Georgia Controlled Substance Law

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Introduction
Scope
The purpose of this online research guide is to assist attorneys who are not experienced in the criminal law field find resources to help them in controlled substance cases. This guide is not designed to be a comprehensive guide but instead should be considered a general overview of some of the major information needed.

About the Author
Paul Ghanouni is a third year student at Georgia State University's College of Law. He is creating this web research guide for an Advanced Legal Research course taught by Professor Nancy Johnson. This guide was last updated on November 15, 2005.

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Primary Sources

Statutes
The statutes listed below is where the controlled substances statutes in Georgia can be found as well as a few noteworthy statutes(i.e. the ones people are typically charged with). The annotated versions are very helpful and can be found online on Lexis Nexis or Westlaw. It can also be found in a law library which carries the Official Code of Georgia Annotated.

O.C.G.A. 16-13-1 thru 16-13-114 contains all of the Georgia Controlled Substance Statutes

The most common statutes for individuals to be charged under are:

<table>
<thead>
<tr>
<th>Statute</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>O.C.G.A. 16-13-30</td>
<td>Purchase, possession, manufacture, distribution or sale of controlled substances</td>
</tr>
<tr>
<td>O.C.G.A. 16-13-31</td>
<td>Trafficking in illegal drugs</td>
</tr>
<tr>
<td>O.C.G.A. 16-13-32</td>
<td>Drug Related Objects</td>
</tr>
<tr>
<td>O.C.G.A. 16-13-75</td>
<td>Drugs to be kept in original container</td>
</tr>
<tr>
<td>O.C.G.A. 16-13-91</td>
<td>Intentional inhalation of model glue</td>
</tr>
</tbody>
</table>
Controlled substances fall into various classifications; these classifications are referred to as Schedules. The lower the Schedule number the more dangerous the drug is considered and the more restricted an individual's access to those substances is. The following statutes define what schedule each drug falls within:

<table>
<thead>
<tr>
<th>O.C.G.A. 16-13-25</th>
<th>Schedule I</th>
</tr>
</thead>
<tbody>
<tr>
<td>O.C.G.A. 16-13-26</td>
<td>Schedule II</td>
</tr>
<tr>
<td>O.C.G.A. 16-13-27</td>
<td>Schedule III</td>
</tr>
<tr>
<td>O.C.G.A. 16-13-28</td>
<td>Schedule IV</td>
</tr>
<tr>
<td>O.C.G.A. 16-13-29</td>
<td>Schedule V</td>
</tr>
</tbody>
</table>

**Cases**

This list of cases is not meant to be a comprehensive list of cases dealing with controlled substance law but is intended to be a guide to some of the major issues.

The following cases deal with search and seizure issues:

  **DRUG DOG** - This case upholds the validity of evidence gained via a drug dog being walked around a vehicle at a traffic check point when the check point was set up for a legitimate purpose.

  **ENTRAPMENT** - Defendant was about to show a prima facie case of entrapment which the state failed to rebut.

  **NERVOUSNESS NOT REASONABLE ARTICULABLE SUSPICION** - Court held walking toward car in a hurried fashion and acting nervous when seeing police officers does not amount to reasonable articulable suspicion for a Terry stop.

  **AFTER CONCLUSION OF TRAFFIC STOP** - Traffic stop is concluded when ticket is issued without more information to establish reasonable suspicion.

The following cases deal with issues of possession:

  **SUBSTANCE IN BODILY FLUID** - Presence of a substance in bodily fluid is not direct evidence of possession without more but it can be considered circumstantial evidence.

  **NO DEMINIMOUS AMOUNT** - There is no minimum amount of a controlled substance in Georgia to constitute possession.

  **NO HEAD OF HOUSEHOLD PRESUMPTION** - There is no longer a presumption that substances found in household belongs to the head of household.

  **MULTIPLE OFFENSES** - A person may be charged and convicted of possession of each controlled substance they possess.

  **INTENT TO DISTRIBUTE** - Finding bills on the defendant's person which are consistent with the monetary amounts that the bags of drugs found on the defendant's person are usually sold for has evidentiary value to show intent to distribute.

  **FOUND IN AUTOMOBILE** - Without any other evidence, drugs found in a car are presumed to belong to the owner and driver.

  **EQUAL ACCESS IN AUTOMOBILE** - The fact that others in the car had equal access to the item can override the presumption that it belonged solely to the owner and driver.

**Secondary Sources**

**Law Review Articles and Other Periodical Sources**

**Law Review Articles**

This set of law review articles has general coverage of Georgia criminal law; included in them is various information regarding controlled substances.

Books
The following books are useful general books on criminal law which also have specific information dealing with controlled substance law. The call numbers for these books at the Georgia State University Law Library are also included for easier locating.

<table>
<thead>
<tr>
<th>Book Title</th>
<th>Call Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jack Goger, Daniel's Georgia Criminal Trial Practice (Thompson West)</td>
<td>KFG75.D36</td>
</tr>
<tr>
<td>Donald F. Samuel, Georgia Criminal Law Case Finder (Lexis Nexis Matthew Bender)</td>
<td>KFG561.A57</td>
</tr>
<tr>
<td>Jack Goger, Daniel's Georgia Handbook on Criminal Evidence (Thompson West)</td>
<td>KFG580.D35</td>
</tr>
</tbody>
</table>

Computerized Research

Legal Research
Lexis Nexis and Westlaw are the most comprehensive computerized databases but can be more costly.

Georgia Statutes can also be looked up on the legislature's web site.
Other legal research resources include Loislaw and Findlaw.

Non-Legal Research
For other searches Google is a good resource to use.
For specifics on controlled substances and their effects see StreetDrugs.org.

Interest Groups and Associations

Interest Groups
The following groups have information about substance abuse as well as information helpful regarding controlled substance cases:

- The Georgia Association of Criminal Defense Lawyers includes links and forms which may be useful in preparing for a controlled substance case.
- The National Association of Criminal Defense Lawyers has a section specifically geared towards state drug law reform.

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