



## **CeaseFire Pennsylvania Report on 2016 Candidates for United States Senate**

### **Introduction**

CeaseFire Pennsylvania<sup>1</sup> 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](http://www.ceasefirepa.org).

**CeaseFire Pennsylvania wants the public to know where the candidates for United States Senate 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 political 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 regulation of research about gun violence. We analyzed the responses, and have prepared this Report.

Three candidates – all Democrats -- submitted responses – John Fetterman, Katie McGinty and Joe Sestak. Their responses are provided and analyzed in this report. 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.

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<sup>1</sup> 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.

Two candidates declined to respond: incumbent Republican Senator Pat Toomey and Democratic challenger Joseph Vodvarka<sup>2</sup>. Each of these candidates confirmed that they received the questionnaire. Mr. Toomey’s campaign notified us that he does not respond to questionnaires, and although Mr. Vodvarka informed us he would try to submit a response, he has not done so. In the analysis that follows, they are listed as No Response. CeaseFire Pennsylvania is disappointed that these candidates chose not to inform the public about their positions on such a critical issue.

## **Gun Violence in the United States and Pennsylvania**

According to Centers for Disease Control found, in 2015, there were 34,461 deaths by firearm in the United States. This number includes homicides, suicides and accidental or reckless or negligent shootings. The annual average number of non-fatal shootings in the United States is 75,962.

The Centers for Disease Control data also shows that 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. CeaseFire Pennsylvania therefore believes that the Second Amendment would not bar the lawful enactment of these proposals. While CeaseFire Pennsylvania primarily pursues policy change at the state level, we do believe that some changes are needed to federal law. Thus, we pursue expansion of both the federal and state background check systems, and also work for effective penalties for trafficking at the state and federal levels. Some problems do require federal solutions – such as removing the barriers to federal and federally-funded research about gun violence and gun violence prevention, expanding the use of ATF trace data, and

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<sup>2</sup> On March 30, 2016, the Pennsylvania Commonwealth Court granted a petition to remove Mr. Vodvarka from the ballot. As of this writing, Mr. Vodvarka had not decided whether or not to appeal.

amending the federal law that prohibits lawsuits against gun manufacturers and gun dealers. Our questionnaire covers all of these topics.

## **Conclusions**

Based on our questionnaire results, we believe that voters in the Democratic primary can choose from three candidates who promise to be leaders on the critical issue of gun violence prevention. John Fetterman, Katie McGinty, and Joe Sestak each has unique experiences to bring to the office of U.S. Senator. Mr. Fetterman is the mayor of a small town in Western Pennsylvania that has suffered poverty and gun violence. Ms. McGinty has significant executive branch experience – at the state and federal levels. Mr. Sestak has a long and distinguished military career and represented PA in the U.S. House of Representatives.

Because each of the candidates fully supported the proposals presented, CeaseFire Pennsylvania is not endorsing one over the others. We are pleased that each sees the importance of gun violence prevention and was willing to make his or her views available to the public.

Although Senator Toomey did not respond to the survey, we can share some information about his record representing PA in the Senate. Senator Toomey co-sponsored and even attached his name to our top federal priority – expanding the federal background check system to cover more firearms sales – in 2013 and again during a vote in late 2015. He was one of four Republican Senators to vote in favor of that bill. As to other proposals raised in the questionnaire, Senator Toomey has a more mixed record. He voted against the Terror Gap bill we supported in 2015, though he voted for a different version, and he has cosponsored a national concealed carry reciprocity bill that we oppose.

We are disappointed that the Senator did not take the opportunity to provide information about his views to the voters, even failing to take advantage of an open ended question asking what he would do to reduce gun violence. We hope that the Senator, who is uncontested in the primary, will be more willing to answer questions about his views on gun violence prevention in advance of the General Election.

In sum, we are not endorsing candidates in either the Democratic or Republican primaries for Senate.

## 2016 CeaseFire Pennsylvania Questionnaire and Candidate Responses

### Keeping Firearms Out of the Hands of Prohibited Purchasers

#### 1. Expand the Background Check System to Cover Private Sales, as proposed in the 2013 Manchin-Toomey bill.

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. However, private sales are exempt from the federal background check system and left to the states to regulate. Some states require background checks on all private sales; others, like Pennsylvania, require background checks only for the private sale of handguns; and still others leave private sales unregulated. In 2013, Senators Joe Manchin and Pat Toomey authored legislation that would bring many more of these commercial, private sales within the background check system. **Do you support or oppose such legislation?**

