

**A RESOLUTION TO BE SUBMITTED
BY LEGISLATOR GRANT**

RE: Inappropriate and Undignified Appearance by Sheriff Tim Howard at Racially-Charged Rally in the Heart of Downtown Buffalo

WHEREAS, a racially-charged political rally took place in Niagara Square on April 1, 2017, drawing out members recruiting for a white supremacist group and other divisive political activists – and sadly under the dubious guise of an “inclusive” and “non-partisan” Spirit of America Rally; and

WHEREAS, a key speaker at this political event was Erie County Sheriff Tim Howard, in full uniform; if not in violation of New York State Election Law, which it very well may be, it clearly is violating the spirit of the Election Law; and

WHEREAS, it is frightening and disturbing that an Erie County Sheriff would address a political gathering where the confederate flag was held in such high providence and regal – without a care in the world about the litany of hate, and devastation, and oppression, and harm that the confederate flag symbolizes; and

WHEREAS, there clearly are no excuses because Sheriff Howard should have known better – he more appropriately should have immediately removed himself from this event once he saw the confederate flag; and

WHEREAS, by Sheriff Howard speaking in full uniform at the event, it gave the appearance that he was expressing the views of the Erie County Sherriff’s Office and Erie County as a whole, and undoubtedly inappropriate when considering the Formal Opinion of the New York State Board of Elections, dated June 10, 2015, on the matter of appearing in uniform at such political events, which reads in part:

“There is a material difference between a police officer appearing in uniform in the political communications of another candidate or political committee, whereby the authority of the officer’s position exemplified by the uniform is applied in aid of a political purpose, as opposed to appearing in uniform in one’s own political communications as an expression of experience or credential.”*

**The Board finds that as applied to Election Law 17-110, the position of Sheriff and Deputy Sheriff are synonymous to that of “Police Officer.” See, N.Y. Op. Atty. Gen. 57, 1998.*

“...the statute is very clear that a police officer may not use his or her authority as a police officer “to control, affect, influence, reward or punish” in the electoral context. Such determinations must be made on the basis of the specific facts of each case, and police officers should exercise great care – particularly while in

uniform, the cloak of authority – to comply with the prohibitions of Election Law 17-110(1)”; and

WHEREAS, this was not a rally supporting the re-election of Sheriff Howard, but a rally with vile themes and purposes that were highly political in nature – and accordingly, the Sheriff should not have attended in full uniform, which implied official authority on his part; and

WHEREAS, the rally, by its very nature, can be described as a “political gathering,” which is exactly what the Buffalo News termed the event in an editorial dated April 4, 2017 castigating Sheriff Howard for his “leading role” in the event; indeed, the rally was sponsored by SCOPE (Repeal the NY Safe Act), T.E.A. (Taxed Enough Already!), with speakers including Sheriff Howard, the 2014 Republican gubernatorial candidate Carl Paladino, political activists Russ Thompson and David Bellavia, widely known firebrand politicians; and

WHEREAS, the Buffalo News, in its editorial, sums it up clearly:

“Howard took the leading role in the Spirit of America rally that drew several hundred people to Niagara Square. That it was meant to support the presidency of Donald Trump is irrelevant to the issue. A Democratic sheriff promoting the agenda of a Democratic president would be equally wrong. It’s a failure to comprehend the scope of his public duties.

“It’s not just that it was a political event, either, but one that attracted white supremacists, who have come out of the woodwork lately”; and

WHEREAS, Sheriff Howard released a statement addressing his appearance at the political rally, writing that he believes that his speech, in his official uniform, was just a showcasing of his support for American principles, patriotism, and free speech; and

WHEREAS, Sheriff Howard’s unregretful stance toward the Spirit of America Rally, one that in its intent and execution was politically partisan and extreme, is unacceptable and this Honorable Body deem it necessary that Sheriff Howard issue a full apology and guarantee better judgment when making public appearances in the future.

NOW, THEREFORE, BE IT

RESOLVED, that this Legislative Body call for Sheriff Howard to release an adjoining statement to his posted statement further denouncing hate groups – especially in light of the waving of the confederate flag at this political rally; and be it further

RESOLVED, that the Erie County Legislature schedule Sheriff Howard to appear before this Body's Public Safety Committee to explain and clarify his judgment in representation of the County of Erie at a clearly political event and while in full uniform; and be it further

RESOLVED, that this Honorable Body further find the actions of Sheriff Howard inexcusable and inappropriate in accordance with his role as Erie County Sheriff; and be it further

RESOLVED, that certified copies of this resolution be sent to County Executive Mark Poloncarz, Erie County Sheriff Tim Howard, and any other party deemed necessary and proper.

FISCAL IMPACT: To be determined.