

March 16, 1955.

HONORABLE D. KNOWLTON READ, *Chairman*
Narcotic Control Commission,
 State House,
 Trenton 7, New Jersey.

MEMORANDUM OPINION P-7.

DEAR MR. READ:

You have requested our opinion as to the effect of the mandatory sentencing provision of N. J. S. 2:A168-1 on the provisions of N. J. S. 24:18-47 providing the penalties for violations of the Uniform Narcotic Drug Law (Chapter 18 of Title 24 of the Revised Statutes).

N. J. S. 2A:168-1 permits a sentencing court, where it deems it to be in the best interests of the defendant and of the public, to suspend the imposition or execution of sentence and place the defendant on probation for not less than 1 year and not more than 5 years.

However, as to sentences imposed for a violation of any provision of the Uniform Narcotic Drug Law (Chapter 18 of Title 24 of the Revised Statutes), N. J. S. 2A:168-1 provides:

"The provisions of this section shall not permit the suspension of the imposition or execution of any sentence and the placing of the defendant on probation after conviction or after a plea of guilty or non vult for violation of any provision of chapter eighteen of Title 24 of the Revised Statutes except in the case of a first offender."

It is clear that N. J. S. 2A:168-1 does not permit a judge sentencing a defendant for a violation of Chapter 18 of Title 24, to suspend the imposition of the jail sentence if the defendant is a second or a subsequent offender and that he must impose a jail sentence for the period set forth in R. S. 24:18-47.

Very truly yours,

GROVER C. RICHMAN, JR.,
Attorney General.

By: FRANCIS J. TARRANT,
Deputy Attorney General.

April 11, 1955.

COLONEL JOSEPH D. RUTTER,
Superintendent of State Police,
 West Trenton, New Jersey.

MEMORANDUM OPINION P-8.

DEAR SIR:

You have asked for our opinion in respect to the following questions relating to the statutes of limitation.

1. Under Title 2A:159-3, is the limitation on this type of crime (public officials, etc.) still five years?

N. J. S. 2A:159-3 provides as follows:

"Any person holding or having held, or who may hereafter hold, any public office, position or employment, either under this state or under any