

Pinal County Attorney's and Sheriff's Offices Anti-Racketeering Monies

Former Pinal County Attorney's and Sheriff's Offices failed to consistently follow established policies, procedures, and guidelines when awarding monies to community organizations

Review

January 2013 through
December 2016
Report 18-305

A Report to the Arizona Legislature

Lindsey Perry
Auditor General





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August 20, 2018

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor
State of Arizona

The Honorable Kent Volkmer, County Attorney
Pinal County

The Honorable Mark Lamb, County Sheriff
Pinal County

The Honorable Mark Brnovich, Attorney General
Office of the Attorney General

The Office of the Auditor General has conducted a review of Pinal County's use of anti-racketeering monies during the period of January 2013 through December 2016. During the review, we determined that the former Pinal County Attorney failed to follow his office's procedures and guidelines when awarding community outreach monies, and the former County Sheriff and county sheriff employees appear to have violated county conflict-of-interest policies. We have submitted this information to the Arizona Attorney General's Office for further review.

The review consisted primarily of inquiries, observations, and selected tests of internal control policies and procedures, accounting records, and related documents. The review was more limited than would be necessary to give an opinion on internal controls. Accordingly, we do not express an opinion on the effectiveness of internal controls or ensure that all deficiencies in internal controls are disclosed.

The Review Report describes our findings and recommendations resulting from this review. In addition, it includes a response from the Pinal County Attorney's Office and the Pinal County Sheriff's Office.

Sincerely,

Lindsey Perry, CPA, CFE
Auditor General



Pinal County Attorney's and Sheriff's Offices **Anti-Racketeering Monies**

CONCLUSION: The Office of the Auditor General has reviewed Pinal County's use of anti-racketeering monies during the period of January 2013 through December 2016. This report includes two findings that describe how former county officials did not follow established policies during that time period. Specifically, Finding 1 is related to the former County Attorney's failure to follow his office's procedures and guidelines when awarding community outreach monies, and Finding 2 is related to the former County Sheriff and county sheriff employees' potential violation of county conflict-of-interest policies. We have submitted this information to the Arizona Attorney General's Office for further review.

Former Pinal County Attorney did not always follow established procedures, ensure community organizations followed established guidelines, or appear to ensure awarded monies were always used for authorized purposes

Former Pinal County Attorney did not always follow established procedures and ensure that organizations followed established guidelines—During calendar years 2013 through 2016, the former Pinal County Attorney awarded almost \$2.4 million of his office's and the former Pinal County Sheriff's local anti-racketeering community outreach award monies to approximately 225 community organizations. We found that the former County Attorney did not always follow his own established procedures and did not always ensure that organizations followed the established guidelines before providing them community outreach award monies. Specifically:

- For 39 of the 82 awards reviewed, the County was unable to provide an application or written proposal from the community organizations that received the awards.
- For the 43 awards that included applications or written proposals directly from the community organization, the documentation was incomplete or had missing information.
- The County was unable to provide documentation to show that the Community Outreach Fund Committee evaluated the 82 awards as the procedures required.
- For 77 of the 82 awards, the County was unable to provide a memorandum of understanding between the community organization and the former Pinal County Attorney outlining the agreement terms as the procedures required. Accordingly, the uses of the awarded monies could not be determined.

Local anti-racketeering community outreach award monies—Monies awarded to nonprofit community organizations intended to support authorized purposes of substance abuse prevention and education and gang prevention efforts. These monies result from forfeitures to law enforcement agencies related to racketeering crimes committed for financial gain.

Former Pinal County Attorney appears to not have monitored community organizations to ensure awarded monies were used for authorized purposes—For 75 of the 82 community outreach awards reviewed, it appears the former Pinal County Attorney did not monitor the community organizations' expenditures to ensure monies were used for authorized purposes directed at substance abuse prevention and education or gang prevention and to ensure the return of any unspent monies. For example, monies were spent on unauthorized purposes such as appreciation events for county sheriff employees and their families and construction of a church dance studio.

Recommendations

The current County Attorney has ended the prior administration's Community Outreach program when he took office on January 3, 2017. The County Attorney's Office has continued to award anti-racketeering monies to community organizations through a new set of procedures.

To help ensure the County Attorney's Office has an effective internal control system over awarding anti-racketeering monies, it should develop and implement procedures that require reviewing and approving all award requests.

The County Attorney should develop and implement controls to monitor community organizations' use of anti-racketeering awards to ensure they are used for authorized purposes, and require organizations to return unexpended monies or monies used for unauthorized uses.

Former Pinal County Sheriff and county sheriff employees appear to have violated conflict-of-interest policies when they participated in the award of community outreach monies to a community organization and failed to disclose their level of control over that organization's disbursement of those awarded monies

Former County Sheriff and county sheriff employees' should have disclosed conflict of interest and abstained from involvement in award decisions—Of the nearly \$2.4 million in local anti-racketeering community outreach awards approved by the former County Attorney from January 2013 through December 2016, the Arizona Public Safety Foundation (Foundation) received 31 awards totaling \$683,406, the largest amount awarded to any community organization. County sheriff employees have historically been involved in the Foundation's business by doing such things as holding board officer positions, performing accounting functions, approving transactions in several expense categories, and holding foundation credit cards in their names. The former County Sheriff, county sheriff employees, or county attorney employees had initiated \$230,000 of the \$683,406 in community outreach awards on the Foundation's behalf, contrary to the County Attorney's established procedures. After the Foundation received those awarded monies, the former County Sheriff or county sheriff employees controlled the Foundation's \$205,625 in disbursements. However, despite the former County Sheriff and county sheriff employees having a substantial level of involvement in how the Foundation used the monies, they appear to have failed to disclose their conflict of interest in Pinal County's records, contrary to county policy.

Former Pinal County Sheriff and county sheriff employees disbursed \$151,645 of community outreach award monies for unauthorized purposes benefiting former Pinal County Attorney and former Pinal County Sheriff programs—By using the Foundation to make these disbursements, the former County Sheriff and county sheriff employees bypassed the County's purchasing procedures requiring levels of approval for processing transactions. Specifically, the former County Sheriff and county sheriff employees approved and disbursed \$87,873 for the former County Sheriff's morale, welfare, and recreation program for payments of donations to nonprofit organizations for charity events county sheriff employees attended and for county sheriff employee recognition or recreation events. These included events such as golf outings, holiday banquets, a Diamondbacks baseball game, and movie nights. In addition, \$63,772 was disbursed for public service announcements developed for both the former County Attorney and former County Sheriff, which were unrelated to the authorized purposes of substance abuse prevention and education or gang prevention.

Recommendations

As of May 2018, no county sheriff or county attorney employees were on the Foundation's board or otherwise involved in foundation activities.

To help ensure anti-racketeering monies are awarded in compliance with conflict-of-interest policies, the Pinal County Attorney should require all employees involved in awarding community outreach monies to sign a statement acknowledging they have complied with the County's conflict-of-interest policies and will not participate in an award when they hold a potential conflict.

The County Attorney should ensure that employees involved in community outreach award decisions comply with county policy by submitting written memorandum from the employee to the employee's supervisor detailing the potential conflicts of interest and confirming the employee will avoid any involvement in related decisions. This memorandum should be submitted to the County Attorney's Office and the County's human resources department.