**John Fetterman:** Support.

**Katie McGinty:** Support.

**Joe Sestak:** Support.

**Pat Toomey:** No Response.

**Joseph Vodvarka:** No Response.

#### 2. Closing the Terror Gap

Current federal law prohibits nine categories of dangerous people from purchasing or owning firearms. However, a significant gap allows suspected or known terrorists in the United States to legally buy guns. This gap is known as the Terror Gap, and it means that terror suspects who are barred from flying on planes can still buy guns. The Denying Firearms and Explosives to Dangerous Terrorists Act was introduced in 2015. The bill defines a terror suspect as any person who is known or suspected to be involved in preparing for or providing support for terrorism. This bill would: give the U.S. attorney general the discretion to block gun sales to terror suspects; give the U.S. attorney general the discretion to deny or revoke a federal firearms license if a gun dealer is known or suspected to either be assisting in or providing weapons to be used to commit acts of terrorism; and provide a process for people erroneously denied a gun on this basis to seek to have that determination reversed and their gun rights restored. **Do you support or oppose such legislation?**

**John Fetterman:** Support.

**Katie McGinty:** Support.

**Joe Sestak:** Support.

**Pat Toomey:** No Response.  
**Joseph Vodvarka:** No Response.

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

### **3. Enact a federal law that criminalizes trafficking.**

Currently, there is no law that explicitly makes straw purchasing a crime, and it is only unlawful to traffic a firearm if the transferor had actual knowledge that the firearm would be used in connection with a crime. Gun traffickers exploit the loopholes in federal law by purposefully purchasing guns to resell or transfer them without background checks. The Stop Illegal Trafficking in Firearms Act of 2016 would: establish new Federal criminal offenses to prohibit and punish the straw purchasing of firearms and the trafficking of firearms; criminalize smuggling firearms *out of* the United States to complement existing laws criminalizing the smuggling of firearms *into* the United States; strengthen existing law regarding the transfer of guns to prohibited persons, and ensure that the law prohibits the sale of guns and ammunition to people who intend to turn around and transfer them to criminals. **Do you support/oppose enacting a federal law criminalizing trafficking?**

**John Fetterman:** Support.

**Katie McGinty:** Support.

**Joe Sestak:** Support.

**Pat Toomey:** No Response.

**Joseph Vodvarka:** No Response.

### **4. Strengthening Protections for Domestic Violence Survivors**

Federal law prohibits the purchase and possession of firearms and ammunition by persons who have been convicted in any court of a “misdemeanor crime of domestic violence” and/or who are subject to certain domestic violence protective orders. Federal law defines a “misdemeanor crime of domestic violence” as an offense that is a federal, state or tribal law misdemeanor and has the use or attempted use of physical force or threatened use of a deadly weapon as an element. However, domestic violence affects persons in relationships that fall outside the protections of federal law. For example, dating partners are not within the federal prohibitions unless the partners are/were cohabitating as spouses and/or have a child in common. In addition, misdemeanor stalking is not one of the criminal convictions that disqualifies someone from possessing a firearm under federal law. By extending current firearms prohibitions to abusive dating partners and those convicted of misdemeanor stalking, we can keep guns out of dangerous hands and improve the safety of women and families. **Do you support or oppose strengthening federal law to further protect domestic abuse survivors from their abusers and make it harder for those abusers to obtain firearms?**

**John Fetterman:** Support.  
**Katie McGinty:** Support.  
**Joe Sestak:** Support.

**Pat Toomey:** No Response.  
**Joseph Vodvarka:** No Response.

## High Capacity Magazines

### 5. Limiting High Capacity Magazines

Automatic and semi-automatic firearms often use a detachable magazine or feeding device to store cartridges (which hold ammunition). Although the statutory definitions vary, magazines with a capacity of more than 10 rounds of ammunition are generally considered to be “high capacity” magazines. Because of their ability to hold so many rounds of ammunition, high capacity magazines significantly increase the lethality of the automatic and semi-automatic firearms with which they are used. **Do you support or oppose imposing a federal limit on magazine capacity?**

**John Fetterman:** Support.  
**Katie McGinty:** Support.  
**Joe Sestak:** Support.

**Pat Toomey:** No Response.  
**Joseph Vodvarka:** No Response.

## Carrying of Firearms

### 6. National Reciprocity of Concealed Carry Laws

Currently, each state determines how/whether to issue licenses or permits to carry concealed firearms. Each state also has the right to recognize or refuse to recognize licenses and permits issued by other states. States can negotiate reciprocity agreements with other states or establish reciprocal recognition by statute. But states also can refuse to allow visitors from other states to carry concealed using an out-of-state license or permit. There has been an ongoing effort to pass a federal reciprocity law so that every state would be required to recognize and allow use of concealed carry licenses or permits issued by other states. This would undermine state law and local authority to determine who should have the right to carry concealed. **Do you oppose or support national reciprocity for concealed carry?**

**John Fetterman:** Oppose.  
**Katie McGinty:** Oppose.  
**Joe Sestak:** Oppose.

**Pat Toomey:** No Response.  
**Joseph Vodvarka:** No Response.

### 7. Limits on Funding for Research about Gun Violence

In 1996, the Dickey Amendment, named for Congressman Jay Dickey was enacted, providing that "none of the funds made available to injury prevention and control at the Centers for Disease Control and Prevention may be used to advocate or promote gun control." Not knowing exactly what this would cover and reluctant to risk losing funding, many CDC researchers and CDC-funded researchers avoided gun violence prevention research. As a result, unlike areas like automobile accidents and drug and alcohol use, research and critical progress has been delayed if not stunted into the public health crisis that is gun violence. **Do you support or oppose eliminating or amending this restriction in annual budgets?**

