

Drug Crimes & Penalties In California

Info That May Help You Find The Way Out Of Trouble



Arash Hashemi, Esq.

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TESTIMONIALS

"I met Arash last year and he was very helpful to me. From the first second he started my case, he was updating me every day. He managed the dismissal of my case in a very professional way. His fees were also very reasonable. He is an attorney who takes care of his clients."

- Amir

"Arash Hashemi and his staff are amazing. Arash not only helped me with my legal problems, he also made sure I understood every step of the process. I highly recommend the Law Offices of Arash Hashemi."

- A criminal defense client

"My best friend told me about Arash Hashemi. I was hoping to never need an attorney again. He is very prompt and easy to talk to and has taken care of my case. I'm so happy with the results!!!!!! There are too many amazing things to say about him!!!! I give him a 20 out of 10. If I had to recommend an attorney, I would use Arash Hashemi as the best and happy to say I met a nice person out of this."

- A satisfied client

"A trustworthy and competent lawyer is truly hard to find, but look no further than Mr. Hashemi. If you happen to get into trouble with the law, you'll need his expertise to navigate the system in order to receive a favorable outcome. He's defiantly a man you can rely on and his guidance is invaluable. Thank you Mr. Hashemi for your service!"

- Mekah

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AUTHOR INTRODUCTION

As a young child Arash Hashemi wanted to grow up to play professional basketball in the NBA. One day, while in the 8th grade, a family friend told him “you should be a lawyer.” From



that day forward being a lawyer is all Arash thought about. In December of 2002, he was admitted to practice law in the State of California. Since then Arash Hashemi has handled a wide variety of cases, ranging from simple traffic tickets, misdemeanors, complicated felonies to high profile cases.

Arash is Dedicated to Serving His Clients

Arash Hashemi is focused on protecting the rights of those who have been arrested. The single most important step you can take after an arrest is to contact an experienced lawyer. The Law Office of Arash Hashemi is known throughout Los Angeles for helping clients charged with all misdemeanors and felonies. We recognize the seriousness of your situation, and we are prepared to support you at every stage of your case.

Education

- ❖ J.D., University of La Verne College of Law, 2001
- ❖ B.A. History, California State University, Northridge, 1998

Bar admissions

- ❖ State Bar of California
- ❖ U.S. District Court for the Central District of California

Professional memberships (current and past)

- ❖ American Bar Association
- ❖ Criminal Courts Bar Association
- ❖ California Public Defenders Association
- ❖ Los Angeles County Bar Association
- ❖ Beverly Hills Bar Association
- ❖ Century City Bar Association
- ❖ San Fernando Valley Bar Association
- ❖ Culver Marina Bar Association
- ❖ Iranian American Bar Association
- ❖ Iranian American Lawyers Association
(Board Member)

THE MOST COMMON DRUG OFFENSES COMMITTED IN CALIFORNIA

The most common drug offenses that we handle are simple possession. Usually a client is arrested with a small amount of drugs they had for personal use.

What Determines If A Drug Charge Is A Misdemeanor Or A Felony?

The amount of the drugs is one factor that makes a crime a misdemeanor or a felony. If a person is found with some amount of drug(s), that normally would be a misdemeanor; however, along with it, if they have a large amount of cash, a scale, baggies, then that person could be charged with a felony because now they can be arrested for possession with intent to sell.

How Is Controlled Substance Defined Under California Law? What Are The Different Schedules?

Unlawful controlled substance refers to any drug that is listed as an unlawful drug. The common ones are marijuana, cocaine, crack, etc.



Even if it is a legal drug but you need a prescription to have it; if you do not have a prescription with you, then it becomes a crime and it becomes unlawful.

What Are The Laws Regarding Medicinal Or Recreational Use of Marijuana In California?

Contrary to popular belief, in California recreational use of marijuana is still illegal. However, for medical purposes, marijuana is allowed. One needs to obtain a Marijuana Card, which allows them to go to a designated dispensary that can fill the prescription. Without the card, you cannot go into the dispensary and you will not be dispensed the marijuana for medical use.



You can also grow a limited amount of marijuana with that card, however it is for your own use, you cannot share it with anybody else, cannot give it to anyone or sell it to anyone and you can only use it for medical purposes.

