

*Democracy for Pittsburgh//Democracy for America,
<http://pghdfa.org/>*

**Responses of Doug Shields:
Candidate for Magisterial District Judge, District 05-2-35
7th and 14th Wards of the City of Pittsburgh**

Judicial / **Magisterial offices:**

I. Privacy, openness, and accountability: Judicially, what tools are available to you to encourage a) greater openness in public information b) appropriate privacy of private information and c) professionalism and accountability of all city employees, most specifically police and emergency responders?

Matters of disclosure of public information are properly pursued in the Courts of Common Pleas and would not generally come before a Magisterial District Judge (MDJ).

For 19 years, I've drafted, sponsored and enacted laws in City Council, that promote a more open and accessible government – including ease of access to public documents and campaign finance reform to an updated ethics code and programs to deal with domestic violence in the police ranks as well as the general workforce of the city.

As to matters of privacy and civil rights generally, I helped to craft a city law to give clear guidelines for security camera use while garnering approval by the ACLU. I also succeeded in defeating the “G20 Civil Rights Bills” that were overly broad in their scope and were clearly intended to dampen free speech and lawful assembly.

It is the duty of all Courts to insure these and all laws are properly administered. It is the Court's duty to insure the accused (be they public employee or private citizen) is treated fairly, without bias, and accorded lawful due process.

See:

Finance reform: <http://www.post-gazette.com/pg/09120/966661-53.stm>

Security Camera Privacy: <http://www.post-gazette.com/pg/08177/892333-53.stm>

<http://www.post-gazette.com/pg/08265/913859-52.stm>

Ethics: <http://www.post-gazette.com/pg/08350/935231-52.stm>

Domestic Violence: <http://www.post-gazette.com/pg/07339/839160-52.stm>

G-20: <http://www.post-gazette.com/pg/09252/996772-100.stm>

Open records: <http://blogs.sites.post-gazette.com/index.php/opinion/open-letters/12016-citizens->

benefit

II. Public-private partnerships: are there legal limits to a municipality or county's ability to sign away its public space via economic partnership agreements? How does one balance the legitimate desire of groups to protest and / or inform the public, vs. the public (or an individual's) right to not be bothered / harassed? Does it make sense to have a blanket ban on approaching people on the sidewalks in Schenley plaza, but not (e.g.) the sidewalks in the vicinity of certain medical providers?

There are clear legal limits to assignment of land and/or other property held in the public trust to private interests. There are also other factors to consider.

For instance, can the Zoo, a public/private non-profit partnership, or PNC Park, a public/for-profit operated facility set forth conditions for entry that might in some way limit speech? The answer is yes and those conditions may be expressed upon the back of the ticket or in the agreements between the city and another non-city entity.

In cooperation with the Women's Law project, I introduced and secured passage of legislation that balances the competing interests of free speech and harassment. The Ordinance is known as the "the Bubble/Buffer Zone law". The ordinance was upheld after prolonged Federal Court 1st Amendment challenge.

I know of no such thing in the law that could be termed a "*blanket ban*" on free speech whether it is in front of an abortion provider or in a public/private park. While some may assert there are such "*blanket bans*" or other severe limitations on speech, the Courts generally do not support such "*blanket bans*."

See: http://www.womenslawproject.org/NewPages/wkRepro_policyBufferZones1.html
<http://www.post-gazette.com/pg/05337/616698-53.stm>
<http://www.post-gazette.com/pg/11040/1123998-53.stm>

III. "Freedom from" vs. "freedom to": what legal issues do you expect to address in terms of Marcellus shale or other extractive industries? Are certain of these conflicting freedoms / protections more nearly absolute than others?

An MDJ's involvement in extraction of minerals matters would be limited to situations resulting in criminal arraignments and preliminary hearings for violations of state environmental statutes or other related summary offenses (i.e., vehicular violations) or civil actions involving less than \$12,000.

Additionally, I introduced a bill in Council that became the first ordinance ever adopted by any city to ban hydro-fracking extraction of shale gas.

See:

WaterHauler Charged http://www.pittsburghlive.com/x/pittsburghtrib/news/s_728002.html

Frack Ban: <http://www.yesmagazine.org/people-power/pittsburg-bans-natural-gas-drilling>
<http://www.post-gazette.com/pg/10321/1103877-53.stm>

IV. Magistrates, common pleas judges and commonwealth court judges may all deal with family law issues. Insofar as it applies to your office, please address any / all of the following: a) What is your position on rights for minors with regard to issues like abuse, reproductive issues, and emancipation? B) What are your views on the court precedent of preferentially awarding majority custody to the mother? C) Do you feel step-parents should have any legal rights with regard to the step children they parent? Does this apply equally regardless of the gender of either / both parents?

