FLORIDA PRACTITIONER GUIDE

Florida Recording Consent for Audio and Video Evidence

Florida is an all party consent state. Before a recorded call, a hidden phone recording or a camera system with audio becomes evidence, counsel needs to know how it was made, who consented and whether the file is intact. This guide covers the statute and the examination that answers those questions.

Edition 2026-11-03 · Updated November 3, 2026 · miami-computer-forensics.com/guides/florida-recording-consent/

Recordings decide cases. A recorded admission, a voicemail threat or a camera clip with sound can settle a dispute faster than any document. In Florida, the same recording can also be inadmissible and expose the person who made, shared or used it to criminal and civil liability, depending on how it was captured. The questions are factual, and they are the questions a forensic examination answers.

GDF examines audio and video recordings for Florida counsel and companies: where a file came from, which device and application created it, whether it was edited, and what the recording itself shows about notice and consent.

1. Florida Requires Every Party's Consent

Section 934.03(1) prohibits intentionally intercepting, or procuring another person to intercept, any wire, oral or electronic communication, and separately prohibits intentionally disclosing or using the contents of a communication while knowing or having reason to know it was intercepted in violation of the statute. Section 934.03(2)(d) makes interception lawful when all of the parties to the communication have given prior consent. A violation of subsection (1) is generally a felony of the third degree under section 934.03(4)(a). Federal law, 18 U.S.C. 2511(2)(d), permits a recording by a party to the communication or with one party's prior consent unless it is made to commit a criminal or tortious act, but Florida's stricter all party rule still governs recordings subject to Florida law. [2] [6]

For counsel, the disclosure and use provisions matter as much as the recording itself. A client who hands over a recording of a call made without the other party's consent raises a question about every later use of it, so we establish the facts of how it was made at the outset, which gives counsel a clear basis for every later use.

2. Oral Conversations Turn on an Expectation of Privacy

Chapter 934 defines an oral communication as one uttered by a person exhibiting an expectation that it is not subject to interception under circumstances justifying that expectation, and excludes a public oral communication uttered at a public meeting. Intercept means the aural or other acquisition of the contents of a communication through an electronic, mechanical or other device. Telephone calls generally fall under wire communication, and messaging and data transmissions fall under electronic communication. [1]

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Whether a conversation in an office, a vehicle, a hallway or a restaurant carried a justified expectation of privacy depends on facts the recording often reveals: the setting, who was present, how loudly people spoke and whether anyone was told about recording. We document those observable facts from the audio and any video so counsel can evaluate the question.

3. Intercepted Calls and Conversations Stay Out of Florida Proceedings

Section 934.06 provides that when a wire or oral communication has been intercepted, no part of its contents and no evidence derived from it may be received in evidence in any trial, hearing or other proceeding before a court, agency or other authority of the state if the disclosure would violate chapter 934. The exception is a prosecution for criminal interception under the chapter itself. [3]

The exclusion extends to evidence derived from the recording, so the provenance question belongs at the start of a matter, before a recording shapes the discovery plan or the pleadings.

4. Civil Liability Follows Interception, Disclosure and Use

Section 934.10 gives a person whose communication is intercepted, disclosed or used in violation of sections 934.03 through 934.09 a civil cause of action for appropriate relief, including equitable relief, actual damages of not less than $100 a day for each day of violation or $1,000, whichever is higher, punitive damages and a reasonable attorney's fee and costs. The action must be brought within 2 years after the claimant first has a reasonable opportunity to discover the violation. [4]

When a recording is offered against your client, the same facts support a counterclaim or a motion to exclude: who recorded, with which device, whether that person was a party, and whether any consent or notice appears in the audio.

5. The Statutory Exceptions Are Narrow

Chapter 934 lists specific exceptions, among them interception by or at the direction of a law enforcement officer who is a party or has a party's consent to obtain evidence of a criminal act, recording by employees of emergency services on designated lines, recording by a child under 18 or a parent or guardian in defined circumstances involving unlawful sexual acts or violence against the child, and recording by a person protected by an injunction of communications received in violation of it. Each exception has its own conditions, and recordings made under some of them may be shared only with law enforcement, an attorney or a court. [2]

For businesses, the practical rule is consent from everyone on the call. That is why customer service lines announce recording at the start, and why that announcement, captured in the audio, is often the most important second of the file.