Are The Laws On Medical Usage of Marijuana In California Ever Misused?

Yes. Some people do have the card and still get charged with the crime because they are either misusing their card or they have more than they are allowed to have. Sometimes they share their marijuana with others. Even though one has the card, it does not make them immune from getting charged for a violation of a drug law.

WHAT IS DRUG MANUFACTURING AND WHAT ARE THE PENALTIES?

In California, manufacturing a controlled substance is a felony. So if you are convicted of making illegal drugs, you face more than a year in prison and hefty fines. An experienced attorney, however, may be able to have the charges reduced or dismissed.

Drug Manufacturing

Drug manufacturing refers to any activity that contributes to the production of a controlled substance. One of the most common manufactured drugs is methamphetamine. To be convicted of drug manufacturing in Los Angeles or elsewhere in California, your participation in the manufacturing process need only be minor. Below are some of the penalties you face for drug manufacturing:

- ❖ Three, five or seven years in prison
- ❖ Up to \$50,000 in fines
- ❖ An additional five-year prison term if children reside at the site of the manufacturing operation or are harmed in the production process

- ❖ The penalties may increase if you produce a large quantity of PCP, methamphetamine or any other illegal drug.

Cultivation Of Marijuana

Although marijuana possession laws in California are fairly lenient, individuals who cultivate the pot face severe penalties. If you are convicted of marijuana cultivation under Section 11358 of the California Health and Safety Code, you face up to three years in prison. You need grow only a single plant to be charged with cultivation. If you have more than one cannabis plant, you may be charged with intent to sell, as the prosecution may argue that you have more marijuana than would be reasonable for personal use.

WHAT IS CONSIDERED DRUG TRAFFICKING AND WHAT ARE THE PENALTIES IN CALIFORNIA?

Drug trafficking refers to the transportation or a sale of controlled substances. If you are moving a quantity of any drug such as heroin, opium, cocaine even at short distance, you may be charged with violating the California Health & Safety Code. The specific section would be 11252, which prohibits the transportation of illegal drugs, importing illegal drugs into California, selling illegal drugs or giving away drugs.

The penalty for transferring the controlled substance is generally a felony. A misdemeanor charge is punishable with probation or maximum one year in county jail. The punishment for felony transportation is minimum three years and up to five years in prison and/or a fine up to \$20,000.

What Is Drug Paraphernalia? What Are The Penalties For Paraphernalia In California?

Health & Safety Code 11364 makes it a misdemeanor to possess “an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting

or smoking a controlled substance.” This includes hypodermic needles, pipes, bongs and cocaine spoons.

Some examples are having a pipe that was used for smoking marijuana with some residue left in it, a syringe, and a bent spoon that has been used for cooking heroin before ingesting it. These situations can all fall into the drug paraphernalia category and you could possibly be charged with a crime for possessing them.

What Are The Penalties For Forging A Drug Prescription In California?

It depends on who is actually forging the prescription, whether it is the doctor or the person who actually is going to use the drugs. Sometimes they refer to it as Doctor Shopping, when one person uses multiple doctors or pharmacists who illegally acquire prescription drugs.



It is an offense that could be charged as a felony or charged as a misdemeanor. If charge with such a crime you will not be eligible for a drug program such as Prop-36.

Can Someone Be Charged For Possession Of Prescription Drugs That Belong To Someone Else?

Yes. If you have pills in your possession and they are not yours, meaning the prescription does not have your name on it, then you could be charged with possessing of illegal drugs. However, there are some exceptions such as if you pick up the medication for somebody and you are taking it to them or are in-charge of somebody's medication because they cannot take care of themselves.

HOW LONG DO DRUG RELATED CASES TYPICALLY TAKE TO RESOLVE?

It depends on the case itself. If it is a mere possession for personal use, sometimes the accused qualifies for a program such as Prop-36 or Drug Court. These programs usually take about a year to two to finish before the case is resolved and the charges are dismissed. If it is a felony or misdemeanor that does not qualify for a drug program, the case could take as long as it needs to. Sometimes it is resolved right away, sometimes it may take three to six months and longer. It really depends on the nature and the seriousness of the charge.



