



CeaseFire Pennsylvania Report on 2016 Candidates for Pennsylvania Attorney General

Introduction

CeaseFire Pennsylvania¹ is the advocacy arm of CeaseFirePA, Pennsylvania's leading gun violence prevention organization. We seek commonsense legislative reforms to reduce gun violence, stop the flow of illegal guns into our communities, and keep guns out of the hands of those who should not have them. We proudly work with mayors, police chiefs, and local, state and federal elected officials along with more than 50,000 citizen activists in cities and towns across Pennsylvania. For more information about our mission and accomplishments, please visit www.ceasefirepa.org.

CeaseFire Pennsylvania, as part of its education mission, wants the public to know where the candidates for Pennsylvania Attorney General stand on the issue of gun violence prevention. It has been our practice to evaluate and assess candidates for public office by means of a detailed questionnaire. While we know that voters consider many factors and issues in making decisions, we evaluate candidates based only on their positions on gun violence prevention. In past elections, CeaseFire Pennsylvania has endorsed candidates from both parties.

Earlier this year, we sent a questionnaire to each official candidate in the primary to be held April 26. The questionnaire was designed to assess the candidate's position on commonsense gun violence prevention measures and the level of importance each candidate attributes to reducing gun violence. Questions about nine specific policies were presented to the candidates, ranging from background check expansion to measures to cut down on trafficking to concealed carry reciprocity. We analyzed the responses, and have prepared this Report.

Three candidates – all Democrats -- submitted full responses – John Morganelli, Josh Shapiro and Stephen Zappala. Their responses are provided and analyzed in this report.

¹ CeaseFire Pennsylvania is organized under the nonprofit corporation laws of the Commonwealth of Pennsylvania and has been recognized as exempt from income tax under 501(c)(4) of the Internal Revenue Service Code.

Significantly, each of the responding candidates expressed strong support for important gun violence prevention measures. In fact, the three responding candidates each scored 100%, indicating unequivocal support for the policy proposals presented.

One candidate, Republican John Rafferty, declined to respond to the questionnaire. Republican Joe Peters responded as follows: "This is Joe's complete response to your survey. Please use as you. . . see fit: "I support expanding the efforts of the Gun Violence Task Force focused on criminals and those who attempt to circumvent the law through straw purchases."

In the analysis that follows, Mr. Rafferty and Mr. Peters are listed as "No Response," except that Mr. Peters' response will be counted as a response to the question about the Gun Violence Task Force. CeaseFirePA is disappointed that these candidates chose not to answer the questionnaire fully and allow the public to know about their positions on this critical public policy issue.

Gun Violence in Pennsylvania

According to the Centers for Disease Control, from 2001-2010, there were 12,941 gun deaths in Pennsylvania, the fourth-most in the nation. Since that time, Pennsylvania has averaged over 1300 gun deaths (including more than 500 murders and between 700 and 800 suicides) each year. Pennsylvania also suffers a devastating number of gun deaths among children and teens 19 and younger: in 2010, Pennsylvania had the fifth-highest rate of gun homicides among children in this age group. This tremendous toll of gun violence affects towns and municipalities throughout the Commonwealth.

About the Proposals Presented

In 2008, the United States Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), for the first time held that the Second Amendment grants an individual right to keep a handgun in the home for the purpose of self-defense. But the Court's decision clearly indicates that this is not an absolute or unlimited right. Writing for the majority, Justice Scalia said, "[N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms." 554 U.S. at 626-27.

The proposals presented in the questionnaire fall within the sphere of reasonable regulation or limitation, and have been upheld by courts in many jurisdictions and are in effect in many other states. CeaseFire Pennsylvania therefore believes that neither the Second Amendment nor the Pennsylvania Constitution would bar the lawful enactment of these proposals. Moreover, the proposals presented will not cost the taxpayers for their enactment and enforcement; indeed, reducing gun violence will save millions of dollars in health care costs, first responder costs, lost wages, and the other economic costs that result from gun violence. Nor should these proposals be

viewed as mutually exclusive to other measures that can reduce gun violence and make our communities and neighborhoods safer.