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Scope and objectives

The Office of the Auditor General has reviewed Pinal County’s use of anti-racketeering monies during the period of January 2013 through December 2016.¹ This report includes two findings that describe how former Pinal County officials did not follow established policies during that time period. Specifically, Finding 1 is related to the former County Attorney’s failure to follow his office’s procedures and guidelines when awarding community outreach monies, and Finding 2 is related to the former County Sheriff and county sheriff employees’ potential violation of county conflict-of-interest policies. We have submitted this information to the Arizona Attorney General’s Office for further review.

Overview of federal and state anti-racketeering laws

Federal and state anti-racketeering laws were enacted to deter racketeering crimes or crimes committed for financial gain (see textbox for key terms). In 1970, the U.S. Racketeer Influenced and Corrupt Organizations Act (RICO) criminalized a pattern of racketeering activity under a list of federal crimes and provided for criminal prosecution and penalties², and in 1977, Arizona enacted state anti-racketeering laws.³ Federal and state laws allow for seizure and subsequent forfeiture of assets to state and local law enforcement agencies. In addition, federal and state anti-racketeering laws define permissible uses for anti-racketeering monies, and federal guidelines may also limit the amount of monies spent on nonprofit community programs each year.

Federal and state anti-racketeering laws allow for the seizure of assets

—Federal and state laws allow assets, such as firearms, vehicles, and money, derived from or involved in racketeering crimes to be seized during racketeering investigations. If a judgment is entered in favor of the law enforcement agency⁴, the assets are forfeited, and the attorney and law enforcement agencies that performed the investigation are entitled to a portion of those assets. Forfeited property, such as vehicles and office equipment, can be disposed of in various ways including by auction or use by law enforcement agencies involved in the investigation.

Key terms

Racketeering—Arizona’s laws define racketeering as any chargeable or indictable act that involves one or more of 34 different crimes committed for financial gain, including but not limited to homicide, robbery, kidnapping, bribery, gambling, extortion and terrorism.

Order of forfeiture (forfeiture)—Upon an entry of judgment in favor of a law enforcement agency, the assets are forfeited and become government property. Law enforcement agencies may dispose of forfeited property in various ways, including law enforcement activity uses and auction.

Anti-racketeering monies—Monies that have been forfeited to law enforcement agencies. This includes forfeited cash and proceeds from auctioning forfeited property.

Source: Auditor General staff analysis of Arizona anti-racketeering laws and review of several orders of forfeiture.

¹ This review focused on the period of calendar years 2013 through 2016. Accordingly, throughout this report, auditors have cited federal and state laws that were in effect during this period. The laws have since been modified.

² 18 United States Code §§1961-1968.

³ Arizona Laws 1977, Ch. 142.

⁴ For the purposes of this review, law enforcement agencies include the county attorney, county sheriff, and city and town police departments.

Monies local law enforcement agencies receive through the forfeiture process⁵ may be spent only in accordance with federal or state law depending upon which jurisdiction the prosecution occurred within.

Anti-racketeering laws and guidelines define permissible uses for anti-racketeering monies—

Law enforcement agencies that receive anti-racketeering monies are required to follow federal guidelines and state laws that define their respective permissible uses. As described below, federal guidelines may place a dollar limit restriction on anti-racketeering monies used for community-based programs, but Arizona laws do not include such restrictions. Specifically:

- **Federal laws and guidelines define permissible uses of shared federal anti-racketeering monies and may limit the amount used for nonprofit, community-based programs—**Law enforcement agencies may receive federal anti-racketeering equitable sharing assets, property, and money when they participate in a multi-agency task force with a federal agency, such as the Federal Bureau of Investigation, and the investigation results in seized assets. The U.S. Department of Justice's *Guide to Equitable Sharing for State and Local Law Enforcement Agencies* (Guide to Equitable Sharing) provides guidance regarding how law enforcement agencies may use shared federal monies. The Guide to Equitable Sharing outlines the permissible uses, which include but are not limited to law enforcement operations and investigations; law enforcement training and education; law enforcement, public safety, and detention facilities; and drug and gang education and other awareness programs. The Guide to Equitable Sharing has historically included some limitations on the use of anti-racketeering monies to support nonprofit, community-based programs. For example, in July 2017, the Guide to Equitable Sharing limited the amount of support to \$25,000 per year.

The Guide to Equitable Sharing also outlines impermissible uses, which include but are not limited to creation of endowments or scholarships, any purpose that constitutes an improper use of state or local law enforcement monies, personal or political use, purchase of food and beverages unrelated to operations or per diem, or social event tickets.⁶

- **State laws define permissible uses of anti-racketeering monies but do not limit the amount that can be used for authorized programs—**Arizona Revised Statutes (A.R.S.) §13-2314.03 outlines permissible uses of local anti-racketeering monies⁷, including investigating and prosecuting racketeering-related offenses, witness protection, gang prevention, substance abuse prevention, and substance abuse education programs.⁸ Unlike federal guidelines, Arizona statutes do not limit the amount of local anti-racketeering monies that can be used for specific authorized programs.

Overview of Pinal County local anti-racketeering monies, procedures, and guidelines

The former Pinal County Attorney (County Attorney) administered Pinal County's anti-racketeering fund by depositing, allocating, and tracking anti-racketeering monies received through forfeiture of assets due to racketeering convictions during calendar years 2013 through 2016. The anti-racketeering monies were spent for general operations, racketeering investigations, and community outreach awards. The former County Attorney established procedures for awarding anti-racketeering monies to community organizations for community outreach programs, and also established guidelines that included required criteria for award applications and written proposals submitted by community organizations.

⁵ Referred to in this report as anti-racketeering monies.

⁶ Auditors cited the federal Guide to Equitable Sharing downloaded from the U.S. Department of Justice's website in July 2017, which has since been modified.

⁷ For the purposes of this review, local anti-racketeering monies are administered by a county attorney's office in accordance with A.R.S. §13-2314.03.

⁸ In April 2017, the Arizona Legislature enacted additional requirements for requesting and using anti-racketeering monies, including requiring each county board of supervisors' approval of its county attorney's office use of anti-racketeering monies. Because these changes occurred after our review period, these new requirements were not evaluated as part of this review.

Former County Attorney administered local anti-racketeering monies—State law requires county attorneys to administer an anti-racketeering fund containing monies held for that office as well as on behalf of local law enforcement agencies.⁹ The former County Attorney’s administration of the fund entailed the following: maintaining a list of assets and where they were kept, allocating and distributing fund monies to law enforcement agencies that participated in each racketeering investigation, and expending his office’s own share of anti-racketeering monies.

As shown in Table 1, the former County Attorney and former Pinal County Sheriff (County Sheriff) expended local anti-racketeering monies in calendar years 2013 through 2016 totaling \$4,761,776. Specifically, the former County Attorney expended \$3,185,387 and the former County Sheriff expended \$1,576,389 during that time period.

