

## Searches of Friends/Roommates of Parolees and Probationers



All people on **Parole** (*parolees*) and some people on **Probation** (*probationers*) are subject to a “**Fourth Waiver**” (The person has agreed, prior to the search, to be subjected to more frequent searches as a condition of their probation or parole). This may change the rights of people who are friends or live with that individual:

If someone **lives** with a person subject to a Fourth Waiver:

- Common Areas: The police **MAY** search the common area shared by a parolee and other people.
  - Any evidence lawfully seized can be used even if it is the roommates’ (and not the parolee’s)
- Private Areas: The police **MAY NOT** search the *exclusive* private areas (bedroom, etc.) of the residents who are not subject to the Fourth Waiver.
  - However, if the police have *some cause* to believe the parolee has hidden contraband in his roommate’s private areas they **CAN** search it.
- Individual Detention: A roommate **MAY** be detained (kept out of the house) during the search so that the police can complete the search.
- Individual Searches: Police **MAY NOT** pat down roommates **UNLESS** there is evidence that they are connected to the parolee’s crimes that are being investigated. In that case they **MAY** pat down or detain the person.

If someone is **in a car** with a person subject to a Fourth Waiver:

- Car Driven by the Parolee: Police **MAY** detain (keep away from the car) a person so that they can search a parolee’s car.
  - Police **MAY NOT** search the friend’s private purse or bag unless there is “reasonable suspicion” that the parolee also had access to it.
- Parolee just a Passenger: Police **MAY NOT** search a car in which the parolee is only a passenger, if the parolee does not have authority over the interior of the car (it is not his car).
  - *NOTE*: Currently being reviewed by the California Supreme Court – this might change. But you should still tell your lawyer about it if it happens.

★ **\*\*IMPORTANT\*\*** If the Police break any of these rules **KEEP COOL, REMEMBER, and TELL YOUR LAWYER**

Differences for Searches with Parole/Probation:

- Are almost the same, but parolees might be subject to *more* searches

Source: San Diego District Attorney Handbook, *The Fourth Amendment and Search & Seizure: An Update* (January 2012), pp. 654-58, available at:  
<http://www.sdsheriff.net/legalupdates/docs/search2012.pdf>.