



A REPORT  
TO THE  
ARIZONA LEGISLATURE

Financial Audit Division

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Procedural Review

## **Maricopa County**

Racketeer Influenced and Corrupt  
Organizations (RICO) Monies

January 1, 2008 through April 30, 2010

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**Debra K. Davenport**  
Auditor General

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AUDITOR GENERAL

**STATE OF ARIZONA**  
OFFICE OF THE  
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**WILLIAM THOMSON**  
DEPUTY AUDITOR GENERAL

November 15, 2010

Richard M. Romley  
Interim Maricopa County Attorney  
301 West Jefferson Street, Suite 800  
Phoenix, AZ 85003

Dear Mr. Romley:

Transmitted herewith is a report of the Auditor General, a Procedural Review of the Maricopa County Racketeer Influenced and Corrupt Organizations (RICO) Monies. This report is in response to your April 21, 2010, request. The review was conducted under the authority vested in the Auditor General by Arizona Revised Statutes §41-1279.03.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on November 16, 2010.

Sincerely,

Debbie Davenport  
Auditor General

Attachment

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# INTRODUCTION & BACKGROUND

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The Racketeer Influenced and Corrupt Organizations (RICO) Act allows law enforcement agencies to seize cash and property used in criminal enterprises. Such crimes, known as racketeering activity, include bribery, extortion, money laundering, counterfeiting, gambling, murder, arson, robbery, kidnapping, smuggling of human beings, obstruction of justice, and terrorism.

Arizona Revised Statutes (A.R.S.) §§13-2314.01 and 13-2314.03 require all monies and the proceeds from the sale of property seized under RICO laws by state and local law enforcement agencies to be deposited with either the Arizona Attorney General or the local county attorney, based on the agency's discretion. RICO monies deposited with the Arizona Attorney General's Office or local county attorneys are held for the benefit of the law enforcement agency or agencies responsible for the seizure. The Maricopa County Attorney's Office (Office) has established a RICO fund and holds RICO monies for itself and more than 25 local law enforcement and state agencies.

State statute and federal laws allow monies seized under the RICO laws to be used for various law enforcement purposes including gang prevention programs, substance abuse prevention programs, substance abuse education programs, witness protection, purchase of law enforcement equipment, law enforcement training, and activities to enhance future investigations. In addition, these monies may be used for the investigation and prosecution of any racketeering offense.

From January 1, 2008 through April 30, 2010, approximately \$51 million was deposited into the RICO Fund, of which nearly \$14 million was for the Office. Further, the Office spent approximately \$8.9 million of RICO monies and disbursed approximately \$24.4 million back to state and local law enforcement agencies. The remaining RICO monies have yet to be spent.

## Scope and methodology

In April 2010, the Interim Maricopa County Attorney requested that the Office of the Auditor General conduct a financial audit of the RICO accounts handled by the Office from January 2005 through April 2010. In response to this request, we performed a

review over the Office's internal controls and compliance with state laws and regulations applicable to the use of its RICO monies for the period January 1, 2008 through April 30, 2010. We had previously performed a procedural review over the County's administration and use of RICO monies for the period July 2005 through December 2007. The results of that review are documented in the Maricopa County Single Audit Report for the Year Ended June 30, 2008.

During the course of the current review, auditors made inquiries of office staff, reviewed the Office's policies and procedures, and examined, on a test basis, accounting records and related documents. Specifically, auditors examined the following:

- 32 cash receipts to determine that the Office properly deposited RICO monies into the correct jurisdiction's account;
- 54 expenditures, including 4 expenditures for community-based programs, to determine that RICO monies were spent in accordance with RICO laws and regulations; and
- 2 reports to evaluate the Office's compliance with RICO reporting requirements outlined in statutes.

## Conclusion

Based on the results of our test work, the Office's internal controls were sufficient to ensure that cash receipts were properly deposited into the RICO Fund and that reports detailing the use of RICO monies were submitted timely and contained all information required by statutes. In addition, internal controls were sufficient to ensure monies were spent in accordance with RICO laws and regulations, except for monies expended for community-based programs (substance abuse and gang prevention and intervention programs). For the community-based programs, internal controls must be improved to ensure that monies are only awarded for allowable programs and those monies expended by community agencies are properly monitored. The deficiencies noted are described in the finding that follows. These deficiencies are similar to those noted in the Office of the Auditor General's previous report over RICO monies (Financial Audit Division, Maricopa County Single Audit, Year Ended June 30, 2008, Finding 08-11).