Table 1
Summary of anti-racketeering monies received and available balances for the former County Attorney and former County Sheriff
Calendar years 2013 through 2016

	Balance January 1, 2013	Monies received	Monies expended	Balance December 31, 2016
Former County Attorney ¹	\$1,488,428	\$1,685,490	\$3,185,387	\$ (11,469)
Former County Sheriff	114,424	1,613,103	1,576,389	151,138
Total	\$1,602,852	\$3,298,593	\$4,761,776	\$139,669

¹ Although the former County Attorney’s Office recorded anti-racketeering transactions in the County’s official financial system accounting records, his office primarily used a separate check register to account for anti-racketeering balances and monies received and expended for his office, the former County Sheriff, and each law enforcement agency. The former County Attorney’s Office had not fully reconciled the check register to the County’s official accounting records, so some of the amounts differed. To determine the balances and amounts in Table 1, Auditor General staff relied on the amounts from the County’s official accounting records but, for the former County Attorney amounts, adjusted them for certain check register adjustments that the current County Attorney’s Office has since reconciled.

Source: Auditor General staff analysis of Pinal County’s financial system accounting records for calendar years 2013 through 2016.

As shown in Figure 1 (see page 4), local anti-racketeering expenditures in calendar years 2013 through 2016 were classified into three categories: operations, racketeering investigations, and community outreach awards. Collectively, the former County Attorney and the former County Sheriff expended 18.838 percent of the total available for operations, 31.331 percent for racketeering investigations, and 49.831 percent for community outreach awards. The \$2,372,866 expended for community outreach awards was composed of:

- \$1,210,185, or 37.992 percent of the former County Attorney’s total expenditures.
- \$1,162,681, or 73.756 percent of the former County Sheriff’s total expenditures.

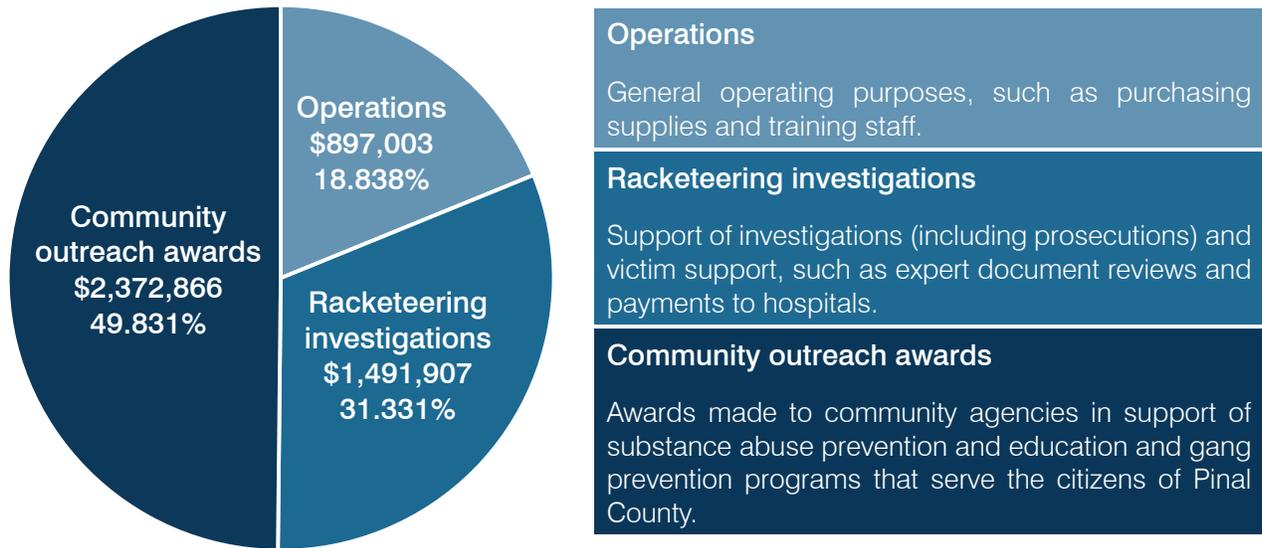
Auditors examined supporting documentation for 102 of 3,882 expenditures included in the expenditure categories (see Appendix D, pages d-1 to d-2) and did not identify any issues with local anti-racketeering monies expended for operations or racketeering investigations. However, as described in Finding 1 on pages 5 to 8 and in Finding 2 on pages 9 to 13, auditors found issues related to the internal controls over community outreach awards provided to community organizations.

Former County Attorney established community outreach award procedures and guidelines—

The former County Attorney established a procedures document entitled *Process and Procedure for RICO Community Outreach Fund—Community Organizations* (Community Outreach Procedures) for awarding local anti-racketeering monies to community organizations (see textbox on page 4 for key terms). The Community Outreach Procedures were required to be followed for not only the award of the County Attorney Office’s local anti-racketeering monies to community organizations, but also for the award of local law enforcement’s agencies anti-racketeering monies to community organizations (see Appendix A, page a-1, for the complete Community Outreach Procedures).

⁹ A.R.S. §13-2314.03[A].

Figure 1
Former County Attorney’s and former County Sheriff’s expenditures of local anti-racketeering monies by category
Calendar years 2013 through 2016



Source: Auditor General staff analysis of Pinal County’s financial system accounting records for calendar years 2013 through 2016.

In addition to the Community Outreach Procedures, the former County Attorney established the Community Outreach Guidelines to instruct community organizations about the process and requirements for applying for a community outreach award. Similarly, these Community Outreach Guidelines were to be followed for awards of both the County Attorney Office’s local anti-racketeering monies to community organizations as well as the award of local law enforcement agencies’ local anti-racketeering monies to community organizations. These Community Outreach Guidelines specified that awards could be given only to nonprofit organizations and that awards were to be used in support of substance abuse prevention and education and gang prevention efforts. The Community Outreach Guidelines required that community outreach award requests be supported by an application or written proposal that included ten specific criteria (see Appendix B, page b-1, for a compiled list of the ten criteria for receiving a community outreach award). The Community Outreach Guidelines also required a memorandum of understanding (MOU) to be submitted to the County Attorney’s Office upon approval.

Key terms

Community Outreach Procedures—Former County Attorney’s *Process and Procedure for RICO Community Outreach Fund—Community Organizations* document (see Appendix A, page a-1). The former County Attorney’s Office established these procedures for staff to follow when awarding anti-racketeering monies to community organizations.

Community Outreach Guidelines—The “RICO Community Outreach Fund Guidelines” (see Appendix B, page b-1). The former County Attorney established these guidelines that include criteria that nonprofit community organizations and programs must follow when applying for anti-racketeering awards.

Former County Attorney’s authorized purposes—The Community Outreach Guidelines specify that limited awards to nonprofit community organizations and programs could be made to support substance abuse prevention and education and gang prevention efforts. Therefore, auditors considered substance abuse prevention and education and gang prevention efforts to be the purposes the former County Attorney authorized.



Former Pinal County Attorney did not always follow established procedures, ensure community organizations followed established guidelines, or appear to ensure awarded monies were always used for authorized purposes

The former Pinal County Attorney (County Attorney) awarded local anti-racketeering monies (community outreach awards) to community organizations in Pinal County and other Arizona counties. During the review period, January 2013 to December 2016, the former County Attorney awarded 523 community outreach awards totaling nearly \$2.4 million to approximately 225 community organizations, but did not always follow procedures or ensure community organizations followed guidelines that he had established when awarding monies for community outreach programs. Further, it does not appear that the former County Attorney always monitored community organizations to ensure that awarded monies were used for authorized purposes (see textbox on page 4).

