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SOLICITOR'S OPINION

The question presented is whether an elected Coroner is entitled to retain a solicitor to provide direction and advice independent of the county solicitor of that particular Coroner's jurisdiction.

A Coroner in Pennsylvania is permitted to have an independent solicitor. The authority is set forth at 16 Pa.C.S. Sec. 12316, which states that a Coroner may appoint a solicitor licensed to practice law in Pennsylvania, and may be either an individual lawyer or a law firm. The statute provides that the solicitor is tasked with advising on legal matters and conducting litigation as requested by the Coroner. This statute applies only to counties of the third through eighth class.

The statute also sets forth that the solicitor holds office at the pleasure of the Coroner, and the county commissioners may appropriate funds for the solicitor's payments. (16 Pa.C.S. Sec 12316 [2]).

In counties of the second class, the solicitor is compensated through funds generated by the office, and not through the general fund, and the compensation is determined by the county's salary board (16 Pa.C.S. Sec. 7301). The statute does not address first class counties (Philadelphia).

In ***Ballou v. State Ethics Commission,*** 496 Pa. 127 (1981), the Pennsylvania Supreme Court recognized the right of a coroner to retain an independent solicitor, and addressed the duties of the solicitor as advising the coroner on legal matters and conducting litigation related to the Coroner's office when request.

While the statute may appear to be discretionary, ***Ballou*** determined that it was a matter of right. As such, every Coroner, except for the Philadelphia Medical Examiner, is entitled to retain and engage an independent solicitor. It further appears that funding is through Coroner's office fees in second class counties, and from the general fund in all other counties.

Respectfully submitted,

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