

NEW JERSEY  
DRUG  
CRIMES  
GUIDE

*Help After Being Arrested for  
Possession or Distribution*

CARL SPECTOR

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**CARL SPECTOR**



If you are charged with a drug crime, you may be scared and think that your life is over. With the help of a New Jersey drug crime lawyer, you can minimize your punishments. These convictions come with a heavy price and that is something you will want to avoid at all costs.

## FIRST OFFENDERS MAY BE ELIGIBLE FOR A CONDITIONAL DISCHARGE

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If my client has had prior convictions for drug offenses, that prior conviction becomes a big factor in how I handle the case. If they haven't any prior convictions, then my client might be eligible for what's called a "conditional discharge."

A conditional discharge is not a plea of guilty of any sort and there is no loss of license. It simply requires an application fee and then reporting to the Department of Probation, usually over six months or a year period of time, depending on which judge will be hearing your conditional discharge.

That's a significant part of my interview because it's a reasonable way of dealing with the case that you might not be able to win either on a motion to suppress or at trial.

A conditional discharge, essentially, is a diversionary program. Ordinarily, it's maybe only one or two visits to the Department of Probation. It is essentially a diversionary program whereby you do not enter into a plea of guilty, where once the conditional discharge period is over the case gets dismissed.

# YOU MAY ONLY APPLY FOR ONE CONDITIONAL DISCHARGE IN YOUR LIFETIME

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The additional good news is that your case is over. You don't ever have to face a judge, again, other than to get your case dismissed. There will be no conviction. There will be no getting up in front of a judge and admitting guilt, which could be a part of a plea bargain. One of the downsides is that you can only receive a conditional discharge once in your life.

# VIOLATING YOUR CONDITIONAL DISCHARGE

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If you get rearrested or you don't abide by the terms of the conditional discharge, you will then be in a violation of the conditional discharge. A new arrest would even violate you. If that does happen, then the case gets resurrected and you then have to face that charge from the beginning.

As an experienced criminal defense attorney who has successfully defended hundreds of drug possession cases, I would like to put people at ease because incarceration doesn't seem terribly common for possession of small levels of marijuana, small levels of cocaine, and small levels of heroin.

# REPEAT DRUG-RELATED OFFENDERS WILL FACE MORE SERIOUS CONSEQUENCES

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However, if you are a repeat offender, jail time becomes much more likely. You will be looking at potential jail time, fines that can be in the thousands of dollars and the possibility of the loss of their driving privileges.

A conviction for a drug offense in New Jersey also requires your license to be suspended, and that is a significant consequence that can impact your daily life, and livelihood.



## LEVELS OF DRUG CHARGES IN NEW JERSEY

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Are you facing a drug charge in New Jersey? There are serious potential repercussions for a conviction of a drug crime, with varying levels of severity. If you have questions about the levels of drug charges in New Jersey, and the penalties associated with each

offense, contact experienced New Jersey drug crime lawyer Carl Spector today for a free confidential consultation. Let his 30+ years of experience work for you.

There are actually different schedules in which the law assigns different classes of drugs. On the lower end, they are treated the same way because are being handled as disorderly persons offenses.

In the Municipal Court, they're likely to be treated the same because they are all grouped into the disorderly persons offense category. Municipal prosecutors are not permitted to plea bargain any drug case or any DWI case in the state

of New Jersey. A conditional discharge becomes very important in a motion to suppress, to challenge the way that police officers recovered an item, becomes very important.

## DRIVER'S LICENSE SUSPENSION WITH A DRUG-RELATED OFFENSE

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If you are in a motor vehicle driving with a suspended license for a drug related offense, they're going to give you a ticket. They're going to give you a summons. That summons in a motor vehicle, actually carries a two-year suspension of your driving privileges, which is a longer time period than if you are found guilty of a criminal charge.

The disorderly persons offense, the 2C:36 violation, which is what you'd be charged with simple drug possession, is six months driver's license suspension. The motor vehicle suspension is actually much more serious, but all that can be vitiated by a successful application process for a conditional discharge.