A. Minors, by law, are ultimately wards of the state. The state has the duty to insure that a child's health and well-being are maintained. Minors do have limited rights, (e.g., petition the Courts for emancipation or to seek permissions beyond the custodial parent(s) to obtain medical procedures). To that end, any Court is duty bound to look to the best interests of the minor child. Each case must be judged on their merits.

B. Again, a particular social bias should not be the determining factor in any award of custody. Bias has no place in a court of law. The Courts should follow the "*best interest of the child*" doctrine and look to the facts of the matter in making a determination as to what the "*best interest*" should be.

C. The question of "*should have legal rights*" is a matter for state legislatures to determine. A Court of law can determine who would best have custody of a minor. A person that is a "*step parent*" is not disqualified per se.

However, parental rights are not easily set aside either. In that regard, a Court has the discretion to make a judgment based upon the facts, what the law provides for and, what is in the best interest of the child.

[http://www.law.upenn.edu/journals/conlaw/articles/volume3/issue2/OConnor3U.Pa.J.Const.L.573\(2001\).pdf](http://www.law.upenn.edu/journals/conlaw/articles/volume3/issue2/OConnor3U.Pa.J.Const.L.573(2001).pdf)

V. Since 2007, we have been asking candidates whether the “for profit” incarceration model suffers from an intrinsic conflict of interest. (That is, the prison will do better, financially, by increasing sentence lengths and by increasing recidivism, rather than by rehabilitating inmates.) Given the highly publicized kickback scandal involving for-profit youth prisons, we are instead stating that this is an actual, not a potential problem. What do you pledge to do about it, both in office if elected, and personally? Also, are mandatory sentencing guidelines part of the solution, or part of the problem?

As a legislator I have generally looked upon the outsourcing of governmental functions with disfavor for a variety of reasons, not the least of which is the increased potential for influence peddling and public corruption. I’ve also seen outsourcing functional costs higher than those done in-house. Such was the case with the attempted privatization of the city refuse collection. There are appropriate instances for outsourcing. Suffice to say, out-sourcing is not the panacea some would say it is.

We as citizens, all of us, have a responsibility to insure our inalienable constitutional rights are not infringed upon or placed secondarily to some private or other vested interest.

I believe that the Courts should be provided discretion in sentencing. It is at the heart of a Judges job.

A range of term (*not less than and not more than*) is more appropriate. Each case has its own particular set of facts and degrees of guilt.

A recent bill to create a city ordinance for a summary offense contained a stiff mandatory penalty. I couldn’t support it in committee. After working with both City MDJ’s, (who as a group counseled against the rather stiff mandatory penalty) and the bills sponsor, we were able to replace the mandatory penalty with an appropriate range of penalty for the MDJ to impose. There is much utility in that approach.

I’m of the belief that Judges are, as a finder of fact, the appropriate person to impose an appropriate sentence. Minimum and maximum *ranges* of sentences are preferred to the one size fits all mandatory sentence. However, I am also mindful of the fact that establishment of a legal penalty is ultimately in the hands of the legislative branch of government.

See:

<http://blogs.sites.post-gazette.com/index.php/home/archives/19041-unjust-ruling-when-the-sentence-doesnt-fit-the-crime>

<http://aclu.procon.org/view.answers.php?questionID=000731>

For all offices: Answers should be ~50-300 words, and focus on whatever aspect of the question is most relevant for your specific office. You may also submit a candidate statement / press release and/or a link to a public YouTube statement. Your response can be in the form of e-mail text or an attached .doc, .rtf, .txt or .pdf file.

You must include a statement saying who is doing the actual e-mailing, and that the answers are in their final form, as approved by the candidate.

Voting will be by absentee ballot, by active DFP members (those who have attended two or more meetups or official DFP events in the last 12 months). Answers are due by e-mail to JFSABL@GMAIL.COM with a cc to maria.lupinacci@gmail.com, by March 17, 2011. You will receive a confirmation (or reminder) on or around March 18th, 2011. There is no explicit penalty for late submission. However, absentee voting will open on March 18th; so if you want all the endorsing members to see your responses, get them in by the deadline.