

Bar Register of Preeminent Lawyers in U.S.  
- Martindale Hubbell

- ◆ Criminal Defense Exclusively
- ◆ Immediate Case Intervention 24/7
- ◆ Former Senior Los Angeles District Attorney
- ◆ State Bar-Certified Criminal Law Specialist



## SECRET RECORDINGS: CRIMINAL?

Invasion of privacy cases receive widespread media attention. Many news stories cover the issue of very private photographs and videos being made public.

Civil and criminal cases typically follow. Recently reality star Rob Kardashian was accused of posting nude photos of his ex-girlfriend Blac Chyna after their break-up. A restraining order is reportedly being sought. Similarly, Dani Mathers, a former Playboy model, was prosecuted and convicted of photographing a woman in a public shower, ordered to do community service, and placed on probation. And a revenge porn website owner was sentenced to eight years in custody for extorting women for payment to have their nude images taken down from his site.

But not all secret audio and video recordings are unlawful. Our firm fields calls from many attorneys asking whether the secret recordings their clients obtained can be used in a lawsuit. Admissibility in a civil case comes down to whether the recordings are lawful. Penal Code Section 633.5 makes it lawful for a crime victim to secretly record the subject making threats of harm. The listed crimes are extortion, kidnapping, bribery, human trafficking, or any felony involving violence against the person.

As an example, if a party to a divorce is threatening physical harm, then the recording would probably be admitted in the proceedings. However, if the party states he or she will hide all assets, and there is no threat of physical violence, the recording would have a tougher time qualifying for the exception to be admissible.

It is prudent to advise a client to not make or distribute secret audio and video recordings, no matter how bitter the feud, unless there is risk of physical harm. A criminal prosecution for distributing unlawful information may likely follow if a police report is filed and the victim is desirous of prosecution.

Top 5% in California

**Super Lawyers**

10/10 Superb Rating  
Alan Eisner  
Dmitry Gorin



High-Profile Cases



### About The Firm

Criminal Attorneys with over 50 years experience in courtroom and pre-filing intervention defending cases in state and federal court nationally.

