



## Legislation Text

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**File #:** Res 0389-2004, **Version:** A

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### Res. No. 389-A

Resolution calling upon government officials to protect and uphold First Amendment rights to freedom of speech, association and assembly.

By The Speaker (Council Member Miller) and Council Members Perkins, Yassky, Brewer, Comrie, Foster, Gerson, James, Koppell, Liu, Lopez, Martinez, Palma, Quinn, Reed, Sanders, Sears, Stewart, Weprin, Moskowitz, Jackson, Barron, DeBlasio, Monserrate, Reyna, Gioia, Avella, Serrano, Boyland, Gonzalez and The Public Advocate (Ms. Gotbaum)

Whereas, The exercise of the First Amendment rights of speech, association and assembly is essential to the well being of a democratic society; and

Whereas, New York City has a long tradition that celebrates robust public discussion of public issues, including the unfettered expression of opinions and view points at public demonstrations, marches (or parades) and rallies; and

Whereas, Peaceful political expression is a fundamental right under the United States Constitution, the Bill of Rights and the New York State Constitution; and

Whereas, The forthcoming Republican National Convention will test New York's commitment to freedom of speech, association, and expression; and

Whereas, The members of the Council of the City of New York believe that there is no inherent conflict between the City's duty to secure public safety and protect lawful political activity; and

Whereas, The members of the Council of the City of New York want to ensure that permit applications for public demonstrations related to the Republican National Convention are acted upon in a timely manner and that such permits are not unreasonably denied or, if granted, do not place unreasonable constraints upon the location or route and the duration of such activities; and

Whereas, The members of the Council of the City of New York want to ensure that the Handschu decree is enforced in a manner that does not infringe upon New Yorkers' participation in lawful political activity; now, therefore, be it

Resolved, That the Council of the City of New York calls upon Mayor Michael Bloomberg, Police Commissioner Raymond Kelly, and Parks Commissioner Adrian Benepe to affirm and uphold the exercise of First Amendment rights in New York City and, in particular, upon the occasion of the 2004 Republican National Convention; and be it further

Resolved, That the Council of the City of New York affirms its strong support for First Amendment

values and principles and therefore calls upon City officials to -

- (a) Take affirmative measures to uphold and protect the rights of speech, expression and association in New York City and, in particular, at the 2004 Republican National Convention, including the creation and implementation of systems and procedures to ensure -
  - (i) that there is reasonable and prompt action on permit applications for public demonstrations, marches and rallies;
  - (ii) that there is not an unreasonable denial of permit applications or issuance of permits that place unreasonable constraints upon expressive activity; and
  - (iii) that written explanations are provided when permits are denied, in whole or in part, and suitable alternatives are offered that to the extent reasonably possible meet the requirements of permit applicants;
- (b) Refrain from the use of force- including the use of horses, pepper spray or other instruments of force- in policing public demonstrations except to the minimal extent required as necessitated by legitimate law-enforcement purposes;
- (c) Allow demonstrations to take place in close proximity to and within sight and sound of the object of the demonstrations, consistent with reasonable security concerns;
- (d) Make every effort to facilitate access to as well as freedom of movement at public demonstrations, marches and rallies through effective communication in advance of and at the site of public demonstrations;
- (e) Minimize the use of barricades to confine the movement of people at public demonstrations;
- (f) Refrain from the use of four-sided enclosures known as “pens” to contain people engaged in expressive activities except in limited circumstances based on legitimate and reasonable security concerns, and in such circumstances ensure that such enclosures have sufficient openings to allow people to exit a pen, move freely around the demonstration site and return to the pen if there is sufficient space;
- (g) Train City police officers and others involved in the administration and policing of public demonstrations, marches and rallies about the First Amendment rights of persons engaged in lawful expressive activities;
- (h) Refrain from engaging in a preliminary inquiry or investigation of individuals or groups, as provided in the Handschu decree, based solely upon their participation in activities protected by the First Amendment, such as political advocacy or the practice of religion; and
- (i) Ensure that pursuant to the Handschu decree, all authorizations for a preliminary inquiry or investigation of political activity are reduced to written memoranda; and be it further

Resolved, That the Council of the City of New York acknowledges the responsibility of the police department and other City officials to protect public safety and uphold the exercise of First Amendment rights; however, in executing these responsibilities, the police department and City officials must ensure that First Amendment activity is not prohibited, denied or limited except when based upon legitimate public safety concerns.

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