6. Camera Systems With Audio Need Their Own Record

Many surveillance and doorbell systems can record sound as well as images. Chapter 934 is written around the acquisition of the contents of communications, so the audio track of a camera system raises the consent questions above while the image track raises different ones. The examination therefore starts by establishing whether audio capture was enabled, on which cameras, since what date and with what signage or notice. [1]

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We read the recorder's configuration, its logs and the exported files to answer those questions with dates, and we preserve the original export so that the clip in the exhibit can be matched to the system that produced it.

7. What an Examiner Establishes About a Recording

Authentication under section 90.901 requires evidence sufficient to support a finding that a recording is what its proponent claims. For audio and video, that means identifying the device and application that created the file, recovering the original from the device rather than a forwarded copy, reading container and stream metadata, checking for edits, splices, re encoding and gaps, and correlating the recording's timing with call logs, messages and other records. [5]

The same examination answers the consent questions: whether the person who recorded was present and speaking, whether a recording announcement or notice appears, whether the file was trimmed to remove it, and who received copies afterward. Hash values recorded at acquisition and a documented chain of custody carry the result into court.

Have the Recording Examined Before It Is Used

Call before a recording is quoted in a demand letter, attached to a pleading or shared with anyone outside counsel, and keep the original device and file as they are. A free consultation with a senior examiner covers how and where the recording was made, the device that holds the original, what the file shows about consent and editing, and the examination needed to authenticate it or challenge it.

Call the Miami office at (786) 219-1210 or the 24/7 hotline at (800) 868-8189, or write to info@evestigate.com. Requests and case assessments are handled in confidence. To keep preparing, read the Florida law guides in our library.

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Florida Matter Intake Checklist

Answer what you know. Describe the recording from what you already know, and leave the file as it is for the examiner.

Note who controls each password, recovery key or unlock code, and share the completed checklist through the secure method agreed on the first call.

Who made the recording, and was that person a party to the conversation?

Name the person, their role and whether they were speaking or listening in the conversation recorded.

Answer:

Who confirmed it, from which record, and on what date:

Where and how was the conversation held?

Note whether it was a phone call, a video call, an in person meeting in a private office, a vehicle or a public place, and who was present.

Answer:

Who confirmed it, from which record, and on what date:

Did every party consent, and how is that consent shown?

Record any announcement on the call, written policy, signage, agreement or later acknowledgment, with dates.

Answer:

Who confirmed it, from which record, and on what date:

Which device and application created the original file, and where is it now?

Identify the phone, recorder, call platform or camera system, the app used and who holds the device today.

Answer:

Who confirmed it, from which record, and on what date:

Has the file been copied, edited, converted or shared?

List every copy you know of, the people who received it and the method used, such as email, text or cloud link.

Answer:

Who confirmed it, from which record, and on what date:

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For a camera system, was audio recording enabled, and since when?

Note the system make, the administrator, any signage about recording and the retention period for footage.

Answer:

Who confirmed it, from which record, and on what date:

What is the recording offered to prove, and by which party?

State the fact it supports and whether it is your client's recording or one produced by the other side.

Answer:

Who confirmed it, from which record, and on what date:

Florida Statutes, Rules and Sources

Sources checked November 3, 2026.

1: Fla. Stat. 934.02, Definitions for security of communications (2026 Florida Statutes)
https://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0900-0999/0934/Sections/0934.02.html

2: Fla. Stat. 934.03, Interception and disclosure of wire, oral, or electronic communications prohibited (2026 Florida Statutes)
https://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0900-0999/0934/Sections/0934.03.html

3: Fla. Stat. 934.06, Prohibition of use as evidence of intercepted wire or oral communications (2026 Florida Statutes)
https://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0900-0999/0934/Sections/0934.06.html

4: Fla. Stat. 934.10, Civil remedies (2026 Florida Statutes)
https://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0900-0999/0934/Sections/0934.10.html

5: Fla. Stat. 90.901, Requirement of authentication or identification (2026 Florida Statutes)
https://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0000-0099/0090/Sections/0090.901.html

6: 18 U.S.C. 2511, Interception and disclosure of wire, oral, or electronic communications prohibited (United States Code, 2024 edition, govinfo)
https://www.govinfo.gov/content/pkg/USCODE-2024-title18/html/USCODE-2024-title18-partI-chap119-sec2511.htm

Talk to a Senior GDF Examiner

Bring this guide to a free consultation. We review your answers, identify what to preserve or test first and set out the work, the timeline and the deliverables.

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