



Family Law

CALL US - BEFORE
YOUR EX DOES!



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LAWYER

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My ex and I have been separated for over a year, and things have not been going well. He recently told me that he has been taping our telephone conversations. Is he allowed to do that without my knowledge or consent? He is threatening to use these recordings in Court!

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The secret recording of telephone calls has been in the news lately, with Jody Wilson-Raybould secretly taping Privy Council Clerk Michael Wernick in the SNC-Lavalin case. It is important to remember that in that instance, the issue lies in the fact that **lawyers** are prohibited from recording calls with clients without express permission.

There is no such restriction on calls between two individuals, and your ex is permitted by Section 184 of the Criminal Code to record private conversations between you and him, without telling you. It is called the “one-party consent” exception, and such recordings can be used in lawsuits, although most Family Law Judges do not welcome this kind of evidence.

However, your ex cannot record conversations in which he does not have a part – for instance, he cannot secretly record conversations between

you and the children or place a recording device in their backpacks or diaper bags, for example. That would fall into an area for which he does not have permission. Should he attempt to use such illegally obtained evidence in Court, I would advise that you immediately retain a family lawyer before such evidence is presented.

Bottom line, if you are careful about what you say, you will have fewer regrets down the road. If you feel you are being manipulated in oral discussion, my advice would be to limit all communication with your ex to text or email only.

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