Former County Attorney awarded local anti-racketeering monies to community organizations

During calendar years 2013 through 2016, the former County Attorney awarded almost \$2.4 million of his office's and the former Pinal County Sheriff's (County Sheriff) local anti-racketeering community outreach award monies to approximately 225 community organizations (see Appendix C, page c-1, for a list of community organizations). The community outreach awards comprised 49.831 percent of the total former County Attorney and former County Sheriff local anti-racketeering expenditures during that time period. Auditors selected for review a sample of 82 awards that were granted to ten community organizations and totaled \$1,044,548.

Auditors requested and analyzed award documentation that the former County Attorney maintained. In addition, auditors contacted the ten community organizations that received the awards with a request to provide all award-related documentation, including the application, award acceptance, and receipts from the program or event that the award sponsored. One community organization declined to cooperate with the review, and two community organizations did not respond to auditors' requests. Auditors reviewed all documentation provided by the cooperating community organizations.

Former County Attorney did not always follow established procedures and ensure community organizations followed established guidelines

Auditors found that the former County Attorney did not always follow his own established *Process and Procedure for RICO Community Outreach Fund—Community Organizations* (Community Outreach Procedures) and did not always ensure that organizations followed the established "RICO Community Outreach Fund Guidelines" (Community Outreach Guidelines) before providing them community outreach award monies (see Appendix A, page a-1, for the complete Community Outreach Procedures, and Appendix B, page b-1, for Community Outreach Guidelines list of criteria). Specifically:

- For 39 of the 82 awards auditors reviewed, the County was unable to provide an application or written proposal from the community organizations that received the awards. Instead, the supporting documents illustrate that the former County Sheriff, county sheriff employees, or a county attorney employee requested awards directly from the former County Attorney’s Office on behalf of the community organizations. In fact, 20 of these awards were for the Arizona Public Safety Foundation, discussed in Finding 2 on pages 9 to 13.
- The Community Outreach Guidelines required that the community organizations’ applications and written proposals contain specific information to receive an award. For the 43 awards that included applications or written proposals directly from the community organization, the documentation was incomplete or had missing information, such as the amount of funding requested or a budget, and a description of how the organization’s program supported substance abuse prevention and education and gang prevention efforts.
- Further, the County was unable to provide documentation to show that the Community Outreach Fund Committee evaluated the 82 awards as the Community Outreach Procedures required.
- Lastly, for 77 of the 82 awards, the County was unable to provide a memorandum of understanding (MOU) between the community organization and the former County Attorney outlining the terms of the agreement, as required by the Community Outreach Procedures. Accordingly, the uses of the awarded monies could not be determined.

Similar findings were also reported in a September 2014 Pinal County internal audit report that noted that the former County Attorney did not require local law enforcement agencies, such as the County Sheriff’s Office, to follow the Community Outreach Procedures and Community Outreach Guidelines when requesting local anti-racketeering monies for community outreach awards.¹⁰ Although the former County Attorney concurred with the internal auditor’s recommendation to require that all law enforcement agencies adhere to the Community Outreach Procedures and Guidelines, a December 2016 internal audit follow-up review observed that the Community Outreach Procedures and Guidelines were still not consistently followed.

For a summary of auditors’ analysis of award-related supporting documentation the County Attorney and the community organizations provided, see Table 2.

Table 2
Summary of achievement status of Community Outreach Guidelines’ criteria for 82
sampled community outreach awards
Calendar years 2013 through 2016

Required criteria (see Appendix B, page b-1)	Criteria met		
	Yes	No	Percentage
1—Name and contact information	43	39	52%
2—Description of program and goals	40	42	49%
3—Description of performance measures	7	75	9%
4—Amount of funding requested	43	39	52%
5—Description of how program supports substance abuse prevention and education and gang-prevention efforts	32	50	39%
6—Description of program participants	35	47	43%
7—Budget	13	69	16%
8—Description of hiring process	11	71	13%
9—Statement that program is nonsectarian (applicable to 12 awards)	0	12	0%
10—Memorandum of understanding	5	77	6%

Source: Auditor General staff analysis of applications or requests for community outreach awards received from community organizations or the former County Attorney.

¹⁰ “County Attorney Anti-Racketeering Fund Audit,” Pinal County Internal Audit Office report to the Board of Supervisors, September 2014.

Former County Attorney appears to not have monitored community organizations to ensure awarded monies were used for established authorized purposes

Although the former County Attorney's Community Outreach Procedures (see Appendix A, page a-1, Nos.19 and 20) required his office to monitor the use of local anti-racketeering monies awarded to community organizations to ensure that the monies were used for their authorized community outreach programs directed at substance abuse prevention and education or gang prevention efforts and to request the return of any unspent monies, this monitoring appears to have rarely occurred for the awards auditors reviewed. For 75 of the 82 community outreach awards auditors reviewed, it appears the former County Attorney did not monitor the community organizations' expenditures to ensure monies were used for authorized purposes and to ensure the return of any unspent monies. Specifically, the County was able to locate documentation for only 7 of the community outreach awards, including MOUs, follow-up and expense reports, or other documents supporting how the monies were spent in support of the authorized purposes.

Further, although some of the local anti-racketeering monies awarded to community organizations were spent for authorized purposes such as anti-drug performances at school assemblies and a safety fair with local law enforcement that encouraged kids to stay away from drugs, alcohol, and gangs, auditors identified instances where these monies were also spent for unauthorized purposes. Specifically, as shown in Table 3, four organizations provided documentation supporting that anti-racketeering monies awarded to them were spent for unauthorized purposes such as appreciation events for Pinal County Sheriff's Office employees and their families.

Table 3
Examples of four community organizations' use of community outreach awards for unauthorized purposes¹
Calendar years 2013 through 2016

Description of use	Community organization	Amount
Appreciation events for county sheriff employees and their families	Arizona Public Safety Foundation	\$ 57,973
Customized coins and other promotional items	Arizona Public Safety Foundation	21,640
Construction costs and equipment for church dance studio	Reach USA	11,874
Travel costs to send church staff and members to national fine arts and leadership conference in Orlando, Florida	First Assembly of God	5,000
Fund-raising events:		
Sports team sponsorships	Arizona Public Safety Foundation	9,199
Catering	Community Outreach of Robson Ranch	8,841
Tickets to attend events	Arizona Public Safety Foundation	5,328
Auction items including four original art pieces, Phoenix Suns autographed basketball and four Suns tickets, and San Tan Brewing Company three-course beer pairing dinner for 20 people to be given to county sheriff employees	Arizona Public Safety Foundation	1,600
Total		\$121,455

¹ For a definition of the former County Attorney's authorized purposes, see textbox on page 4.

Source: Auditor General staff analysis of applications or requests for community outreach awards received from community organizations or the former County Attorney.

Recommendations

The current County Attorney has ended the Community Outreach program that was in effect with the prior administration. This change went into effect when he took office on January 3, 2017. The County Attorney's Office has continued to award anti-racketeering monies to community organizations through a new set of procedures. From January 3, 2017 through May 31, 2018, the County Attorney's Office awarded \$34,700 through an application process that includes award decisions made by an executive committee. Auditors did not review the current County Attorney's procedures. Auditors recommend the following to ensure that the County maintains effective internal controls over award decisions and monitors the use of awards, while also ensuring that the County complies with new state law requirements (see Appendix D, pages d-1 to d-2), which went into effect August 9, 2017.