## DRUG CRIME LAWYER

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Attorney Carl Spector has defended against thousands of marijuana possession and other drug charge cases throughout his 30 years as an experienced New Jersey drug crime lawyer. He has defended both adult and juvenile clients against drug charges, and is also a former prosecutor which gives him an invaluable perspective on how both sides think, and how to best approach each aspect of the case. If you or someone you love was charged with marijuana possession in New Jersey, contact attorney Carl Spector today for a free confidential consultation. Let his experience work for you.

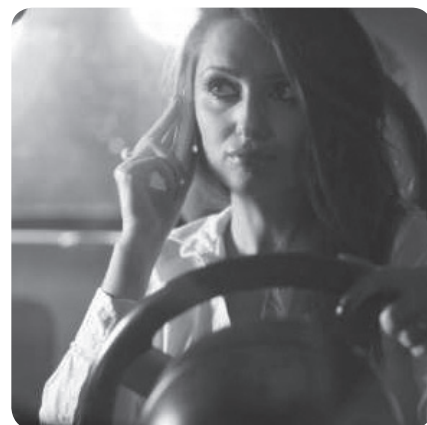
If you are charged with marijuana possession, or one of the following drug related charges, you may be eligible for a conditional discharge, and therefore will not have to worry about a criminal conviction.

## *These charges include:*

- » Possession of Marijuana 2C:35-10(a)(4)
- » Use or under the influence of CDS (Controlled Dangerous Substance, which includes marijuana) 2C:35-10(b)
- » Failure to surrender CDS to police 2C:35-10(c)
- » Possession or use of drug paraphernalia 2C:36-2
- » Possession of hypodermic syringe/needle 2C:36-6

## YOU DO NOT HAVE TO CONSENT TO A SEARCH OF YOUR VEHICLE

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You can say “no” and there is no penalty. People usually buckle under because of authority figures and they think that there will be some type of benefit to them if they do agree.

If you or a loved one has been charged with one of these disorderly persons offenses (other offenses also qualify) then you may be eligible for a conditional discharge in New Jersey. If you are eligible for the conditional discharge you may be able to get your charges dismissed. As an experienced New Jersey Criminal Lawyer and former prosecutor I am trained to recognize the cases that qualify for this treatment.

## PROBABLE CAUSE AND ILLEGAL SEARCHES

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With regard to probable cause in New Jersey, the driver has more responsibility or more exposure than the passenger. However, in order for the police to prove probable cause on the passenger, the officer is going to have to articulate

additional facts more than simply that they just smelled burnt marijuana. As an experienced New Jersey criminal defense attorney, I advise that passengers should also refuse to consent to searches by the police.



## IT CAN BE DIFFICULT TO ESTABLISH IMPAIRMENT LIMITS OF SOME DRUGS

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If you're pulled over for DWI and they take blood or urine and there's cocaine in your system, it's much more difficult to establish that you are impaired at the time compared to THC, because your body metabolizes cocaine and heroin much quicker.

The theory is that those substances will remain in your system only for a short time; therefore, you must be under the influence at the time that you got pulled over, if it was in your system. Whereas, the presence of THC will stay in your system for days and even weeks. It's hard to prove, beyond a reasonable doubt by a prosecutor, that the person was actually under the influence at the time that they were driving, if the THC could've been in their system 30 days earlier. This can help us build a strong defense in your case.

## DRUG CRIME LAWYER PROVIDING STRONG DEFENSE AGAINST STREET DRUG OFFENSES

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As an experienced New Jersey drug crime lawyer, I have handled many cases that involve other substances often referred to as "street drugs". Obviously, ecstasy is an illegal substance and you'd be charged the same way that you would be charged if it were heroin or cocaine. It's a controlled dangerous substance.

Methamphetamine or meth, is another substance that is illegal. I have handled previous cases for that drug. Methamphetamine is a very serious substance and the cases have to be handled delicately.

The issues around the cases are the same as other street drugs. How a police officer was able to recover those items, whether there's a motion to suppress, those issues remain the same and are of the same seriousness of cocaine and heroin.