Conclusions

The three candidates in the Democratic Primary for Attorney General have each committed to being a leader in the fight against gun violence and using the various tools available to the Office to promote a safer Pennsylvania. The three candidates offer different experiences: Mr. Morganelli has served as district attorney of Northampton County since 1991 and served one term as President of the PA Association of District Attorneys; Mr. Shapiro served in the PA House of Representatives from 2005-2011, has served as a Montgomery County Commissioner since 2011, and in 2015 was appointed chair of the PA Commission on Crime and Delinquency; and Mr. Zappala has served as district attorney of Allegheny County since 1998. CeaseFire Pennsylvania is pleased that each has made the fight against gun violence a priority.

Since each of the Democratic candidates fully supported the proposals before them, CeaseFire Pennsylvania will not be endorsing one over the others. We are pleased that each sees the importance of gun violence prevention and was willing to make his views available to the voters.

On the Republican side, the candidates did not participate in the evaluation process. Neither candidate even took advantage of an open ended question asking what he would do to reduce gun violence. We are disappointed that they refused the opportunity to make their positions on these questions available for public scrutiny. We hope the winner will decide to do so in advance of the General Election.

Based on their failure to fill out the questionnaire, CeaseFire Pennsylvania does not favor either candidate in the Republican primary at this point in time.

CeaseFire Pennsylvania Questionnaire and Candidate Responses

Keeping Firearms Out of the Hands of Those Defined by Law As Prohibited Purchasers

1. Expand the Background Check System to Cover the Private Sale of Long Guns.

The data shows that background checks are an effective means of keeping guns out of the hands of those who are not allowed to have them because of their criminal records or mental health histories. But loopholes in the law enable some prohibited purchasers (defined as felons, fugitives, domestic abusers and the dangerously mentally ill) to buy guns. Current law requires background checks for all sales at federally licensed dealers, and for all sales of handguns in PA, regardless of the seller. However, private sales of long guns – rifles, shotguns and semi-automatic rifles – are exempt from both the federal and Pennsylvania background check systems. **Do you support legislation expanding the PA background check system to cover the private sale of long guns in the same manner as the private sale of handguns?**

John Morganelli: Support.

Josh Shapiro: Support. *“It makes no sense for a Pennsylvania resident who cannot lawfully purchase a handgun to be able to purchase a long gun. It should make no difference what type of gun it is. For the safety of our Commonwealth, the General Assembly must act to expand background checks to cover all guns sales, not just some”.*

Stephen Zappala: Support.

Joe Peters: No Response.

John Rafferty: No Response.

2. Maintain the Pennsylvania Instant Criminal Background Check System

Pennsylvania is a “*point of contact*” state, which means we utilize our own state background check system in addition to the federal background check system. Neither system is a registry of people who own guns. They are only a method of identifying people who are legally prohibited from purchasing firearms. The gun lobby wants to eliminate the Pennsylvania Instant Criminal Background Check System and have Pennsylvania rely only on the National Instant Check System. The Pennsylvania State Police believe Pennsylvania’s background check system successfully blocks gun sales to prohibited purchasers, contains more data than the federal system, and provides additional benefits to law enforcement agents. **Do you oppose or support the elimination of the Pennsylvania Instant Criminal Background Check System?**

John Morganelli: Oppose.

Josh Shapiro: Oppose. *“The PICS system plays an important role in both deterring straw purchases and sales to individuals who should not have guns, as well as in solving crimes. Our state system contains important data, like protection from abuse orders, which are not included in the national system. Pennsylvania should maintain its own system along side [sic] the national system to most effectively protect our citizens from gun violence”.*

Stephen Zappala: Oppose.

Joe Peters: No Response.

John Rafferty: No Response.

3. Increasing/Expanding Investigations and Prosecutions of Those Who Try to Purchase Firearms in Violation of the Law

Although the state and federal background check systems work to block prohibited purchasers, there is some evidence that those who try to buy firearms and fail a background check do not always face legal consequences. The PA State Police have been increasing investigations of failed attempts to purchase firearms. **Do you support or oppose expanding/increasing investigation and prosecutions of those who try to purchase firearms in violation of the law?**

John Morganelli: Support.

