

Commonwealth v. Lunn and Governor Baker

Commonwealth v. Lunn was an important case in Massachusetts and one that the Democracy team was very interested in. Immigration is based on federal policies and enforced (supposedly) by federal officials. However, federal authorities can issue what are known as detainers that they then turn over to state law enforcement to put into motion - thereby essentially relying on state law personnel to pick up people suspected of immigration violations and possibly put them into the chute for deportation. Many states, including MA, have allowed state and local police departments to do the Federal government's work and that's how this case arose. In this case, the practice of using state and local law enforcement was challenged on appeal, and MA became the first state that specifically found the practice to be illegal. The Supreme Judicial Court (SJC) reasoned that because immigration violations are civil matters and not criminal matters, to have state law enforcement or court officers detain someone simply because there is a suspicion of, or in some instances an actual, immigration violation, such officers would be engaged in illegal arrests. Sadly, the loophole left by the court was that in the absence of a specific statute outlining the parameters of enforcing detainers and protecting the rights of those detained, it won't be allowed. This was a big victory for MA and for opposing the Trump agenda.

Less than two weeks after the decision, Governor Charlie Baker introduced legislation that allows state law enforcement officials to detain individuals in specific circumstances and turn them over to ICE within a 12-hour period. The individuals that would come under the purview of this proposed statute are people that are a "threat to public safety" (as Trump would say, suspected bad hombres), and while it is not as restrictive a proposed law as it might be, it does not guarantee that the due process rights are addressed or protected. According to Carol Rose, executive director of the MA chapter of ACLU, "By saying we're only going to take away the constitutional rights of people that we've deemed dangerous, it somehow makes it seem constitutional or acceptable, and that's simply not true." Not to be forgotten, some other Republicans in the State House introduced even more restrictive, barbaric legislation that is along the lines of Sheriff Arpaio. There is no evidence that Governor Baker has opposed this more restrictive legislation. Now, granted, we do not want dangerous people on the streets, whether they are citizens or undocumented, but we also need to ensure that due process rights are followed – that is afforded by our Constitution. We

oppose Governor Baker's stance on this SJC ruling, and his opposition to the Safe Communities Act (which is strongly supported in the Commonwealth).