## DEFENSE AGAINST DRUG PARAPHERNALIA POSSESSION

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Drug paraphernalia possession in the state of New Jersey is a disorderly persons offense, and is a fairly serious crime, especially when com-

combined with additional drug charges such as simple drug possession, or possession with intent to distribute. These carry much heavier penalties including increased fines and potential jail time. An experienced New Jersey drug crime lawyer can help negotiate your drug paraphernalia possession charges for a lesser penalty that preserves your freedom, and your reputation.

In my experience, some of the most common drug paraphernalia possession charges I come across are for the obvious items such as rolling papers, pipes, hypodermic needles, and then the packaging materials, certain types of packaging for heroin, cocaine and marijuana.

Scales are more common in distribution cases but there is a very strong drug paraphernalia statute against people in the state of New Jersey. It is a disorderly persons offense and it does carry some pretty harsh penalties.



# IF YOU HAVE BEEN ARRESTED FOR DRUG POSSESSION, YOUR ATTORNEY SHOULD RESEARCH ALL THE FACTS SURROUNDING YOUR ARREST

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In the state of New Jersey, possession of 50g and under of marijuana is a disorderly persons offense. The penalties include significant fines and possible jail time. When we handle a case, a marijuana, cocaine or heroin case, we conduct a fairly extensive interview with my client.

## FREQUENTLY ASKED DRUG CRIME QUESTIONS

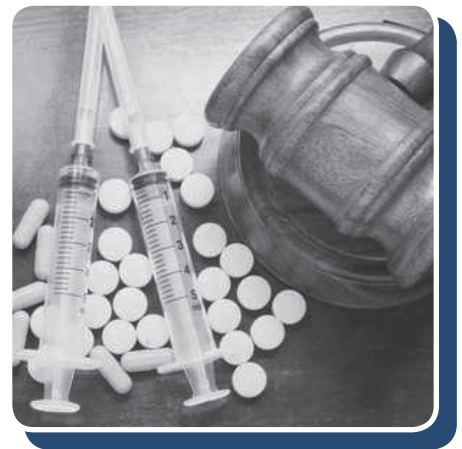
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### *Was the Police Officer's Probable Cause Warranted?*

Very often, you have someone who is parked in the back of a large parking lot for a bowling alley or a large supermarket and they're parked with another person and the police will come upon them and observe them for a while and they won't have even committed any moving violation.

They'll just approach them and start questioning and that's a fairly common way in which the police act, especially in what we call "drug prone locations."

The police are allowed to approach the vehicle. Depending on how the facts unfold, they might even be able to legally and legitimately ask you to come out of vehicle and talk to them. People who are users of heroin have paraphernalia. They have hypodermic needles, spoons and lighters. They have to prepare



what they're taking and, very often, a police officer will walk up on a car and see some item that they call in plain view.

## *What is a Disorderly Persons Offense?*

In the state of New Jersey, there are first-degree crimes, which are the most serious and second, third and fourth degree crimes. In some other states you'd probably call those crimes "felonies." In the state of New Jersey, they simply call them "indictable offenses." It's a case that can go to the grand jury and then be prosecuted by the County Prosecutor in the Superior Court of the state of New Jersey.

A record for a disorderly persons offense can have a negative effect on somebody's future and their job prospects.

## *Can You Expect Different Treatment from the Legal System Depending on Which Street Drug Was Involved with Your Arrest?*

In my experience as a dedicated New Jersey drug crime lawyer, I think there's a difference. Again, in the municipal courts, when you have people who are repeat offenders for heroin, the courts start losing their patience, especially if the person has gone through a conditional discharge once and now they are in front of a judge again.

If you were a first offender with a cocaine case, you would be entitled to the same conditional discharge as someone with a marijuana case.

## *What Are the Medical Marijuana Statutes in New Jersey*

As an experienced New Jersey drug crime lawyer, I still think we're at the infancy stage for the medical marijuana, especially in the state of New Jersey. There are going to be limits imposed including that you're not going to be able to drive under the influence. If you do, you could still be considered driving while intoxicated by marijuana, THC.