Josh Shapiro: Support. *“Violating laws that were put in place to protect the public is a serious offense and should be prosecuted. As Attorney General, I will prioritize prosecuting purchasers who fail their background checks. I’ll work closely with the State Police and District Attorneys to prosecute people who violate these laws, particularly those who are career criminals”.*

Stephen Zappala: Support

Joe Peters: No Response.

John Rafferty: No Response.

Expanding the Tools Available to Law Enforcement to Stop Trafficking and Illegal Possession

4. Reporting lost or stolen firearms to the police.

Lost or stolen reporting is a reform designed to crack down on the major sources of crime guns: loss, theft, and straw purchasers – people who buy guns and then sell them illegally to prohibited purchasers. By requiring missing firearms to be reported, police can begin looking for a lost or stolen gun before it winds up at the scene of a crime. In addition, if a gun that was already reported as lost or stolen is later used in a crime, the police do not need to waste valuable time questioning the original owner about the whereabouts of his gun. Finally, when police repeatedly trace crime guns back to an owner who claims each gun was “lost” but never reported, police may be able to flag a potential trafficker or straw purchaser. **Do you support or oppose statewide legislation requiring that gun owners report lost or stolen firearms to the police?**

John Morganelli: Support.

Josh Shapiro: Support. *“A requirement to report lost or stolen guns is just common sense. Requiring lost or stolen guns to be reported helps identify straw purchasers and saves police valuable time in the course of their investigations. Unfortunately, due to Act 192,*

many municipalities have repealed lost/stolen reporting requirements. A statewide reporting requirement would not be threatened by Act 192- if it were upheld by the Supreme Court- and would help law enforcement across the state solves crimes and keep communities safe. I supported this legislation when I served in the House and will advocate for it as Attorney General”.

Stephen Zappala: Support.

Joe Peters: No Response.

John Rafferty: No Response.

5. Gun Violence Task Force

In 2006, the PA Attorney General’s Office, working with the General Assembly, secured \$5 million for a Gun Violence Task Force in Philadelphia that focused on illegal gun trafficking and straw purchasers. Using existing state laws and aggressive investigative techniques, the Gun Violence Task Force has been a success, and its work has led to the arrest, prosecution and conviction of hundreds of offenders for illegal straw purchasing and gun trafficking. During recent budget crises, funding has been reduced, but many law enforcement officials believe the Task Force’s operations should be expanded, including to other regions of Pennsylvania, instead of being cut back. **Do you support or oppose expanding and funding the Task Force program to other jurisdictions in PA experiencing a gun violence problem?**

John Morganelli: Support.

Josh Shapiro: Support. *“Coordination and cooperation among law enforcement agencies is crucial to stopping gun violence. Those engaged in trafficking illegal guns don’t stay within certain county or state lines, and law enforcement must not either. As Attorney General, I will work to expand the work of the gun violence task force beyond the borders of Philadelphia to surrounding counties and other areas of the state where illegal gun sales are prevalent. Additionally, I will work to expand coordination of this task force with the U.S. Attorney’s office to share information and coordinate prosecutions that maximize penalties for the most serious offenders”.*

Stephen Zappala: Support

Joe Peters: "I support expanding the efforts of the Gun Violence Task Force focused on criminals and those who attempt to circumvent the law through straw purchases."

John Rafferty: No Response.

6. Punishing Local Authorities.

In 2014, the Pennsylvania Legislature enacted Act 192, which allows gun owners and gun organizations to sue towns and cities that enact local ordinances, even if those ordinances have not been enforced against that gun owner or organization – or against anyone at all. Act 192

completely redefined the meaning of legal standing to allow such lawsuits to proceed even in the absence of actual or imminent harm. Act 192 was struck down by the Commonwealth Court, and the question of its constitutionality is pending before the PA Supreme Court. **Do you oppose or support the reauthorization of the special standing provision of Act 192?**

John Morganelli: Oppose.

Josh Shapiro: Oppose. *“I support Attorney General Kane’s decision to refuse to defend this unconstitutional law and will continue that course of action. As Attorney General, I will use my bully pulpit to oppose efforts to reauthorize the special standing provision in the General Assembly”.*

Stephen Zappala: Oppose.

Joe Peters: No Response.

John Rafferty: No Response.