1. To help ensure an effective internal control system over award of anti-racketeering monies, the County Attorney should develop and consistently follow procedures for all funding requests, including requests from local law enforcement agencies. Specifically, the internal control system should:
 - a. Ensure all awards are supported by applications that address requirements, such as those listed in the Community Outreach Guidelines. For example, program goals, expected outcomes, and performance measures should be fully described, and budgets should provide sufficient detail to show how the requested funds will be spent.
 - b. Ensure a committee such as the Community Outreach Fund Committee evaluates all community outreach award requests, including requests from local law enforcement agencies.
 - c. Ensure the County Attorney submits award recommendations for the use of his office's own anti-racketeering monies to the Board of Supervisors for its approval (this is now required by state law pursuant to A.R.S. §13-2314.03[E], effective August 9, 2017).
2. The County Attorney should develop and implement internal controls to monitor the community organizations' uses of anti-racketeering awards to ensure that they are permissible and require the organizations to return any unexpended monies or those used for unauthorized purposes. Specifically, the County Attorney should:
 - a. Require community organizations to submit a follow-up report that includes receipts for monies spent and an itemized list of the use of awarded monies compared to the budget submitted with the application.
 - b. Ensure that all supporting documentation for community outreach awards is retained, including applications, budgets, memoranda of understanding, and follow-up reports with associated receipts.
 - c. Review follow-up reports and supporting documentation to verify permissible uses of award monies and require the return of any unexpended monies or monies used for unauthorized purposes.



Former Pinal County Sheriff and county sheriff employees appear to have violated conflict-of-interest policies when they participated in the award of community outreach monies to a community organization and failed to disclose their level of control over that organization’s disbursement of those awarded monies

The former Pinal County Sheriff (County Sheriff) and county sheriff employees appear to have violated conflict-of-interest policies when they participated in the award of local anti-racketeering monies for substance abuse prevention and education and gang prevention programs (community outreach award monies) to the Arizona Public Safety Foundation (Foundation) and failed to disclose their level of control over the Foundation’s disbursement of those awarded monies. During the review period—January 2013 through December 2016—of the nearly \$2.4 million in community outreach awards approved by the former County Attorney, the Foundation received 31 awards totaling \$683,406, the largest amount awarded to any community organization (see Appendix C, page c-1). Of the \$683,406 awarded, the former County Sheriff, county sheriff employees, or county attorney employees had initiated \$230,000 in community outreach awards on the Foundation’s behalf contrary to the established *Process and Procedure for RICO Community Outreach Fund—Community Organizations* (Community Outreach Procedures). After the Foundation received those awarded monies, the former County Sheriff or county sheriff employees controlled the Foundation’s disbursement of \$205,625. In fact, the former County Sheriff or county sheriff employees disbursed \$151,645 of those monies for purposes benefiting former county sheriff and former county attorney programs that were unrelated to the authorized community outreach award purposes of supporting substance abuse prevention and education and gang prevention efforts. We have submitted this information to the Arizona Attorney General’s Office for further review.

Foundation received the largest amount of community outreach awards in 2013 through 2016

As discussed in Finding 1 (see pages 5 to 8), from January 2013 through December 2016, 49.831 percent of the former County Attorney and former County Sheriff’s local anti-racketeering expenditures, or almost \$2.4 million, were for community outreach awards. During that time period, the Foundation received substantially more community outreach awards than any other community agency, receiving awards totaling \$683,406, and was the only organization to receive more than \$150,000 (see Appendix C, page c-1).

Former County Sheriff and county sheriff employees’ should have disclosed conflict of interest and abstained from involvement in award decisions

The former County Sheriff and county sheriff employees should have disclosed their conflict of interest and abstained from involvement in community outreach award decisions related to the Foundation because

of their participation in foundation activities. The Foundation was originally incorporated in 2007, and county sheriff employees have been involved as officers since its incorporation. Contrary to the former Pinal County Attorney's Community Outreach Procedures, the former County Sheriff, county sheriff employees, or county attorney employees had initiated \$230,000 in community outreach awards on the Foundation's behalf. After the Foundation received those awarded monies, the former County Sheriff or county sheriff employees controlled the Foundation's disbursement of \$205,625. Because the former County Sheriff and county sheriff employees had a substantial level of involvement in how the Foundation used the community outreach award monies, they should have disclosed their conflict of interest in Pinal County's records but appear to have failed to do so.

County sheriff employees have historically been involved in Foundation's business—The Foundation was initially incorporated in 2007 as a nonprofit organization under the name Pinal County Sheriff's Office Justice Foundation, Inc., to promote and assist in fund-raising activities for volunteer groups associated with the County Sheriff's Office, and the County Sheriff's Office was the principal place of business. Three of the four original incorporating officers were county sheriff employees, and during all but the last year and a half of auditors' review period, two of the four foundation officers were county sheriff employees. In 2012, the Foundation changed its place of business to a retail postal services store, was renamed to its current name, and expanded its boundaries to the entire State, although its main benefactor remained Pinal County. Moreover, from January 2014 through March 2015, a county sheriff employee held the Foundation's treasurer officer position and was also responsible for the accounting functions of depositing foundation receipts, paying foundation debts and expenses, and reconciling the check register to bank statements. As of June 2016, 35 of the Foundation's 59 programs directly benefited the Pinal County Attorney's and Sheriff's Offices.

Former County Sheriff, county sheriff employees, and a county attorney employee applied for community outreach awards on the Foundation's behalf—Contrary to the Community Outreach Procedures established by the former Pinal County Attorney, the former County Sheriff, county sheriff employees, and a county attorney employee initiated the process to apply for community outreach awards on the Foundation's behalf (see Appendix A, page a-1, for procedures).¹¹ In fact, as discussed in Finding 1 (see page 6), auditors reviewed 39 community outreach awards that were contrary to the Community Outreach Procedures because they were directly requested by the former County Sheriff, a county sheriff's employee, or a county attorney employee instead of by the community organization. Of these 39 awards, 20 totaling \$230,000 were for the Foundation. Despite these requests not being made by the organization itself or meeting other application or proposal requirements, all of these requests were awarded to the Foundation.

County sheriff employees' involvement with the Foundation

- Served in the Foundation's officer positions.
- Performed the Foundation's accounting functions.
- Initiated the award of community outreach monies to the Foundation.
- Authorized purchases once the Foundation received awarded monies.
- Approved the Foundation's transactions in nine expense categories.
- Held the Foundation's credit cards in their names.
- Received reimbursements from the Foundation.

Former County Sheriff and county sheriff employees were involved with foundation business operations and participated in the Foundation's disbursement of community outreach award monies

—In addition to performing the accounting functions of depositing foundation receipts, paying foundation debts and expenses, and reconciling the check register to bank statements as described above, county sheriff employees also approved transactions in several expense categories, held foundation credit cards in their name, and received reimbursements from the Foundation (see textbox for foundation activities county sheriffs' employees were involved in). As shown in Table 4 on page 11, the former County

Sheriff and several county sheriff employees approved 362 foundation purchases totaling \$205,625 after the Foundation received community outreach award monies.

¹¹ As described on page 6, the former County Attorney approved community outreach awards the former County Sheriff requested without the Community Outreach Fund Committee's review.

