

Introduction

[Music]

Julia Jarema: Hi, I'm Julia.

Kirsten Barber: And I'm Kirsten!

Julia: And you're listening to the NCDPS Safety Scoop, a podcast sponsored by the North Carolina Department of Public Safety.

Kirsten: NCDPS is the largest department in the North Carolina state government with some amazing programs and resources...

Julia: ...as well as phenomenal personnel and volunteers.

Kirsten: Listen along as we take you behind the scenes and dive into how the people, programs and resources within this department enhance the safety of the people of North Carolina—give you the scoop, if you will, of all things NCDPS.

Julia: NCDPS's mission is to safeguard the people of North Carolina through prevention, protection and preparation. As you listen to this podcast, we hope you'll learn something you may not have known about the ways the people of NCDPS are working to keep our state safe.

[Music]

Season 1 Episode 11

Pamela Walker: Thank you for joining us. I'm Pamela Walker, your guest host on this edition of the Safety Scoop. The topic this week has to do with Extending the Limits of Confinement and other measures the department has taken within its authority to reduce the adult prison population during the COVID-19 pandemic. Joining me to help better understand this topic are Tracy Little, Deputy Secretary for Adult Correction and Juvenile Justice, and Nicole Sullivan, Director of Reentry Programs and Services.

First and foremost, the Department of Public Safety is working hard on many fronts to safeguard the health and safety of all offenders and juveniles in its custody, as well as the health and safety of our staff and the public at large. The pandemic has presented many challenges for the state prison system. They are striving daily to reduce the spread as much as possible. I'm going to give my first question to Deputy Secretary Tracy Little. Miss Little, one initiative the department has been working diligently on is reducing the prison population by extending the limits of confinement. Can you give folks an idea of what it means to extend the limits of confinement?

D.S. Tracy Little:

Sure. Thank you, Miss Walker, and we appreciate the opportunity to be here on this podcast today. Extending the Limits of Confinement, or ELC for short, means that certain incarcerated offenders are allowed to continue serving their sentence outside of correctional facilities in their home or in transitional housing. They are still considered to be serving their active sentence after they have been transferred to the community via Extending the Limits of Confinement. They have to follow conditions, um, and they are supervised by a probation/parole officer in the community. Extending the Limits of Confinement is authorized in North Carolina General Statute 148-4, and that statute gives the Secretary of the Department of Public Safety the opportunity to extend the limits of confinement in certain circumstances for certain incarcerated individuals.

Pam:

So, certainly transitioning people from prison may sound easy to some people, but there are many things that must be taken into consideration, such as the individual's criminal history, behavior while in prison, pending charges and many, many others. Miss Little, can you please talk about those conditions and—and considerations?

D.S. Little:

That's a really good question. When we were first examining the criteria for which individuals, um, might be eligible for consideration of Extending the Limits of Confinement, uh, we really looked at three basic tenants. The first and foremost is public safety. The second is the time served, um, on their sentence. We look—we are looking at offenders who are nearing their release date. And also, given the public health crisis that COVID-19 presents, obviously one of the considerations is the offender's health risk and whether they have one of the underlying conditions that the Centers for Disease Control indicates they might have a more, uh, severe case of COVID should they, uh, contract it. So, those were our very high-level, broad-based tenants, and then, um, from that we have identified more specific criteria that we look at.

And as I mentioned, uh, you know, first and foremost, the highest criteria for us is public safety, and, uh, therefore we made the determination that people who are currently incarcerated for a crime against a person are not eligible for Extending the Limits of Confinement. Other potential, uh, disqualifying factors are whether they have been in trouble, um, recently within prison. So, um, we know that sometimes offenders do commit, uh, rule violations in prison, and some of them are considered more serious than others. So, if an offender, um, otherwise meets the eligibility criteria but has a Class A or Class B rule infraction in the last 6 months, then they are not eligible, uh, for consideration for ELC, um, at that time until that 6-month period has passed.

Another factor that is considered is whether an offender is affiliated with a security risk group which is a terminology that we use within our industry, but folks who are listening today would, um, more readily recognize the term whether there is a gang affiliation. So, um, we do look at that offender status to see if they are affiliated with a security risk group, and if they are, that could disqualify him or her for consideration for ELC. Also, we look at things such as how much longer an offender has to serve on his or her sentence inside the facility because just from a practical standpoint, if an offender is nearing their release date within a week's time, then because there are—there is quite a number of steps in the review process, more likely than not an offender is just going to go ahead and transition to the community upon reaching their—their already scheduled projected release date.

