

Date of Meeting: July 18-19, 1958

Date of Memo: July 14, 1958

Memorandum No. 7

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

At the June meeting the Commission gave the staff certain instructions concerning its Recommendation Relating to Codification of Narcotics Laws. A Recommendation prepared in accordance with these instructions is attached.

In accordance with the instructions of the Commission, Mr. Stanton sent a copy of the attached Recommendation to Honorable George G. Crawford, the author of the concurrent resolution giving this study to the Commission. Mr. Crawford has written Mr. Stanton that he would like to take the Commission's Recommendation up with his Subcommittee on Police Administration and Narcotics before giving us his views concerning it and that it will not be possible for him to do so prior to the Commission's meeting on July 18 and 19.

I recommend that the Commission consider and approve the attached Recommendation at the July meeting with the thought that if Mr. Crawford ultimately raises no objection to it or only such objections as can be obviated by minor changes in the text, we will be able to send this Recommendation to the State Bar for its views without having the matter reconsidered at the September meeting. Of course, if Assemblyman Crawford

should raise substantial objections to the Commission's proposed action,
the matter would be scheduled for discussion in September.

Respectfully submitted,

John R. McDonough, Jr.
Executive Secretary

July 14, 1958

RECOMMENDATION OF THE CALIFORNIA LAW REVISION COMMISSION

Relating to Codification of Narcotics Laws

Resolution Chapter 222 of the Statutes of 1957 which was introduced by Honorable George G. Crawford, Member of the Assembly for the 79th Assembly District, 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 Assemblyman Crawford 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 for the compilation of all laws relating to narcotics. From this compilation it appears that such laws include:

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. Eighty-four miscellaneous sections from various codes.*

Upon receipt of the 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

*These include: Business and Professions Code §§ 10, 2137, 2140, 2384, 2390-91, 2391.5, 2394, 2616, 2670, 2685, 2762, 2878.5, 2936, 2960, 5581, 7431, 9028, 24200, 24200.5; Civil Code § 69; Education Code §§ 8255, 10191-2, 11152, 12106, 15078, 20456; Financial Code § 951; Government Code §§ 1770, 15001, 15002.5, 18935, 19572, 20013-14, 20017.7, 21020.7, 21292.7, 21363.7, 21290.7, 25480, 31726, 31726.5, 31728, 31746; Insurance Code §§ 10369.12, 10372; Health and Safety Code §§ 201, 24384, 26558; Labor Code § 2651; Penal Code §§ 171a, 222, 261, 274, 275, 337f, 337g, 337h, 380, 382, 383, 817, 1419, 2772, 2790, 4573, 4573.6, 12021; Probate Code § 1751; Public Utilities Code §§ 21254, 21407-08; Unemployment Insurance Code, § 2678; Vehicle Code, §§ 269, 292.5, 304-5, 506, 506.1, 736; Welfare and Institutions Code §§ 700, 7068, 7110.

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 ~~should~~ not be established. 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.