

May 22, 2024 at 1:45 p.m.
Via Videoconference and PBS North Carolina Livestream
UNC System Office
223 S. West Street, Room 1809
Raleigh, NC 27603

AGENDA

OPEN SESSION

- A-1. Resolution Honoring Law Enforcement Kellie Blue
- A-2. Adjourn

Additional Information Available:
May 2024 Technical Corrections Chart

AGENDA ITEM

A-1. Resolution Honoring Law EnforcementKellie Blue

Situation: The Committee on University Governance presents a resolution praising law enforcement who have served, and continue to protect, our University's campuses.

Background: This proposed resolution offers special thanks to the law enforcement officers who willingly and courageously answered the call to protect our University. These men and women lead the nation in modeling best practices on how to preserve the twin freedoms of speech and assembly while keeping our students safe.

Assessment: If approved, this resolution will be presented to the full Board. Printed copies of a presentation will be available the day of the meeting, and the presentation will be uploaded to BoardEffect by the conclusion of the meeting.

Action: This item requires a vote by the committee and a vote by the full Board of Governors.



**THE UNIVERSITY OF
NORTH CAROLINA SYSTEM**



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OVERVIEW OF CAMPUS TOOLS



**THE UNIVERSITY OF
NORTH CAROLINA SYSTEM**

Events at Four Different Campuses...

UNC-Chapel Hill



UNC Charlotte



UNC Asheville



North Carolina State



Common Themes:

- Protected activity includes speech and assembly.
- Reasonable and content-neutral restrictions.
- Courts test these time, place, and manner restrictions for reasonableness and content neutrality.

How Campuses Balance Free Speech & Safety:

- Advance communications.
- Permitting processes.
- Identified areas for approved gatherings.
- Time restrictions on gatherings.

Disciplinary Strategies if Protected Activity Ends...

- The application of reasonable time, place, and manner restrictions requires **line drawing**.
- These can be literal or figurative lines.
- Once lines are crossed, **enforcement actions** are necessary.
- Campus authorities have **multiple tools** to deploy when thinking about enforcement.

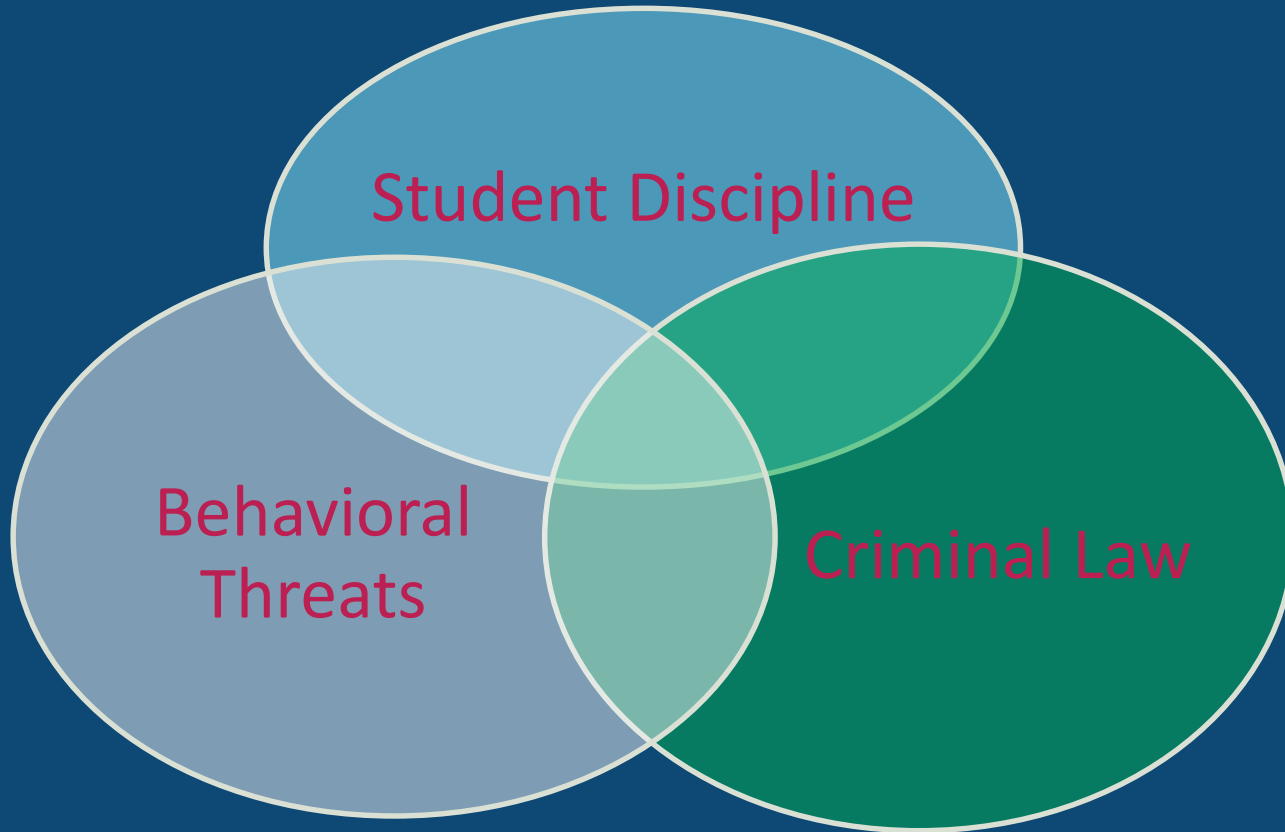
3 Areas of Enforcement:

Student Discipline

Behavioral
Threat
Assessment

Criminal Law

Overlapping Mechanisms



Student Discipline

- Regulation of student conduct has been largely delegated to the chancellors. The Code, Section 502D; Appendix I, Art. 12.
- Each campus has adopted its own set of rules regarding student conduct—at UNC-CH, this is called the “Instrument of Student Judicial Governance.”
- Student organizations are also subject to their institution's code of conduct and can be sanctioned for violations.

The
Instrument of
STUDENT JUDICIAL
GOVERNANCE



Behavioral Threat Assessment Mechanism

- Each campus has a mechanism where a student, an employee, or others can be barred from campus because he or she presents a threat to physical safety or a threat of disruption to the academic process.
- The behavioral threat assessment mechanism is known by different names across the System.
- Think of the behavioral threat mechanism as a tool to temporarily manage threats while other processes play out.

Criminal Law

- Chapter 14 of the General Statutes codifies most of the criminal law in North Carolina.
- The law criminalizes certain general offenses everywhere.
- Think about assault, trespassing, larceny, disturbing the peace.
- The law also criminalizes activity in certain places.

Chapter 14.

Criminal Law.

SUBCHAPTER I. GENERAL PROVISIONS.

Article 1.

Felonies and Misdemeanors.

§ 14-1. Felonies and misdemeanors defined.

A felony is a crime which:

- (1) Was a felony at common law;
- (2) Is or may be punishable by death;
- (3) Is or may be punishable by imprisonment in the State's prison; or
- (4) Is denominated as a felony by statute.

Any other crime is a misdemeanor. (1891, c. 205, s. 1; Rev., s. 3291; C.S., s. 4171; 1967, c. 1251, s. 1.)

§ 14-1.1: Repealed by Session Laws 1993, c. 538, s. 2.

§ 14-2: Repealed by Session Laws 1993, c. 538, s. 2.1.

§ 14-2.1: Repealed by Session Laws 1993, c. 538, s. 3.

§ 14-2.2: Repealed by Session Laws 2003-0378, s. 1, effective August 1, 2003.

§ 14-2.3. Forfeiture of gain acquired through criminal activity.

(a) Except as is otherwise provided in Article 3 of Chapter 31A, in the case of any violation of Article 13A of Chapter 14, or a general nonwillful homicide, any money or other property or interest in property acquired thereby shall be forfeited to the State of North Carolina, or compensation directly or indirectly collected by or accruing to any offender.

