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**Chief Public Defender “Deeply Troubled” By TN Comptroller Report Regarding Use of Audio and Video Surveillance Practices by Nashville District Attorney’s Office**

**NASHVILLE, Tenn.** (Sept. 25, 2024) –We are deeply troubled by the revelations exposed by the Tennessee Comptroller of the Treasury regarding the use of surreptitious audio and video surveillance practices by the District Attorney’s Office.

The Comptroller’s Report validates the fears that many of our clients have long harbored about the criminal legal system: that it is inherently unfair and that they are, in many cases, powerless to challenge its most insidious practices. Every day, we bear witness to the concerns of clients, families, and community members who have little to no faith in the fairness of the system seeking to deprive them of their liberty. The practices revealed in this report further erode any confidence our community may have in the protections of the presumption of innocence, the constitutional right to a fair trial, and a zealous defense.

Our democracy was founded upon the idea that every citizen is entitled to equal protection under the law, and that every citizen has the right to be protected from the unreasonable and unchecked power of the government.  The United States Supreme Court established the right to counsel in recognition of the dangers posed by the imbalance of power that necessarily exists between the accused individual standing alone against the enormous power and resources of the government. In every budget cycle, the Nashville Defender’s Office raises concerns about the vast resource and power disparity that exists between our office and the District Attorney’s Office. This report highlights a glaring example of how disparate resources create further power imbalances in the criminal legal system. In theory, an accused person is presumed innocent unless and until the State proves them guilty beyond a reasonable doubt. In reality, this report reveals that government resources were systematically used in a manner that erodes confidence in the ethical behavior of prosecutors and in the constitutional protections prosecutors swear to uphold.

In addition to the ethics that govern all attorneys, prosecutors are entrusted with the unique responsibility “to seek justice rather than merely to advocate for the State’s victory at any given cost.”  TN. R. Pro. R. 3.8, *Comment [1]*.  The allegations presented in this report indicate the type of “systemic abuse of prosecutorial discretion” that rises to the level of ethical misconduct. *Id.* We recognize that the Tennessee Attorney General’s office has declined to criminally prosecute any members of the District Attorney’s Office for the conduct outlined in the Comptroller’s Report. The AG’s decision, however, does not begin to resolve the issue of the numerous significant ethical violations exposed by the report.   Anyone who has spent any meaningful amount of time in a criminal courtroom knows that prosecutors are among the most powerful actors within our criminal legal system. The tremendous amount of discretion that our community vests in prosecutors, whether elected or assistant, should mean that those prosecutors are required to conduct themselves in a manner that honors the trust that we have placed in them. We will request that the District Attorney’s Office promptly disclose to us all cases, both pending and closed, in which this surveillance occurred, as well as the identities of the prosecutors involved in this egregious breach of confidentiality, so that we may seek remedies, including recusals, where appropriate.

As defense attorneys in the Nashville Defender’s Office, when we stand with the accused, we stand with all citizens who demand a just and fair criminal legal system.

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The Mission of the Metropolitan Public Defender’s Office is to defend the liberty, honor, and constitutional rights of the individuals of all ages whose cases have been entrusted to us. Through zealous advocacy, we strive to deliver excellence in our representation of each and every client and stand with our clients and the community in working to create a more just, fair, and compassionate legal system.