Former County Sheriff and county sheriff employees appear to have failed to disclose conflict of interest contrary to county policy—

Because the former County Sheriff and county sheriff employees had a substantial level of involvement in how the Foundation used the community outreach award monies, they should have disclosed their conflict of interest in Pinal County’s records. Specifically, the County’s conflict-of-interest policy requires county management and employees to disclose conflicts of interest when their activities have a personal or business interest or employment with another entity in which the County awards grants and contracts and to abstain from any involvement in the award decision when a conflict of interest exists. All potential conflicts must be disclosed by written memorandum from the employee to the employee’s supervisor explaining in detail the potential conflict and confirming the employee will avoid any involvement in the decision. The memorandum should have been submitted to the former County Attorney’s Office. However, the current County Attorney and the county human resources department were unable to locate any written conflict-of-interest memoranda filed by the former County Sheriff or county sheriff employees who participated in the Foundation’s business operations.

Table 4
Foundation purchases approved by former County Sheriff and county sheriff employees
Calendar years 2013 through 2016

County sheriff employee	Approved purchases	Approved amount
Sheriff	68	\$ 91,683
Sheriff’s deputy	221	55,280
Director of administration	8	36,891
Administrative assistant	43	18,815
Administrative manager	22	2,956
Total	362	\$205,625

Source: Auditor General staff evaluation of the Foundation’s records.

Former County Sheriff and county sheriff employees disbursed \$151,645 of community outreach award monies for unauthorized purposes benefiting county attorney and county sheriff programs

The former County Sheriff and county sheriff employees disbursed \$151,645 of the Foundation’s \$683,406 in community outreach award monies for unauthorized purposes benefiting the former County Sheriff’s and former County Attorney’s programs. By using the Foundation to make these disbursements, the former County Sheriff and county sheriff employees bypassed the County’s purchasing procedures requiring levels of approval for processing transactions. Additionally, foundation staff stated that in general 5 percent of all community outreach awards was allocated for the Foundation’s unrestricted administrative use.¹² However, the Community Outreach Guidelines indicate that community outreach awards were authorized only for purposes of substance abuse prevention and education and gang prevention efforts, not for the Foundation’s unrestricted administrative purposes or for the former County Sheriff’s and County Attorney’s programs described below. Specifically:

- **Former County Sheriff and county sheriff employees disbursed \$87,873 of Foundation’s community outreach award monies for the former County Sheriff’s morale, welfare, and recreation program unrelated to authorized purposes**—Of the \$87,873 the former County Sheriff and county sheriff employees disbursed for the County Sheriff’s morale, welfare, and recreation program, \$21,973 was not supported with receipts or other documentation. However, foundation records indicate those payments were generally disbursed as donations to nonprofit organizations for charity events, including charity golf outings attended by county sheriff employees, which were unrelated to authorized purposes of substance abuse prevention and education and gang prevention. Receipts were available for \$65,900 of the \$87,873, and those documents showed the monies were generally used for county sheriff employee recognition or recreation events, which were unrelated to the authorized purposes of substance abuse prevention and education and gang prevention.

¹² The total amount of community outreach monies improperly used for the Foundation’s administrative purposes could not be determined because of limited availability of foundation financial records.

For example, the former County Sheriff used his personal credit card in April 2014 to purchase 500 Pinal County Sheriff memorial coins displaying his name for \$2,880, submitted a reimbursement request to the Foundation for this amount, self-approved the request, and was issued a \$2,880 reimbursement check from the Foundation's treasurer, who was also a county sheriff employee.

Examples of employee recreational events the former County Sheriff authorized to be paid with community outreach award monies

- **December 2013**—\$5,568 for a holiday banquet.
- **March 2014**—\$1,800 for a promotion and award banquet.
- **May 2015**—\$12,350 for a Diamondbacks baseball game.
- **July 2015**—\$560 for a softball tournament in Las Vegas.
- **September 2015**—\$7,962 for an employee banquet.
- **December 2015**—\$7,309 for three movie nights with pizza and candy.

Source: Auditor General staff analysis of foundation's records.

Additionally (as summarized in the textbox on this page), the former County Sheriff authorized disbursements for several recreational events. In particular, he authorized a \$5,568 disbursement for a December 2013 "Pinal County Sheriff's Office holiday dinner" held at Windmill Winery Barn; \$1,800 for a March 2014 "PCSO promotions ceremony and dinner" held at Encanterra Golf Resort; \$12,350 for 500 tickets to a May 2015 Arizona Diamondbacks baseball game; \$560 for a July 2015 softball tournament through the Nevada Police and Fire Games held in Las Vegas; \$7,962 for a September 2015 "PCSO Employee Banquet" held at Robson Ranch; and \$7,309 for three separate movie nights in December 2015 with pizza and candy that was described in foundation documents as "Star Wars movie night for PCSO employees and family."

- **Former County Sheriff and county sheriff employees disbursed \$63,772 of the Foundation's community outreach award monies for public service announcements and community education unrelated to authorized purposes**—Of the \$63,772 the former County Sheriff and county sheriff employees disbursed for public service announcements and community education, \$16,526 was not supported with receipts or other documentation. However, foundation records indicate those payments were issued to a cable company for advertising fees associated with public service announcements, which were unrelated to the authorized purposes of substance abuse prevention and education and gang prevention. Receipts were available for \$47,246 of the \$63,772, and those documents show the monies were used for public service announcements developed for both the former County Attorney and former County Sheriff. These announcements aired from 2013 through 2015 in movie theaters at various locations and on local cable television stations.

Although the actual announcements could not be located, in a memo to the former County Attorney's Office, the former County Sheriff described the announcements' content. However, that content was not for the authorized purposes of community outreach award monies. Specifically, he described the content focuses as domestic violence, impaired driving, and bullying, and as an effort to inform the public about obvious safety concerns by sharing compelling statistics and showing the impact of criminal activity upon the victims and the general public.

Recommendations

As of May 2018, no county sheriff or county attorney employees were on the Foundation's board or otherwise involved in foundation activities.

1. To help ensure anti-racketeering monies are awarded in compliance with conflict-of-interest policies, the County Attorney should take the following actions. Specifically:
 - a. Require county employees involved in awarding community outreach monies to sign a statement acknowledging they have complied with the county conflict-of-interest policy and will not participate in an award when they hold a potential conflict.

- b. Ensure county employees involved in community outreach award decisions comply with county policy by submitting a written memorandum from the employee to the employee's supervisor detailing potential conflicts of interest and confirming the employee will avoid any involvement in related decisions. This memorandum should be submitted to the County Attorney's Office and county human resources department.



Former Pinal County Attorney's Community Outreach Procedures

During calendar years 2013 through 2016, the former Pinal County Attorney's Office established a procedures policy entitled *P2013-011 Process and Procedure for RICO Community Outreach Fund—Community Organizations* (Community Outreach Procedures) that included the following procedures to screen and award community outreach awards to community organizations.

