

Date of Meeting: June 13-14, 1958

Date of Memo: May 28, 1958

Memorandum No. 2

Subject: Study No. 56(L) - Narcotics Code.

At the May meeting the Staff was directed to draft and submit for approval a recommendation of the Commission relating to codification of the narcotics laws. Two draft recommendations are attached for your consideration.

I suggest that the recommendation of the Commission on this subject be made an appendix to its 1959 Report to the Legislature rather than being published as a separate document.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

May 27, 1958

RECOMMENDATION OF THE CALIFORNIA LAW REVISION COMMISSION

Relating to Codification of Narcotics Laws

Resolution Chapter 222 of the Statutes of 1957 requested the Law Revision Commission to study the advisability of a separate code for all laws relating to narcotics, with needed substantive revision from a health and a law enforcement standpoint.

Following the 1957 Session the Subcommittee on Police Administration and Narcotics of the Assembly Interim Judiciary Committee was created with Honorable George G. Crawford, Member of the Assembly for the 79th Assembly District, as its Chairman. The Law Revision Commission thereupon suggested to Mr. Crawford that to avoid duplication of effort the Commission should limit its work under Resolution Chapter 222 to a study of the advisability of a separate code for laws relating to narcotics, leaving to the Subcommittee on Police Administration and Narcotics all questions relating to substantive revision of such laws. Mr. Crawford concurred in this suggestion. Pursuant to this understanding the Commission has made no study of substantive revision of the narcotics laws and makes no recommendation relating thereto.

The Law Revision Commission subsequently entered into a contract with the Legislative Counsel to have him compile all

laws relating to narcotics. This compilation includes:

1. Chapter 9 of Division 2 of the Business and Professions Code, relating to pharmacy, except for Article 9 which relates to prophylactics.
2. Division 10 of the Health and Safety Code, relating to narcotics, except Section 26200.5 which relates to vitamins.
3. Chapter 2 of Division 21 of the Health and Safety Code, relating to drugs.
4. Chapter 8 of Title 7 of Part 3 of the Penal Code, relating to Medical Facility.
5. Article 1 of Chapter 3 of Division 6 of Part 1 of the Welfare and Institutions Code, relating to narcotic drug addicts.
6. Article 2 of Chapter 3 of Division 6 of Part 1 of the Welfare and Institutions Code, relating to habit-forming drug addicts.
7. Miscellaneous sections from various codes.

Upon receipt of this compilation the Law Revision Commission requested the Legislative Counsel to submit to the Commission his recommendation as to whether a separate code of narcotics laws would be justified. His response, dated January 30, 1958, is as follows:

In connection with the compilation of laws relating to narcotics, carried out by this office under contract with the California Law Revision Commission, you have asked whether a separate code of laws relating to narcotics would be justified in our opinion.

I have no hesitation in concluding that such a separate "narcotics code" would not be justified.

As you know, the California Code Commission devoted many years to the creation of our system of

25 codes. The allocation of statutory material relating to narcotics dates back to 1939 in the case of the Health and Safety Code (Secs. 11000, and following), and dates back to 1937 in the case of the Business and Professions Code (Secs. 4000, and following). In 1955, as part of a comprehensive revision of the pharmacy laws, the Legislature moved the "dangerous drug" provisions formerly located in the Health and Safety Code at Sections 29000, and following, to the Business and Professions Code (Secs. 4210, and following). Thus, although isolated provisions dealing with narcotics do exist in other codes, the statutes governing the illegal use of narcotics are now concentrated in the Health and Safety Code, and the statutes regulating the legal handling of drugs and narcotics are found in the Business and Professions Code. This allocation appears logical and it has become familiar to those who are required to deal with these statutes.

The volume of statutory material on narcotics is insufficient, in my opinion, to warrant a separate code. In addition, I see no reason to disturb a well established statutory format in the absence of compelling reasons for doing so.

The Law Revision Commission concurs in the views expressed by the Legislative Counsel and recommends that a separate code for laws relating to narcotics not be created. The compilation of narcotics laws made by the Legislative Counsel will be retained in the files of the Commission and is available to Members or Committees of the Legislature and to other governmental agencies upon request.

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7. Miscellaneous sections from various codes.

After studying this compilation the Law Revision Commission has concluded that a separate narcotics code would not be justified.

The California Code Commission devoted many years to the creation of our system of 25 codes. The allocation of statutory material relating to narcotics dates back to 1939 in the case of the Health and Safety Code (Secs. 11000, and following), and dates back to 1937 in the case of the Business and Professions Code (Secs. 4000, and following). In 1955, as part of a comprehensive revision of the pharmacy laws, the Legislature moved the "dangerous drug" provisions formerly located in the Health and Safety Code at Sections 29000, and following, to the Business and Professions Code (Secs. 4210, and following). Thus, although isolated provisions dealing

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The compilation of narcotics laws made by the Legislative Counsel will be retained in the files of the Commission and is available to Members or Committees of the Legislature and to other governmental agencies upon request.