# FINDING

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## Strengthening procedures over community-based programs will help the Office properly administer RICO monies

A.R.S. §13-2314.03(E) allows monies in the RICO Fund to be used to fund gang prevention programs, substance abuse prevention programs, and substance abuse education programs or for any purpose permitted by federal law relating to the disposition of any property that is transferred to a law enforcement agency. According to the *U.S. Department of Justice's Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, federal law allows RICO monies to also be used for housing and job skill programs, or other programs or activities that are formally approved by the chief law enforcement officer. The Office awards up to 20 percent of its portion of RICO monies annually to private nonprofit community agencies, including local Boy Scout troops and local Boys and Girls Clubs, to provide services addressing substance abuse and gang prevention and intervention, deemed community-based programs. From January 1, 2008 through April 30, 2010, the Office awarded nearly \$1.3 million to approximately 100 community agencies. The awards ranged from \$1,558 to \$50,000, with an average award of \$10,000 and a typical award period of one year. The Office and the community-based programs would benefit from strengthened administrative procedures, including a more stringent award process, funding on a reimbursement basis, and appropriate monitoring.

### Changes to procedures would improve accountability

The Office has policies and procedures in place to guide its award of RICO monies to community agencies, but some changes would improve accountability.

**Programs need clear objectives**—The Office's policy states that community agencies seeking RICO monies must submit a proposal providing information about the intended community-based program, the individuals to be served, the expected outcome of the program, and a budget. In addition, if it receives RICO funding, the community agency must sign a Memorandum of Understanding (MOU) that states the intended use of the monies in relation to gang prevention programs, substance

abuse prevention programs, and substance abuse education programs. The RICO Community Grant Committee, which typically comprises three office employees, reviews all requests for funding and makes recommendations to the Chief Deputy and County Attorney for approval.

However, the proposals and MOUs did not always include specific information regarding the intended use of RICO program monies. The proposals and the corresponding MOUs often described programs designed to teach life skills and character development, but did not indicate a clear objective of gang prevention, substance abuse prevention, or substance abuse education. For example:

- **Foster Children Program**—The community agency requested \$25,000 to provide foster children with encouraging role models and positive social interaction by holding monthly events, such as music, dance, sports, and holiday celebrations. The budget included salaries, sports equipment, music equipment, food, holiday and special events, transportation, and school supplies. The Office awarded \$5,000 to this program.
- **Family Thrift Store**—The community agency requested \$10,400 for a program to provide basic necessities of life, such as clothing and household items, to people who are at-risk and trying to better their lives. The budget consisted mostly of clothing. The program also made counseling sessions regarding the devastation of drug use available. However, the budget did not include counseling sessions. The Office awarded \$5,000 to this program.

The Office should strengthen its approval process of proposals and ensure that the RICO Community Grant Committee recommends only proposals that clearly define the program objectives for approval by the County Attorney. In addition, specific activities and items to be funded should be communicated to the community agency in the MOU. Also, if there were items included in the community agency's budget that are not allowable, it should be communicated in the MOU.

**Funding method needs revision**—Although the Office has policies regarding the funding of community-based programs, these policies were not followed and, based on its awarding process, were not adequate to ensure compliance with RICO laws and regulations. The policies allow programs to be funded for a one-time event or for a calendar year. If funded for more than a 6-month period, funding is to be provided on a quarterly basis. However, it was not clear in the policy if funding was to be provided on a reimbursement or advancement basis. For the four community-based programs examined, the Office gave the full award amount to the community agencies at the beginning of the award period even though the programs were funded for more than 6 months. This leaves the Office at risk that the programs may mispend the monies and not meet the objectives of RICO laws and regulations.



To alleviate this risk, the Office should consider incorporating the *U.S. Department of Justice's Guide to Equitable Sharing for State and Local Law Enforcement Agencies* (Guide) policies regarding community-based programs into its own policies. This Guide prohibits cash transfers to community-based programs, but instead recommends purchasing supplies, equipment, or services for eligible programs, or reimbursing such programs for eligible expenditures with valid, itemized receipts. Therefore, the Office should provide funding on a reimbursement basis and require receipts and other appropriate documents to ensure the monies were spent on the allowable items approved by the County Attorney's Office as outlined in the MOU. Alternatively, the Office could purchase the allowable items for the community-based programs.

**Monitoring is needed**—The MOUs required that the community agencies provide the County Attorney's Office with final program and financial reports for the community-based programs. However, the Office did not always receive the required reports to determine that award monies were spent on RICO activities. Specifically, for the four community-based programs examined, the Office did not receive required program and financial reports. For example, auditors noted the following problems:

- Two community agencies did not submit any reports.
- One community agency submitted a report, but the report did not indicate how the monies were used to support gang prevention, substance abuse prevention, or substance abuse education.

Consequently, the Office could not demonstrate that monies spent for these programs were in compliance with RICO laws and regulations because the awards were given in advance and there was no evidence of how the monies were spent. Further, because the program objectives did not always detail the specific use for the monies, it is imperative that the Office monitor these programs to ensure they meet objectives and that the expenditures were allowable under RICO laws and regulations. Final program and financial reports, including information such as the number of people served and how the expenditures helped to achieve the program objectives, will allow the Office to ensure that the program's intended outcome was achieved. The Office should obtain final program and financial reports from these community agencies and review the reports to ensure compliance with RICO laws and regulations. Depending on how the monies have been spent, the Office should consider recovering any RICO monies used for unallowable activities and items.