1. Respond to telephone and email inquiries. Direct community organizations to online application and/or send guidelines and application.
2. Prescreen applications for previous recipients and missing or incomplete information.
3. Gather applicant's program information and update Community Outreach Fund request list.
4. Copy applications for Community Outreach Fund committee to review.
5. Update Community Outreach Fund request list per committee review decisions (declined/approved) and forward to Community Liaison.
6. Separate declined applications (Non-Statute applicable, Not Non-Profit).
7. Copy decline letters and attach to original application for filing.
8. Approved applications confirm that if prior recipient, a financial report was submitted.
9. Confirm vendor name in E1 Finance system.
10. Send approval letter with memorandum of understanding (MOU) and request missing information.
11. Update Community Outreach Fund request list and forward copy to Community Liaison.
12. Process payment request upon submittal of signed MOU by recipient.
13. Update Community Outreach Fund request list and forward copy to Community Liaison.
14. MOU to be signed by County Attorney.
15. Prepare award letter.
16. Make copy of check, letter and MOU.
17. Mail original award letter and copy of MOU. File original MOU. If check is not to be presented by County Attorney, then check will also be mailed with award letter.
18. Update Community Outreach Fund request list and forward copy to Community Liaison. Community Liaison will schedule County Attorney presentation if applicable.
19. Request reports from recipients per the requirements of the MOU (Narrative on program and Financial expense report).
20. Review report and request unspent funds per MOU section III. Attach reports to original MOU file.



Former Pinal County Attorney’s RICO Community Outreach Fund Guidelines list of criteria for receiving a community outreach award

During calendar years 2013 through 2016, the former Pinal County Attorney’s website posted the “RICO Community Outreach Fund Guidelines” (Community Outreach Guidelines) and an application for nonprofit community organizations and programs to apply for anti-racketeering monies to support substance abuse prevention and education and gang prevention efforts.

The Community Outreach Guidelines identified the following ten criteria that all community organizations must submit with their application or written proposal to receive an award:

1. The community organization’s name, contact, address, and telephone number.
2. Program description, goals, and expected outcome.
3. Performance measures used to assess the outcome. A performance measure is a quantifiable indicator used to assess how well an organization or business is achieving its desired objectives.
4. The amount of funding requested.
5. An explanation of how the goals were directed to and support gang prevention and/or substance abuse education or prevention.
6. Description of the program participants, including age range and number of people participating and date of program.
7. A budget in sufficient detail to provide information regarding how the RICO funds will be spent.
8. Description of the process for hiring staff or volunteers for programs that interact with juveniles.
9. If program was offered by religious organization, a statement that the funds would be used only to support nonsectarian activities.
10. A signed memorandum of understanding that includes a provision that unexpended funds should be returned.



Community organizations that received community outreach award monies during calendar years 2013 through 2016

Over \$650,000

Arizona Public Safety Foundation

\$100,000 to \$150,000

Boys and Girls Club of Casa Grande

\$50,000 to \$99,999

Against Abuse, Inc.
Central Arizona College Foundation
Community Outreach of Robson Ranch
Poston Butte High School
San Tan Valley American Legion
Teen Challenge – Home of Hope

\$10,000 to \$49,999

Bernie G Crouse American Legion Post
Boys & Girls Club of the East Valley
Coolidge Youth Coalition
Copper Basin YMCA
Florence High School
Florence Unified School District
Gabriel's Angels
Global Teen Challenge
Honoring/Hiring/Helping Our Heroes of Pinal County
Hope Women's Center
Maricopa Ak-Chin CAASA
Maricopa Dance and Fitness, LLC
Maricopa Little League
MASH Anti Substance Abuse Coalition
Miss City of Maricopa
Operation Graduation
Paladin Sports Outreach
Pinal Hispanic Council
Poston Butte Youth Football Association
Poston Butte High Theatre Booster
Poston Butte Theater Booster Club
Reach USA
San Manuel Elks Lodge #2007
San Tan United Sports Academy
San Tan Valley Little League
San Tan Valley Substance Abuse Coalition
San Tan Youth Football League
Silent Witness of Casa Grande
Southeast Valley PONY Baseball

Town of Superior Recreation Program
Usual Suspects LEMC-Arizona
Valley of the Sun YMCA
Winged Hope Family Advocacy Foundation
Wings of Life

\$5,000 to \$9,999

Adelante Juntos Coalition
American Legion Post 133 Inc.
American Legion Auxiliary Unit 133
Apache Junction Drug Prevention Coalition
Arizona Force Baseball
Arizona Rage Baseball Club
BPOE San Manuel Elks
Boy Scouts of America
Brian Terry Foundation
Casa Grande Pony League
Combs High School Booster Club, Inc.
Community Action Human Resource Agency
Coolidge Unified School District
FC Barcelona Penya LA Arizona
Family First Pregnancy Care Center
Florence Little League
FBI National Academy Assoc. – Arizona Chapter
Grand Canyon Council Boy Scouts of America
Greater San Tan Chamber of Commerce
Kearny Police Department Athletics
Mammoth/Hayden ASA Softball League
Mammoth Christian Youth Center
Maricopa High School
Open Hands Outreach Program
Parents of Murdered Children Inc - Valley of the Sun Chapter
Pinal Council For CASA/Foster Inc.
Poston Butte Youth Football and Cheer
Superior Junior/Senior High
Superior Little League
Superior Substance Abuse Coalition
Superior Unified School District
Teen Lifeline Inc.
The First Assembly of God
Veterans of Foreign Wars, District 10 San Tan Valley

Less than \$5,000

146 community agencies

Source: Auditor General staff analysis of former Pinal County Attorney's check register and Pinal County financial system for calendar years 2013 through 2016. Since this list is taken from the former County Attorney's records, it may contain errors or duplicates.



Methodology

The Office of the Auditor General performed a review of the former Pinal County Attorney's Office administration of monies and other forfeited assets resulting from judgments pursuant to anti-racketeering statutes during calendar years 2013 through 2016. During this review, auditors concentrated on the former Pinal County Attorney's and former Pinal County Sheriff's expenditures of federal and local anti-racketeering monies and did not review the expenditures of other local law enforcement agencies. Our review consisted primarily of inquiries, observations, and selected tests of internal control policies and procedures and reviewing cash receipts, cash disbursements, accounting records, and related documents. During our review, we also evaluated the former County Attorney's Office compliance with applicable federal and state laws.

In conducting this review, auditors used a variety of methods, including examining various records, such as available summary and detailed accounting data, contracts, and other documents; reviewing policies, procedures, and related internal controls; reviewing applicable statutes and federal laws; and interviewing staff.

Additionally:

- To assess Pinal County's financial accounting data, auditors evaluated the County's internal controls related to revenue and expenditure processing for the anti-racketeering fund and scanned payroll and accounts payable transactions for proper account classification and reasonableness.
- To assess the former County Attorney's administration of the anti-racketeering fund, auditors evaluated administrative procedures and controls and interviewed the staff about their duties. Auditors also reviewed a random sample of 102 of the 3,882 calendar years 2013 through 2016 local expenditure transactions, including the 82 community outreach awards noted in Finding 1. Additionally, auditors reviewed 4 randomly selected expenditure transactions of federal anti-racketeering monies approved by the former County Attorney out of 186 total expenditures and did not find any significant deficiencies with the internal controls or use of the sampled federal anti-racketeering monies.
- To assess whether the former County Attorney complied with Arizona and federal anti-racketeering laws, auditors reviewed supporting documentation for a random sample of 102 of the 3,882 local expenditure transactions and 4 of the 186 federal expenditure transactions to determine whether the use of monies complied with state statutes and federal laws. Auditors also examined the quarterly and annual reports sent to state and federal agencies. Auditors used the following as guidance:
 - The U.S. Department of Justice's *Guide to Equitable Sharing for State and Local Law Enforcement Agencies* (Guide to Equitable Sharing) details the permissible and impermissible uses of federal anti-racketeering monies. The July 2017 version maintained on the U.S. Department of Justice website was used for our determination of compliance with federal guidance.
 - Arizona Revised Statutes §13-2314.03 details the permissible uses of anti-racketeering monies. In April 2017, the Arizona Legislature enacted additional requirements for requesting and using anti-racketeering monies, including requiring each county board of supervisors' approval of the county attorney's use of its own anti-racketeering monies. These changes went into effect on August 9, 2017. Because these changes occurred after our review period, these new requirements were not evaluated as part of this review.

