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LDAD Files Amicus Brief Backing Unrestricted Congressional Access to ICE Detention Facilities

Washington, D.C. — Lawyers Defending American Democracy (LDAD) has filed an [amicus brief](#) in support of *Neguse v. Immigration & Customs Enforcement* arguing that ICE’s policy restricting unannounced visits by Members of Congress “directly violates federal law.” Twelve Members of Congress filed this lawsuit to challenge ICE’s new requirement that lawmakers provide seven days’ notice before visiting ICE detention facilities.

“Federal law explicitly protects Members of Congress’ right to unannounced oversight visits,” said Mitt Regan, McDevitt Professor of Jurisprudence at Georgetown University Law Center and a principal author of the amicus brief. “ICE’s policy violates both the letter and spirit of that law.”

Since 2020, federal appropriations bills have barred the Department of Homeland Security from using funds to prevent Members of Congress from entering detention facilities for oversight purposes. Indeed, Section 527 of the 2024 DHS appropriations bill, extended by the 2025 Continuing Resolution, explicitly states that Members are not required to provide prior notice before conducting oversight visits.

Unannounced visits, the brief argues, are essential for Members of Congress to observe actual conditions inside facilities—not staged conditions prepared in advance.

The plaintiffs argue that ICE’s notice requirement is unlawful under the Administrative Procedure Act and is beyond ICE’s legal authority. At the plaintiffs’ request, LDAD’s brief focuses on two core issues:

- **Standing:** Denying access harms individual Members of Congress by violating a statutory right unique to them—not a generalized grievance shared by all Members.
- **Appropriations Law:** Appropriations provisions carry the full force of law; Section 527 explicitly grants Members oversight access without prior notice.

“Congress gave individual Members the right to conduct unannounced oversight visits,” Professor Regan emphasized. “ICE can’t rewrite that law by regulation.”

The brief was prepared by LDAD volunteer lawyer Ed Waldman, Georgetown Law students Mikaylah Ladue and Molly Izer, Congressional oversight expert Professor Dave Rapallo, and Georgetown Law Professors Mitt Regan and David Vladeck.

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Lawyers Defending American Democracy was founded in 2019 and is a 501(c)(3) organization dedicated to the protection of the rule of law, the Constitution, and democracy. LDAD's work includes authoring Calls-to-Action, research reports, and amicus briefs; filing ethics complaints where lawyers have violated applicable rules of professional conduct; and drafting articles calling for adherence to the rule of law and encouraging the legal profession and the public to join in speaking out against threats to the norms, freedoms, and principles of our democratic institutions. For further information about LDAD, see <https://ldad.org/>