Can Police Officers Execute A Warrantless Search On A Property If They Suspect Drug Crimes?

If police pulls someone over in a vehicle, they must have a reason for pulling the vehicle over, such as a traffic violation or a vehicle code violation. Once they are pulled over, the police still cannot search the car without probable cause. One example of probable cause is someone is pulled over for speeding and once they roll

down the car window the police smell marijuana, then the police have probable cause and can search the car.

However, if the officer just feels that person has drugs in the car but does not have probable cause, no, they cannot search the vehicle. The same thing goes for the home. The law is stricter when a home is the subject of a search. The law does not allow the police officers to search a home without a search warrant just merely because they believe there are drugs in that house.

If Drugs Are Found In A Car And I Am A Passenger In The Vehicle, Will I Be Charged As Well?

Yes. If the drugs are found in the car and they are in the passenger compartment, meaning under the seat of the passenger or somewhere within the control and access of the passenger, that person could still be charged. Even though it is not their car and the drugs are found in the car which does not belong to them. Sometimes when the police find drugs in the car, nobody admits to it so everyone in the car is charged. Just because one is a passenger does not mean that they are immune from being charged.

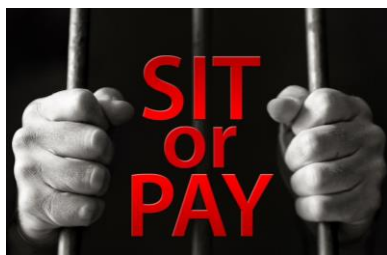
What Defense Strategies Are You Able To Use In Cases Where Evidence Goes Against Your Client?

It depends on the drug case itself. However, let us say they are charging the client with possession with intent to sell. Obviously, the main keyword in that charge is intent, so the district attorney has to actually prove that the possession itself was not for personal use but the person who possessed the drug had the intent to sell it.

The best defense is to try to nullify that intent and show that the intent does not exist. If the DA or the city attorney cannot prove that such intent existed, then the charge itself is thrown out.

WHAT ARE THE PENALTIES IMPOSED ON A DRUG OFFENSE CONVICTION?

For drug possession, if it is a simple possession, then it may be charged as a misdemeanor. The worst that can happen is a \$10,000 fine and/or a county jail sentence of 364 days. Under California Health & Safety Code 11357, possession of an ounce or less of marijuana is an infraction. This can be penalized by \$100 fine. Simple possession of cocaine is a felony and it carries from sixteen months to three years in state prison and a maximum of \$20,000.



Possession of meth can be prosecuted as a felony or a misdemeanor. If convicted of a misdemeanor, you face up to one year in jail and \$1,000 fine. A felony conviction for possession of meth can result from sixteen months to three years in prison and a \$10,000 fine. Some drugs are seen as more of a danger to the community than others so the punishment is much harsher for possessing them.

Are There Mandatory Minimum Drug Sentences In California?

In California, there are no mandatory drug sentences like there are in Federal Law. However, each violation of Health & Safety Code or Penal Code section that has to do with drug possession also has a guideline for it. This is what we call a low term, mid-term, or a high term that goes with every felony. Usually the low term is sixteen months, mid-term is two years and the high term is four years.

The judge can choose which one he/she wants to sentence the person to or the DA can choose which one they want to offer. In most cases is no minimum mandatory sentence, so one can actually be sentenced to probation instead of the jail or the prison term may be suspended.

Are Penalties Typically Heavier If Minors Have Been Involved?

If the minor themselves is the one who has the drugs and they are not going to be tried as an adult, they will go to juvenile court. Usually for a straight possession, whether an adult or juvenile, the courts try to send the person to rehabilitation rather than incarceration.

If the minor is involved as a victim, meaning if the person who is charged with the crime is actually supplying drugs to the minor, selling to the minor or a minor was hurt in the course of dealing the drug, the punishment could be harsher and additional charges could be added to the original charge.



ARE ALTERNATIVE PROGRAMS AVAILABLE TO DRUG OFFENDERS IN CALIFORNIA?