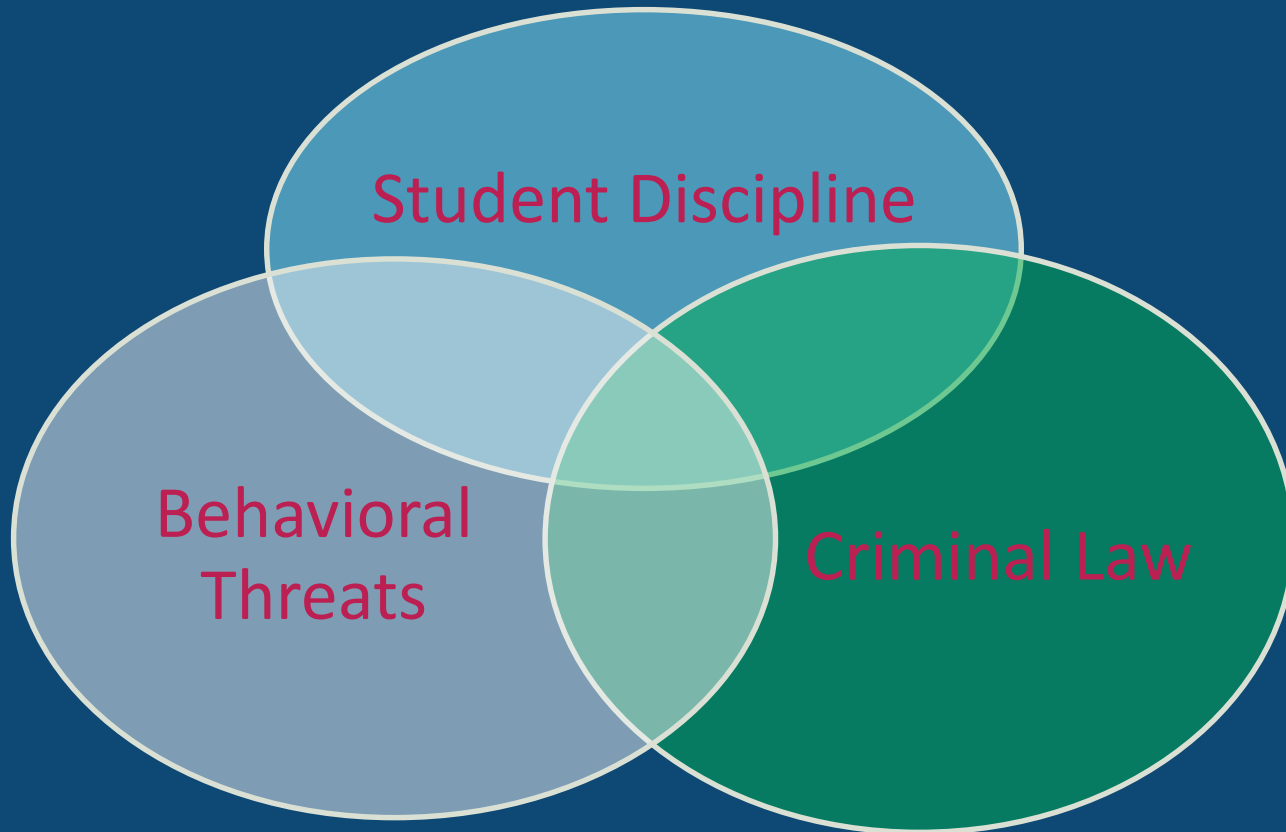
(b) An action to recover such property shall be brought by either a District Attorney or the Attorney General pursuant to G.S. 1-532. The from the date of the conviction for the offense.

(c) Nothing in this section shall be construed to require forfeiture of any money or property recovered by law-enforcement officers when the money or property is readily identifiable by the owner or guardian of the property or is traceable to him. (1981, c. 840, s. 1; 2008

Criminal Law (cont.)

- Citation and arrest for criminal law involves law enforcement officers and prosecutors.
- The use of these tools are highly discretionary and fact specific.
- All of our campuses except one has a sworn law enforcement agency, i.e., the powers to detain, cite, and arrest law breakers.
- Enforcement strategies are also subject to resource availability.

