



# LEGAL UPDATE

## No Blanket Rule Allowing Patfrisk When Transporting Under Community Caretaking Function

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Commonwealth v. Demos D., 497 Mass. 78 (2026).

### RELEVANT FACTS

At 1 PM on December 9, 2022, two Lawrence police officers conducted a motor vehicle stop after watching a vehicle roll through a stop sign in a high crime area. There were five occupants of the car: two adults in the front and a male juvenile, a baby, and an adult in the backseat.

The officer recognized the adult in the backseat as a known gang associate. The officer also recognized the juvenile male as a missing juvenile from a “be on the lookout” (BOLO) notification he received at roll call that morning. The officer returned to his cruiser where he spoke to his partner about the juvenile being a missing child.

The officer came back to the car and told the juvenile to get out. The juvenile was cooperative with the exit order. The officer frisked the juvenile and found a firearm on him. The juvenile was handcuffed and brought back to the station where his mother and DCF were contacted.

The juvenile was indicted as a youthful offender on the M.G.L. c. 269, § 10(a) charge. The juvenile filed a motion to suppress. The judge found that the exit order was unlawful and suppressed the evidence. The Commonwealth appealed.

### DISCUSSION

When the officer approached the validly stopped car, he immediately recognized the juvenile as the child from the BOLO who was reported missing. The function of the officer shifted at that point from law enforcement to community caretaking.

**For specific guidance on the application of this case or any law, please consult your supervisor or your department’s legal advisor.**

Upon discovering the missing juvenile, the officer had the authority -- and, indeed, would be expected -- to return the juvenile to his proper guardian. p. 83.

Community caretaking functions are completely separate from the detection and investigation of crimes. When conducting community caretaking duties, officers may stop individuals and inquire about their well-being even if there is no reason to suspect them of criminal activity. When acting under the community caretaking function, an officer's actions must be reasonable.

The first question for the court in this case was whether the exit order was reasonable.

To fall within the community caretaking doctrine, an exit order must be "reasonable and consistent" with the purpose of the officer's community caretaking inquiry. p. 84.

In this case, the missing juvenile was in the backseat of a car with a known gang associate. The Court found that ordering the juvenile out of the car and away from that known gang associate was a reasonable first step for the officer to take to ensure the juvenile's safety. For this reason, the exit order was reasonable and was consistent with the community caretaking function.

The court also found that it was reasonable for officers to transport the defendant back to the station to return him to his caretaker. The question then became whether the patfrisk done before transport was reasonable.

The court had never specifically addressed whether officers are authorized to patfrisk someone "as a matter of course" when they are transporting them under the community caretaking function. In this case, the SJC decided that there is no blanket rule that allows officers to patfrisk someone under these circumstances; however, "we conclude that the transporting of an individual in a police vehicle can be yet another factor to consider in the totality of the circumstances." p. 86.

As it has in prior cases, the court stated that officers are not required to "gamble with their personal safety" when performing their duties. Officers are allowed to take reasonable steps to ensure their safety. When considering the reasonableness of the officer's actions, the court will look at the totality of the circumstances and balance the strong interest the government has in protecting the officer's safety against the strong interest the individual has in their right to be free from governmental intrusion.

When the issue is the reasonableness of a patfrisk in the performance of their community caretaking functions, the fact that the person is to be transported is a relevant factor to consider in that analysis.

Based upon the record before the court in this case, the court could not determine whether the patfrisk was lawful. The case was remanded back to the motion judge to make additional factual findings.

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