One of the most popular alternative programs is Prop. 36. Under California's Proposition 36, if you are a non-violent offender, arrested for simple possession of substances such as cocaine or heroin, you may be eligible to enter a diversion treatment program. The program takes approximately eighteen months. If you successfully complete the program, your conviction is actually dismissed from your record. However, if you do not complete the program, then you could face jail time and or a fine.



Another program that is available is the Sentenced Offender Drug Court (SODC), which is an intensive program for those convicted of non-violent felonies who are facing state prison time due to their criminal records & history of drug addiction. These higher risk clients have medium to high levels of drug addiction and are offered the SODC program with formal probation as an alternative to state prison.

SODC is a 12 to 15 month in-custody and post-release treatment program. All participants spend approximately 74 to 104 days in the county jail where they are assigned to a specialized drug treatment module. Following this period of intensive in-custody treatment, participants are assigned to a residential/sober living facility where they begin comprehensive “outpatient” treatment and intensive drug testing under direct supervision of the judge. Once participants are successfully transitioned to outpatient treatment, they are provided with job training and independent living skills education, in addition to substance abuse treatment. SODC serves up to 100 participants at a time and is almost always at full capacity. Successful participants who have graduated from SODC and have remained probation-compliant and drug-free for one year may petition the court for early termination of probation, dismissal and expungement.

Do You Recommend The Alternative Programs For All Of Your Clients?

It really depends on the client. Some clients want to do these programs because they really are ready to quit their drug habit and they need help. However, some clients know that they are not ready and if they go to these programs, they will fail, so some refuse them. Some

clients want to go through the program; however, the judge, the DA, and sometimes the defense attorney feel that it would be in the client's best interest not to go through the program.

How Often Are You Able To Have Charges Reduced Or Dropped In Drug Cases?

More often than people think! The courts look to rehabilitation for drug users more than they do for punishment. If a person is being charged with possession



for use, the chances of having their case dismissed or reduced by entering into a program is great.

However, the courts do not look favorably upon people who profit from selling narcotics to the general population and take those charges seriously. However, there is still a chance of those charges being reduced and or pled out to a much lesser charge if the right attorney is hired.

What Sets Your Firm Apart In Handling Drug Cases Specifically?

What sets us apart is that we have been handling these types of cases for years. We know the process, we know the courts, and we also care about our clients. They are

not just a number to us. We take our time, get to know them, and get to know the problems that caused them to be in the situation. We try to help them not just by beating the court case but also getting them the right help and treatment they need to rehabilitate and stream back into society drug free.



WHY SHOULD PEOPLE HIRE EXPERIENCED PRIVATE ATTORNEYS?

Defendants should never represent themselves. There is an old saying that goes: “An attorney who represents himself has a fool for his client.” Meaning that someone who represented him or herself would be a fool because their judgment will be clouded. That person would no longer be able to look at the case from a neutral point of view but rather they would be emotionally involved in it, which would result in making unsound decisions.



This also applies for any layperson that would want to defend themselves. He or she would not be able to handle it, not only because they would not have the legal background but because their personal feelings would come into play and cloud their judgment.

Why Hire Private Attorney As Opposed To A Public Defender?

A public defender is qualified and he or she would know what he or she is doing. However, most public defenders get a large number of cases assigned to them daily. This is

especially true in the arraignment courts. A private attorney only goes to court just for their client. A private attorney's client gets the attention he or she needs and their attorney is there for them in every step of the case.

A person without a private attorney would have to sit and wait their turn to talk to the public defender. The first time they will meet their public defender would be in court.

In most cases, someone who has been arrested is afraid and needs somebody there to answer questions and to explain the process to them. A private attorney can prepare their client before the first court date so when that day arrives the client fully understands the road ahead.

Most people who went with the public defender, often feel they did not get an adequate representation no matter how good their public defender is.



This feeling is a result of the public defender not having enough time for client.

What To Look For When Hiring A Criminal Defense Attorney?

Somebody who is looking to hire a criminal defense attorney should hire an attorney who exclusively handles criminal defense. Some attorneys out there practice criminal defense along with other fields of law, and some of them are actually great attorneys. However, an experienced attorney who handles criminal defense exclusively is more versed in that area of the law.

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- Mekah

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