Reminder: Overlapping Mechanisms



Key Takeaway No. 1: The same conduct can support three different proceedings...

Key Takeaway No. 2: These processes can be happening all at once.

Strengths & Challenges:

- Student Discipline:
 - Strength: Provides Tailored & Proportionate Remedy.
 - Strength: Can be a priority compared to criminal law enforcement.
 - Challenge: Conduct may not fit squarely into a student disciplinary offense.
 - Challenge: Student-centric approach may not best balance public safety concerns.

Strengths & Challenges:

- Behavioral Threat Mechanism:
 - Strength: Can be quick if done by an executive officer.
 - Strength: Can be decisive.
 - Challenge: Committee action can be slower.
 - Challenge: Effect may feel disproportionate and thus underutilized.

Strengths & Challenges:

- **Criminal Law:**
 - Strength: As clear a consequence as there is.
 - Strength: Criminal code provides ample bases for charging.
 - Challenge: Finite prosecutorial resources and charging discretion.
 - Challenge: Policing resources bear on ability to enforce.

Case Study @ UNC-Chapel Hill

- UNC-CH Students at April 30 event (another approximately 21 non-UNC-CH students):

Criminal Law...

- 13 charged with trespass.
- 1 charged with resisting a public officer and trespass.
- 1 charged with assault on law enforcement, resisting, and trespassing.

Case Study @ UNC-Chapel Hill

Behavioral Threats...

- Related to the April events, several students were determined to be threats to the safety of the campus community and have been barred from campus.

Case Study @ UNC-Chapel Hill

- UNC-CH Students at April 30 event:
 - *Student Discipline...*
- Student Attorney General considering charges.
- Administration working on negotiations.

Questions Worth Considering:

1. What are competing approaches for student conduct charging decisions?
2. How consistently are student organizations disciplined across the System?
3. Who makes behavioral threat assessments with an eye towards whole campus safety?
4. How to optimize relationship between UNC campuses and their respective district attorneys?
5. How do campuses work together when students commit crimes on other campuses within the UNC System?

THANK YOU



**RESOLUTION OF
THE BOARD OF GOVERNORS OF
THE UNIVERSITY OF NORTH CAROLINA
May 23, 2024**

WHEREAS, the University of North Carolina's commitment to free speech and assembly is without question; and

WHEREAS, that commitment is only equaled by the University's duty to keep safe members of our communities, including young people sent to us from the four corners of North Carolina and the world; and

WHEREAS, the obligation to balance these two competing interests falls daily on the shoulders of our chancellors, law enforcement officers, and campus administrators; and

WHEREAS, recent events necessitate this resolution praising those who serve and condemning the misbehavior of a few; and

NOW, THEREFORE, BE IT RESOLVED, the Board of Governors does hereby resolve as follows:

I. APPRECIATION OF LAW ENFORCEMENT

The Board of Governors offers its special thanks to the men and women of the University of North Carolina police departments across the state who have faced campus protests and led the nation in modeling best practices on how to preserve the freedoms of speech and assembly while keeping our students safe.

The Board of Governors offers additional gratitude to the law enforcement men and women of the remaining UNC System campuses who neither hesitated nor flinched to travel from all over North Carolina to aid their sworn brothers and sisters.

The Board of Governors further acknowledges and thanks the state and local law enforcement officers from cities and counties across North Carolina who chose, too, to stand with our uniformed officers.

II. CONDEMNATION OF UNACCEPTABLE BEHAVIOR

The Board of Governors condemns in the strongest possible terms those persons who engage in threatening or violent behavior, including the targeting of university employees trying to return to their families at the end of the workday, the stockpiling of weapons, the defacing of public buildings and property, the disturbance of students simply trying to pursue their education, and the intimidation of innocent people who themselves are exercising their First Amendment rights, all under the false guise of protected activity.

IN WITNESS WHEREOF, the Board has caused this resolution to be executed by its Chair and its seal to be affixed by the Secretary, both duly authorized, effective as indicated herein, but executed this 23rd day of May 2024.

Randall C. Ramsey, Chair

Meredith R. McCullen, Secretary

[SEAL]