Pam: That's very helpful, and I also understand that there are some factors that may also delay the transition to ELC. It doesn't automatically disqualify them, but it may just, uh, cause a delay. Miss Sullivan, can you talk more about that, please?

Director Nicole Sullivan: Sure, and thank you, Miss Walker, for having me on the podcast today. Uh, so, there are factors that potentially could delay an individual's transfer to Extended Limits. In that review by the District Attorney's Office for those pending charges, there—there could be a delay there, uh, in—in getting a response from that office. That could delay someone's transfer. Um, medical and mental health considerations, again, since we are looking at individuals with underlying health conditions. When we begin to look at what their care would be in the community, there are times and instances where being able to set up the appropriate care for that individual when they go out on ELC is difficult and takes a while to get that coordinated. Again, in the middle of a global health crisis, sometimes it is difficult to get appointments and get things, um, set up for someone. Uh, there are needs for medical equipment. Um, we, uh, have numerous individuals who use walkers, who use other types of, uh, CPAP machines, you know, other types of durable medical equipment, so getting that

lined up so that they have that equipment available to them as they transition out of prison back to the community. Uh, and then lastly, just looking at the possibility of if they've had exposure in the prison system, so they are under quarantine or isolation. We certainly want to make sure that they've cleared—been medically cleared of those situations before someone would transfer to ELC.

Pam: Miss Little, earlier you mentioned that we would not consider someone who was in prison for a certain type of crime. Could you talk a little bit more about that and what crimes, just generally, that would be a disqualifier?

D.S. Little: So, as I stated earlier, you know, public safety, um, remains first and foremost, um, along with the health of the offenders and the community, and so as a result of that, the department made a decision to not allow persons who during their current term of incarceration are serving a term for a crime against a person. There is a long list of—of such crimes, but just to, um, give you a few, so it would be, you know, someone who is serving a sentence for murder or assault or manslaughter, robbery, rape, other sexual offenses and other—other specific crimes.

Pam: Miss Sullivan, if you will, can you tell us how many individuals have been consider—have been considered so far for extending the limits of confinement?

Dir. Sullivan: Yes. As of late August, uh, we've reviewed, uh, more than 1,100, uh, individuals for ELC, and at this point, uh, nearly 500 have transitioned out of prisons on ELC status. But that number does change daily, uh, as we review people, and in addition those who have been transitioned to ELC, they may reach their actual release date, and so they move from, uh, Extended Limits on to community supervision. And so, that number does change. But that review process can take some time, and so it—it is difficult to project exactly how many individuals would be on ELC at any given moment because the review process takes time, they're people transitioning over to PRS, but we continue to review those individuals who meet those criteria and then go through our multiple steps of review, as we've already discussed here on the podcast, the many steps that we go through, uh, to consider someone for that transfer.

Pam: And real quick, uh, just a reminder or—at least let folks know in case they did not know what PRS stands for.

Dir. Sullivan: PRS is Post-Release Supervision. And so, after a term of, um, active incarceration, uh, individuals can have a term of community supervision which could be nine or 12 months depending on, uh, their offense. And so, individuals

who are on ELC will also then have a date that will bring them to start that community term, and that's that Post-Release Supervision term that we're talking about in the community.

Pam: Okay. Miss Little, can you talk about how many more people may actually be eligible and potentially transition to Extending the Limits of Confinement, at least as things stand now?

D.S. Little: As the, uh, department began this process back in April of this year, we have, on more than one occasion, modified and expanded the eligibility criteria, and at this time, uh, in addition to the offenders that Miss Sullivan already referenced had been reviewed, the approximate 1,100, there's uh approximately another 2,500, um, individuals who are on our initial eligibility list for current and future review. As we talked about during this podcast, the offenders must meet certain criterias, and we do perform a close review of each and every case that we are considering, uh, such as their crime, their behavior in prison, whether they have pending charges.

