

Time until 1st conditional release

Fiscal year	Total	1 to 6 months	6 to 11 months	1 to 2 years	2 to 3 years	3 to 4 years	4 to 5 years	5 or more years	Died	No conditional release
Total.....	320	10	13	29	17	8	5	-----	2	236
1954.....	4	-----	-----	1	-----	-----	-----	-----	-----	3
1955.....	8	-----	-----	-----	-----	-----	-----	-----	-----	8
1956.....	14	-----	2	-----	-----	-----	1	-----	-----	11
1957.....	8	1	2	1	2	-----	-----	-----	-----	3
1958.....	18	1	-----	1	4	2	-----	-----	1	7
1959.....	33	1	2	7	5	1	2	-----	-----	15
1960.....	35	-----	2	6	3	-----	-----	-----	-----	18
1961.....	64	2	3	10	-----	-----	-----	-----	-----	45
1962.....	67	3	2	3	-----	-----	-----	-----	1	59
1963.....	69	23	-----	-----	-----	-----	-----	-----	-----	67

COUNCIL ON LAW ENFORCEMENT, DISTRICT OF COLUMBIA—REPORT OF AD HOC COMMITTEE ON DETENTION AND RELEASE FROM ST. ELIZABETHS

I. BACKGROUND

It must be made clear at the outset that this report is not still another commentary on the *Durham* rule. At its September 10, 1963, meeting, the Council on Law Enforcement, District of Columbia, was giving attention to H.R. 7525, sometimes called the District of Columbia omnibus crime bill. Title II of that bill contains what the House Committee on the District of Columbia reported (H. Rept. 579) as "changes in *Durham* rule." Furthermore, in the course of the report there are some nine printed pages dealing with title II of H.R. 7525 under a caption called "Title II—*Durham* Rule."

It was pointed out at the September 10 meeting of the Council on Law Enforcement, District of Columbia, that there were provisions in title II of H.R. 7525 that are not, strictly speaking, covered by the *Durham* rule, but that these provisions rather go to release or discharge. The *Durham* rule, it will be recalled, is the standard for determination of the legal defense of insanity in the District of Columbia. This rule is that an accused is not criminally responsible if his unlawful act was the product of mental disease or defect (*Durham v. U.S.*, 214 F. 2d 862, D.C. Cir., 1954). The *Durham* rule does not treat of the question of release or discharge; so much of title II of H.R. 7525, therefore, as deals with release is not related to the *Durham* rule.

At about the same time, local newspapers were carrying articles about those who had been at St. Elizabeths Hospital and who had been either discharged or had escaped, and who, during their discharged or fugitive status, had been apprehended in additional offenses.

As a consequence the Chairman of the Law Enforcement Council, District of Columbia, appointed this ad hoc committee to report to the Council on the subjects of detention and release from St. Elizabeths.

II. DETENTION

Facilities of detention must satisfy the dual aspect of commitment: protection of society and treatment of the defendant.

If one justifies indeterminate commitment on the grounds that a person will be treated, and conditions his release on satisfactory treatment, then conditions should be such as to facilitate this end. But commitment also serves the function of protecting society from a dangerous individual, and there comes a stage where the public must bear a degree of risk if the patient is to receive the degree of freedom necessary for therapeutic purposes. This conflict between the goals of commitment has recently come to the attention of the public with the news that 147 "prisoner-patients" have escaped from St. Elizabeths since January 1963.