including what you say in response to the abuse.

Dickerson says those steps generally result in the other person stopping their shouting or threats, at least temporarily, or it results in a recording of precisely what the abusive spouse said which may be used in court. "Either result is good," says Dickerson. "In some cases, especially when physical abuse is threatened, a recording can lead to the court issuing a protective order. But too often without a recording, claims of verbal and physical threats lead to a "he-said/she said" debate." Also when both parties are recorded, it eliminates the argument that one spouse was deliberately provoked to record their response.

(Even when there is one-party consent, Dickerson warns about recording in places where people have a reasonable expectation of privacy, such as the bedroom and restrooms.)

If there are threats of physical abuse, Plevy suggests:

- Always keeping a cell phone handy
- Retreating to a room with a lock
- Calling 911, and making sure the responder can hear the threats

Verbal abuse is not gender specific. Both men and women can be verbally abused. Like physical abuse, while men were once the focus of allegations verbal abuse, Plevy says that there are increasing claims that women are verbally abusing their spouses.

Alan Plevy and Kathryn Dickerson are available for interviews on this and other family law issues. Media contact: Marc Silverstein (202) 716-9123 or at marc@onthemarcmedia.com