**John Fetterman:** Support.

**Katie McGinty:** Support.

**Joe Sestak:** Support.

**Pat Toomey:** No Response.

**Joseph Vodvarka:** No Response.

## **Limits and Restrictions on ATF and FBI Activity**

### **8. Repeal/Amendment of the Tiahrt Amendments**

Since 2003, the Tiahrt Amendments, named for Congressman Todd Tiahrt, are provisions that have been attached to U.S. Department of Justice appropriations bills to significantly restrict law enforcement's ability to investigate gun crimes and prosecute unscrupulous gun dealers. The Amendments currently: prohibit/restrict the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) from releasing firearm trace data for use by cities, states, researchers, litigants and members of the public; require the Federal Bureau of Investigation to destroy all approved gun purchaser records within 24 hours; and prohibit ATF from requiring gun dealers to submit their inventories to law enforcement. **Do you support or oppose eliminating or amending the Tiahrt amendments?**

**John Fetterman:** Support.

**Katie McGinty:** Support.

**Joe Sestak:** Support.

**Pat Toomey:** No Response.

**Joseph Vodvarka:** No Response.

### **9. Repeal or Amendment of the Protection from Lawful Commerce in Arms Act**

In 2005, Congress passed the Protection of Lawful Commerce in Arms Act (PLCAA) which provides broad immunity to gun manufacturers and dealers in federal and state court. Generally speaking, the PLCAA prohibits "qualified civil liability actions," which are defined as civil or administrative proceedings which "result[] from the criminal or lawful misuse" of firearms or ammunition. There are six exceptions to the immunity, and some of these have been interpreted to allow certain actions to proceed, but generally PLCAA shields gun manufacturers and dealers

from the types of lawsuits that all other industries face as a regular matter of doing business. **Do you support or oppose repealing or amending PLCAA?**

**John Fetterman:** Support.

**Katie McGinty:** Support.

**Joe Sestak:** Support.

**Pat Toomey:** No Response.

**Joseph Vodvarka:** No Response.

## **10. Candidate's Proposed Actions to Reduce Gun Violence**

Please identify any additional steps or actions you would take, promote or advocate to reduce 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 Fetterman:** Until Congress can get its act together and get common sense gun control passed, in the meantime, we need to look for other solution that help tackle gun violence. As a U.S. Senator, I would advocate for gun buyback programs that encourage getting guns off the street while also providing job training and employment opportunities. This is not a perfect solution, but it's at least a step in the right direction in terms of getting weapons out of people's hands and breaking the cycle of violence by giving people opportunities and tools for employment that they wouldn't have otherwise. My community, which is 80% African American and home to inequality, was a testing ground for the Guns for Opportunities program. Sponsored by the Boilermakers Union, the program offered welding training and union membership in exchange for turning a gun over to police. It also offered access to substance abuse treatment. Unfortunately the program ceased, but it helped about 70 percent of its 83 participants pursue welding training. This program was run entirely by the Boilermakers, but if the government established or at least helped facilitate similar programs, we could really make a difference in regards to public safety and socioeconomics.

I would also advocate for community-based policing guidelines and programs, which can help reduce gun violence. I have always adhered to the strong belief that a stronger, healthier, safer community is only made possible through ethical community-based policing. When I first moved to Braddock, it was common to hear gunshots at night, but now it's highly unusual. I worked with the police chief to develop and practice best practices of community policing in Braddock, and because of our efforts, we made tremendous strides in breaking the cycle of violence in our community- we went almost six years without the taking of a life. We have a transparent complaint process and making an arrest is the most undesirable outcome. Our ideal is that law and order is maintained and everyone walks away with their dignity intact. There is no one-size-fits-all solution to this issue, but as a U.S. Senator, I will push for legislation that requires communities to establish a system that keeps both officers and community members accountable.

**Katie McGinty:** This issue goes beyond politics. We must not allow the gun lobby to continue to dictate and decide our laws. It is past time for Congress to pass



commonsense reforms like expanding background checks to include firearms purchased at gun shows and other private sales and closing loopholes that allow the mentally ill or those on the terrorist watch list to buy firearms. But we must also do more. As Senator, I'll support banning military style weapons and armor piercing bullets. I will also support more federal investment in gun safety research-like research into smart gun technology.

**Joe Sestak:** The campaign asked that we draw attention to two press releases and a document [the campaign] created comparing his positions vs. Senator Toomey's. Those support documents will be made available upon request to CeaseFire Pennsylvania.

**Pat Toomey:** No Response

**Joseph Vodvarka:** No Response