Measures to Ensure Safe Storage and Security of Firearms

7. Child Access Prevention

Child access prevention bills have been shown to be effective at reducing unintentional firearm deaths among children. Unlike many other states, Pennsylvania lacks any child access prevention laws that penalize adults who give children unsupervised access to firearms. Every year in Pennsylvania, there are tragic accidents and criminal shootings by children who have found guns in their own homes. **Do you support/oppose adopting child access prevention laws in Pennsylvania?**

John Morganelli: Support.

Josh Shapiro: Support. *“Keeping our children safe is every parent’s top priority and will be a top priority of mine as Attorney General. Laws like these are an effective and important way to prevent accidents and other tragedies that occur when children have unsupervised access to firearms. I support this legislation and will advocate for it as Attorney General”.*

Stephen Zappala: Support.

Joe Peters: No Response.

John Rafferty: No Response.

Concealed Carry Licensing

8. Concealed Carry Reciprocity

Pennsylvanians who wish to carry concealed firearms must apply to their local sheriff (or in Philadelphia, the Chief of Police) for a concealed carry license. In 1995, the Pennsylvania General Assembly gave the Attorney General the authority to enter into reciprocity agreements with other states providing for the mutual recognition of each state’s license to carry a firearm. Pennsylvania currently has formal written

reciprocity agreements with 18 states that recognize a valid license to carry issued by PA. PA recognizes valid firearms carry licenses/permits from those states. There are also other forms of reciprocity. In 2013, the Attorney General also made clear that any *Pennsylvanian* wishing to carry concealed in PA must obtain a valid PA license to carry and cannot rely on a license issued by another state.

a. As Attorney General, do you intend to continue the state by state review of reciprocity agreements or will you extend reciprocity to all other states?

John Morganelli: Continue state-by-state review.

Josh Shapiro: Continue state-by-state review. *“Reviewing reciprocity agreements is an important responsibility of the Office of Attorney General. It is imperative that we only have agreements with those states that have similarly stringent laws on the books and that these agreements are not used as back doors to allow Pennsylvanians who cannot carry handguns under our state’s laws to do so via another state’s license. I will keep the Florida Loophole closed and close other loopholes that arise out of changes in law in other states”.*

Stephen Zappala: Continue state-by-state review.

Joe Peters: No Response.

John Rafferty: No Response.

b. As Attorney General, do you intend to maintain the requirement that PA residents must obtain a PA license to carry or will you allow Pennsylvanians to carry concealed if they have obtained a license from another state with whom PA has reciprocity?

John Morganelli: Maintain the requirement.

Josh Shapiro: Maintain the requirement.

Stephen Zappala: Maintain the requirement.

Joe Peters: No Response.

John Rafferty: No Response.

9. Candidate’s Proposed Actions to Reduce Gun Violence

Please explain how you would use the power of the Office of Attorney General to promote or advocate the reduction of gun violence. Please include in your response to this questionnaire any statements or press releases you have issued relating to gun violence and/or gun violence prevention.

John Morganelli: Mr. Morganelli did not respond to this question but attached several documents with his questionnaire which will be made available upon request to CeaseFire Pennsylvania.

Josh Shapiro: *“As Attorney General, I will take the following steps to go after illegal guns and reduce gun violence:*

**Expand the Gun Violence Task Force beyond the borders of Philadelphia.*

**Establish and implement model procedures for guns shows and gun ranges.*

**Prosecute prohibited purchasers who fail background checks.*

**Review concealed carry permit reciprocity agreements.*

**Increase awareness and simplify straw purchaser forms.*

**Expand background checks to cover sales of long guns.*

**Establish a statewide lost or stolen gun reporting requirement.*

**My campaign is developing a policy paper on stopping illegal guns and reducing gun violence which we will be releasing soon”.*

Stephen Zappala: *“As Attorney General, I will do what I have done as Allegheny County’s District Attorney for 18 years. I will vigorously enforce law [sic] current gun laws, as well as any new ones that the legislature may pass. I have set a policy in my office that crimes involving guns are not eligible for a plea bargain to a lower charge without approval from me or a Deputy District Attorney. I joined CeaseFire’s effort’s [sic] for lost or stolen hand guns reporting requirement, and I anticipate working with CeaseFire in the future”.*

Joe Peters: No Response.

John Rafferty: No Response.