We look at their, um, medical needs and what type of, um, housing needs they have in the community. And as we talked about a little bit, it is challenging without a global pandemic, you know, in many cases, for folks to reenter the community successfully, and so when you layer on the public health issues, uh, that we are dealing with, it really is a, um, a case-by-case and offender-by-offender process to ensure that we are looking at all of the factors that need to be considered to maintain public safety but also to make sure that the offenders have an opportunity to transition successfully in the community during their period of ELC.

Pam: And I also understand that there are pretty specific criteria for those that are being considered right now. Could you elaborate a little bit more on that?

D.S. Little: Our current criteria reads like this. And I would encourage anyone who's listening who, um, it may be a little difficult to follow along, but this information is posted on the DPS website, so I would encourage anyone who's listening who wants to make sure that you, you know, heard it or wrote it down correctly to please visit our website. So, uh, we are, uh, considering offenders who are pregnant; those who, um, prior to the pandemic were on home leave with a 2020 or a 2021 release date; again, those who were prior to the pandemic on work release (that means they were going out in the community and working on a job in the public every day, um, prior to those—to that particular program being shut down); those offenders who have a 2020 or a 2021 release date; so, all offenders who are 65 and older who have a release date of 2020, 2021 or

2022 and then, uh, the last category is individuals who have a 2020 or a 2021 release date *and* who have underlying health conditions deemed by the CDC that increase that person's risk of a severe illness from COVID-19.

Pam: And if you will, Miss Little, um, could you go talk a little bit about when someone is on the ELC status. Can you give us a general idea of what it's like and what they are allowed to do?

D.S. Little: When a person is transitioned to ELC, they are supervised by a probation/parole officer, and they are required to follow, um, standard conditions of supervision as other offenders are who are out in the community. In some cases, there may be special conditions, especially as it relates to, um, stay-at-home orders or public health orders in effect, uh, due to the pandemic. And the probation officer works, you know, directly with the offender and his or her family to try to assess the specific circumstances in a case and, uh, where needed, you know, add additional conditions to ensure that the offender is having an opportunity, not only to follow the rules, but to transition successfully, um, back in the community to complete that period of, uh, ELC supervision and then transition onto their, um, to their period of Post-Release Supervision, as is the—the case for all offenders who are leaving prison.

Pam: And Miss Sullivan, if a family member or an advocate of one of those incarcerated wants to know more about ELC and whether someone is eligible, what should they do?

Dir. Sullivan: Well, as, uh, Miss Little also mentioned, um, there's quite a lot of information on the ncdps.gov website, uh, explaining some of the criteria for consideration, uh, and information about ELC, so that's probably the first place that I would suggest anyone who wants to learn more, um, about ELC would go to that website and—and read there. Additionally, uh, in-incarcerated individuals can speak with their case manager to get additional information, uh, and to see if they might be eligible for consideration for ELC.

And then lastly, uh, the department has set up a hotline and communication, um, via email, as well. That can be shared, and individuals who answer those calls or respond to those emails, uh, try to provide very basic information similar to what's on the website about what the process is and what the criteria are for consideration. But just recognize that those individuals, uh, are not going to be aware of, um, personal information such as medical information. Um, we do not have that information, um, readily available to any individual, uh, working in the department, you know, due to HIPPA rules and those federal laws. That is personal, private information. But we can basically explain the types of

underlying conditions, uh, that could qualify someone for consideration, but that's the extent of what we can share, uh, about medical. But we can explain the steps just as we've done in this podcast so that family members and advocates can understand what process we're going through to identify individuals and then, uh, review individuals for ELC, uh, transfer.

Pam: And Miss Little, briefly, if—if you will, can you just talk a little bit about, um, there's some other actions or other partners of the department that are working towards, um, getting more folks out of the prison system and out into the community for their safety? Can—can you talk briefly about that?