## *Will I Get a Lighter Punishment from Marijuana Charges?*

I think this attitude would be a huge mistake because after you've used up your conditional discharge. We're looking at some potential penalties that you're not going to want, including having a record for being in possession of marijuana, if you can't successfully fight that case.

## *What Is Drug Abuse Counseling?*

Drug abuse counseling can often be a component in resolving these types of cases. Often times, judges are in support of those types of programs, as well as prosecutors. Certainly, when I was a prosecutor, realizing that especially heroin is more of an addiction, a physical addiction, I was certainly more open or was open to treatment as part of a sentence and a resolution.

## *Do I Have to Do a Drug Test?*

There are essentially three ways for the police to try to determine whether or not you're under the influence of a controlled dangerous substance, such as THC, cocaine, heroin or a prescription drug, ecstasy, methamphetamine, anything like that.

They could ask you to take a urine test and take a urine sample and send that to the lab for testing. They could take you to the hospital and have a certified medical person, whose certified in taking blood, take your blood, send it down to the police lab for forensic testing or they can get what's called a 'DRE'.

A DRE is a drug recognition expert, who is essentially a police officer specially trained and certified as a drug recognition expert, to come and do an evaluation and spend some time with you to try to determine whether or not you are under the influence.

While that's not definitive, it certainly could be used as evidence against somebody if they're being charged with either being under the influence, a driver, or just being under the influence because being under the influence of a CDS, a Controlled Dangerous Substance, in itself is a crime, even if you're not driving.

## What If I Refuse Drug Testing?

There are different levels in New Jersey of refusals. So, if you're a DWI and you refuse to take a breath test, that's a refusal. There's an additional charge that's put on you, of a refusal. You have a right to refuse the urine or blood tests to detect the presence of drugs. I advise my clients that you can refuse those tests without consequence.

The police will try to convince you to provide them with urine or blood tests, and they will say to you that it's better for you if you do than if you don't. I strongly suggest that you contact an experienced New Jersey drug crime lawyer before you answer any questions or provide any testing relating to your street drug offenses.

**Were you or a loved one charged with street drug offenses in New Jersey? A conviction for a drug crime can impact your current employment, or even exclude you from future employment. Don't settle for less than the best possible representation. Contact experienced New Jersey drug crime lawyer Carl Spector for a free confidential consultation. Let his experience work for you.**



## ABOUT THE AUTHOR:

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Carl Spector graduated from The University of Buffalo in New York where he received his bachelor's degree in Communication. He then received his legal education and earned his Juris Doctorate at New York Law School and Nova Southeastern University.

Attorney Carl Spector is licensed to practice in New York, New Jersey, Florida (inactive), the United States District Court, Southern and Eastern Districts of New York, and the District Court of New Jersey.

New Jersey DUI Lawyer Carl Spector worked as an attorney in the Bronx County District Attorney's office as an Assistant District Attorney for six years.

This experience has allowed him to effectively and aggressively defend clients charged with all varieties of crimes and DWI / DUI.

For the past 30 years, New Jersey DUI Lawyer Carl Spector has been representing over 10,000 people that have been charged with crimes throughout New York and New Jersey, including Bergen County, Essex County, Hudson County, Passaic County, Morris County, and Union County. New Jersey DUI Lawyer Carl Spector has served as an attorney in countless criminal and DWI / DUI matters with full control of initial investigations, trial planning, motions, discovery, legal research and courtroom appearances and trials.

Carl Spector has successfully litigated and argued many pre-trial motions to suppress evidence based on probable cause to stop and frisk and violations of the defendant's Fifth and Fourteenth Amendment rights. In 2009 Carl Spector served as the Municipal Prosecutor in the large Bergen County municipality of Fair Lawn. He was reappointed to that position for 2010 and 2011. Attorney Carl Spector was appointed by the Mayor and Counsel of Municipality Fair Lawn to serve as the alternate Public Defender in 2012, 2013, 2014, 2015 and 2016.

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