## Recommendations

The Office should improve accountability over RICO monies for community-based programs by:

- Ensuring the relationship between the program's intended use and outcome of gang prevention, substance abuse prevention, substance abuse education, or other approved programs is clearly defined in the MOU.
- Communicating to the community agencies in the MOU what specific activities and items are to be funded.
- Funding programs on a reimbursement basis for eligible expenditures with valid, itemized receipts or making purchases for the community-based programs.
- Requiring staff to reconcile reimbursement requests to submitted receipts.
- Reviewing receipts to ensure the monies spent were in accordance with RICO laws and regulations and the intended use as outlined in the MOU.
- Ensuring the program's intended outcome was achieved by obtaining and reviewing final program and financial reports. These reports should include information such as the number of people served and how the expenditures helped to achieve the program's objectives.

In addition, the Office should obtain final program and financial reports from previously funded community agencies and review the reports to ensure compliance with RICO laws and regulations. Depending on how the monies have been spent, the Office should consider recovering any RICO monies used for unallowable activities and items.

# COUNTY RESPONSE

COUNTY RESPONSE



# Maricopa County Attorney

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November 4, 2010

Ms. Debbie Davenport  
Auditor General  
2910 N. 44<sup>th</sup> Street, Suite 410  
Phoenix, AZ 85018

Dear Ms. Davenport,

On behalf of Rick Romley, County Attorney, I want to thank you for agreeing to audit the Maricopa County Attorney's Office RICO accounts. We appreciate the professionalism and diligence of your staff in undertaking this request.

We have reviewed the findings and recommendations contained in the report. The report found that internal controls relating to the administration of RICO funds are in place and that deposits were properly made, reports detailing the use of RICO funds were submitted timely and with sufficient detail, and monies were spent in accordance with RICO guidelines. However, internal controls relating to community-based program are in need of improvement.

The County Attorney's Office concurs with the recommendations and intends to implement the following in regards to each recommendation:

- Ensure the relationship between the program's intended use and outcome of substance abuse and gang prevention and intervention or other approved program is clearly defined in the MOU.

The County Attorney's Office will revise our guidelines and Memorandum of Understanding to give specific instruction to community-based programs of allowable uses and the need to document outcomes.

- Communicating to the community agencies in the MOU what specific activities and items are to be funded.

The County Attorney's Office will revise the MOU to include more detail regarding the activities and/or items (if the request is for specific items) that are funded. In addition, the Office will provide community-based programs a cover letter that details the activities approved for funding and the amount funded, as well as the proposed activities that were not authorized for funding.

- Funding programs on a reimbursement basis for eligible expenditures with valid, itemized receipts or making purchases for community-based programs.

The County Attorney's Office will review our guidelines to inform community-based programs that funding will be provided on a reimbursement model for any community-based program funded using federal RICO Funds as required under the U.S. Department of Justice *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*. At the request of community-based programs, the County Attorney's Office will continue to provide funding from state RICO funds on a cash advance basis. It's important to note that many community-based programs funded using RICO are small private non-profit agencies that may not have sufficient cash flow to allow for funding on a reimbursement model. For these agencies, the County Attorney's Office intends to provide quarterly or semi-annual funding contingent upon receiving reports adequately justifying that funds were expended in accordance with the guidelines.

While it is recommended that the Office actually make purchases for community-based programs, the Office does not have sufficient staff to meet this requirement. Reassigning staff to this function would detract from the Office's ability to administer the overall RICO program.

- Requiring staff to reconcile reimbursement requests to submitted receipts.

The County Attorney's Office will revise internal procedures to include the need to monitor reports to ensure that expenses were used in accordance with RICO guidelines. Additional funding may be withheld if community-based programs fail to submit reports and/or fail to use the funds in accordance with the MOU. The Office does not have adequate staff to review actual receipts from the many community-based programs funded using RICO.

- Reviewing receipts to ensure the monies spent were in accordance with RICO laws and regulations and the intended use as outlined in the MOU.

See the above response.

- Ensuring the program's intended outcome was achieved by obtaining and reviewing final program and financial reports. These reports should include information such as the number of people served and how the expenditures helped to achieve the program's objectives.

The County Attorney's Office will revise internal procedures to include the need to review final program and financial reports to ensure that funds were expended in accordance with the MOU. Community-based programs that fail to submit reports or do not provide adequate information may be not be eligible for continued funding.

The Maricopa County Attorney's Office is working on revising internal policies and protocols with the intention of finalizing them by mid-November. In addition, the Office is contacting programs funded in the past year to request past due reports. Once the reports are received, staff will review the reports to

ensure that funds were expended in compliance with RICO guidelines and, if all funds were not expended, to request that funds be returned.

We are grateful to the Office of the Auditor General and your staff for their time and effort to ensure that the County Attorney's Office is appropriately complying with RICO guidelines.

Sincerely,

Carol L. McFadden  
Executive Chief

cc: Richard M. Romley, Maricopa County Attorney  
Paul Ahler, Chief Deputy  
Bill McDonald, Administrative Services Division Chief  
Catherine Martin, MCAO Finance Manager