D.S. Little: Sure. So, I—I think that across the agency, there has been, um, a lot of good work going on to try to identify the risk, um, that this pandemic is having, you know, inside of our—of our prison facilities, uh, specifically, and to try to address those. So, one entity that has, um, really been involved in—in trying to, um, look within its authority to determine what actions they can take is the Post-Release Supervision and Parole Commission. And the commission has undertaken, um, several projects, including looking at, um, some offenders who are currently on MAP programs, and the MAP, um, acronym stands for the Mutual Agreement Parole program. And that, um, program is for offenders, and it's a—it's a pretty small percentage of offenders in the prison system who actually, um, qualify for some type of discretionary parole release due to the sentencing laws that are in effect now, but there is that small group of offenders who are eligible for consideration of programs like MAP. So, the Parole Commission has reviewed those cases to see if any of those release dates can be modified, if the offender is complying with the requirements of the MAP program. They have also, uh, looked at offenders who may have had their period of Post-Release Supervision revoked, and they're examining those cases to determine if any of those offenders can be reinstated, um, back into the community in an appropriate manner.

In addition, the Division of Prisons is looking to determine where some offenders can be awarded some discretionary time credits within the Secretary of the Department of Public Safety's authority for the awarding of such credits, they have done so. And as a result of the Division of Prison's review, as of September 1st, nearly 1,300 offenders who otherwise would have been released later in 2020, um, have been awarded sufficient credits so that they have already been released back into the community.

Pam: Well, all of this information has been extremely, um, educational to me and I'm—I'm hopeful that it has been to others as well. Are there any other parts, um, or anything that we missed that either one of you want to make sure to bring up?

D.S. Little:

I'd like to add something, Miss Walker, and, uh, Miss Sullivan may have some additional comments as well. Uh, I think it's important for—for listeners to understand, as it relates to Extending Limits of Confinement, that, um, it is a process and, um, the fact that some offenders may be initially eligible for consideration does not mean, necessarily, that all of those offenders will be transitioned to the community. There are multiple steps that have to, you know, take place. We have to review the crimes. We have to see if they have detainers from other jurisdictions. If they have pending charges, we consult with the local, uh, District Attorney about whether, uh, he or she consents to ELC. There are all of the issues that we've mentioned here around medical needs, home plans, making sure that there is a safe and secure residence that an offender can reside in, um, once they're back in the community. So, I think it's important that the public, family members, friends, advocates, you know, understand that the department is, um, being very deliberative and, you know, we want to take our time to make sure that the offenders that we review, and if they are ultimately transitioned to the community, that, um, we are doing so in a manner that allows, uh, for public safety to be protected but also allows for the offender to have an opportunity to be successful as they transition back, um, in the middle of this pandemic.

Dir. Sullivan:

And Miss Walker, I would add, uh, exactly to—to what Miss Little just said is about the reentry component of this after an individual is identified and—and goes on that transfer to the community. Uh, it's important to think about how to assist that individual to be successful in the community from a reentry standpoint. So, that's why we are so deliberative about home plans and medical. But then, it's also connecting people to those services.

And again, in the middle of a global pandemic, um, reentry was difficult before the pandemic. It's even more difficult *now* to identify those resources, to get people connected to healthcare, uh, that they need, not only, um, just anything related to COVID, but to those underlying conditions. I mean, those underlying conditions is what helped the person become qualified for ELC. Now we have to make sure that they're continuing to get their medicines, and they're going to their follow-up appointments, and they're seeing the specialists that they may need to see. And all of that is predicated on well, where is the person living? Did they find a home plan? Are they staying with family or some other type of arrangement? Then we've got to make sure that there's transportation, uh, to those appointments, and that's just if people, you know, have the kind of medical conditions that have to be followed up on. So, those are the difficulties that happen even after that decision about ELC is made. Uh, making that from, uh, from a public safety standpoint but also from a public health—health

standpoint, but it's also a reentry issue as well, and we're working on all those issues to make sure that folks are safe in the community, uh, as they make that transition out.

Pam: Thank you again, both of you. You both have provided a lot of very useful and important information and—and helped illustrate how this whole thing works. It's not as easy as everyone thinks. It—it can be complicated. It does take a lot of steps and a lot of decisions that have to be made along the way. What's best for the individual, uh, as well as the general public. So, I, again, I appreciate you both. We hope everyone listening has found this conversation informative. Until next time on the Safety Scoop, everyone please stay safe.

Conclusion

[Music]

Julia: Thanks for listening to this episode of the Safety Scoop. To learn more about NCDPS, go to ncdps.gov. Tune in next time on your favorite podcast app to hear more behind-the-scenes stories from the North Carolina Department of Public Safety.

[Music]