- To assess whether the former County Attorney effectively and efficiently administered community outreach awards, auditors contacted ten community organizations that, when combined, received 82 of the 523 community outreach awards made during the review period and evaluated all supporting documentation obtained from the organizations and the County Attorney's Office pertaining to the community outreach awards.

The Office of the Auditor General expresses its appreciation to the Pinal County Attorney's Office and staff, the Pinal County Sheriff's Office and staff, and the community organizations and staff that provided supporting documentation for their cooperation and assistance throughout the review.

COUNTY RESPONSES



OFFICE OF THE PINAL COUNTY ATTORNEY

Kent Volkmer
Pinal County Attorney

August 16, 2018

Lindsey Perry, Auditor General
Arizona Office of the Auditor General
2910 N. 44th St., Suite 410
Phoenix, AZ. 85018

Dear Ms. Perry,

First, I wish to express my appreciation to the Office of the Auditor General for performing this audit at my request.

It is important to point out that the vast majority of RICO drug and money seizures are the proceeds of drug dealers and their distribution system. Furthermore, the majority of the seized anti-racketeering monies have been directed towards law enforcement investigations and operations with the goal to assist law enforcement in keeping drugs out of our County and to local collaborative efforts to combat the negative impact of drugs on our community.

Next, it should be made clear at the outset that each Finding related to the County Attorney's Office and the bases for each Finding emanate from 2013-2016 internal Pinal County Attorney's Office policies, procedures and guidelines established by previous Pinal County Attorney's Office administrations (as noted in the Auditor General's Report and provided in Appendices "A" and "B" of the Report), and that the Findings did not include any reference to violations of then existing applicable state law or federal guidelines. It should also be clear that the Report's Findings were limited to Community Outreach Expenditures and did not examine the propriety of expenditures for operations or investigations.

These internal Pinal County Attorney's Office policies, procedures and guidelines were created in the absence of specific statutory guidance and requirements. Since that time, 2017 Arizona House Bill 2477¹ has amended Arizona Revised Statutes Section 13-2314.03, prescribing authorized purposes for county anti-racketeering funds, as well as the information and documentation needed to request and award county anti-racketeering funds. In January of 2017, the Pinal County Attorney's Office adopted practices adhering to these statutory requirements.

Starting in January 2017, the current Pinal County Attorney's Office administration took immediate and sustained action to process, account for, and document all requests for anti-racketeering monies in accordance with the requirements embodied in A.R.S. § 13-2314.03,² as amended.

Accordingly, the Pinal County Attorney provides the following responses to the Auditor General's Findings and Recommendations:

¹ <https://www.azleg.gov/legtext/53leg/1R/laws/0149.htm>

² <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/13/02314-03.htm>

Finding 1 – “Former Pinal County Attorney did not always follow procedures or ensure community organizations followed guidelines when awarding monies to them and did not appear to ensure awarded monies were always used for authorized purposes”³

Response – Upon the new County Attorney taking office in January 2017, the Pinal County Attorney’s Office [“PCAO”] began instituting changes to the anti-racketeering fund [“ARF”] request and expenditure process, including: 1) Ensuring that no employee salaries or benefits were dependent on ARF monies; 2) Instituting a temporary moratorium on PCAO ARF expenditures due to negative PCAO ARF account balance, until a sufficient account balance was established; 3) Establishing a documentation system for the committee that reviews each request and makes a recommendation thereon; 4) Applying a \$25,000 annual community outreach expenditure limit, (mirroring federal guidelines), to state ARF monies; 5) Retaining documentation for all ARF requests, regardless of whether the request was ultimately granted or denied; 6) Requiring documentation from ARF recipients reflecting the occurrence of the authorized use(s) and remaining balance of ARF monies received, if any; and 7) Instituting practices and procedures reflecting the requirements of A.R.S. § 13-2314.03(E)—(K);

Recommendation 1.a – “To help ensure an effective internal control system over award of anti-racketeering monies, the County Attorney should develop and consistently follow procedures for all funding requests, including requests from local law enforcement agencies. Specifically, the internal control system should . . . [e]nsure all awards are supported by applications that address requirements, such as those listed in the Community Outreach Guidelines. For example, program goals, expected outcomes, and performance measures should be fully described, and budgets should provide sufficient detail to show how the requested funds will be spent.”

Response – PCAO now requires that all ARF requests be accompanied by an application (Attached as Exhibit “A”) which requests the applicant to identify documentation that clearly demonstrates how the proposed expenditure will satisfy at least one of the authorized purposes pursuant to A.R.S. § 13-2314.03(F) and (K). ARF request documentation must include, at a minimum, a letter explaining the intended use(s) and goal(s) of the expenditure and an itemized list of each specific anticipated cost or expense comprising the expenditure, as appropriate. Each ARF request and subsequent documentation is assigned a unique identification number for tracking and archiving.

Recommendation 1.b – “To help ensure an effective internal control system over award of anti-racketeering monies, the County Attorney should develop and consistently follow procedures for all funding requests, including requests from local law enforcement agencies. Specifically, the internal control system should . . . [e]nsure a committee such as the Community Outreach Fund Committee evaluates all community outreach award requests, including requests from local law enforcement agencies.”

Response – The PCAO Executive Committee, composed of PCAO senior most management team, now reviews all ARF requests. The County Attorney then approves/modifies/disapproves all requests and signs the final internal control document. The documentation is then retained for future reference.

³ As mentioned in the opening paragraphs, the ‘procedures’, ‘guidelines’ and ‘authorized purposes’ referenced in this Finding arise from former Pinal County Attorney’s Office internal “Community Outreach Procedures” and “Community Outreach Fund Guidelines.”

Recommendation 1.c – “To help ensure an effective internal control system over award of anti-racketeering monies, the County Attorney should develop and consistently follow procedures for all funding requests, including requests from local law enforcement agencies. Specifically, the internal control system should . . . [e]nsure the County Attorney submits award recommendations for the use of his office’s own anti-racketeering monies to the Board of Supervisors for its approval (this is now required by state law pursuant to A.R.S. § 13-2314.03(E), effective August 9, 2017).”

Response – As clearly stated in the Report, A.R.S. § 13-2314.03(E) requires the County Attorney obtain Board of Supervisor approval for ARF expenditures proposed by PCAO. Accordingly, PCAO follows this statutory requirement.

Recommendation 2.a – “The County Attorney Should develop and implement internal controls to monitor the community organizations’ uses of anti-racketeering awards to ensure that they are permissible and require the organizations to return any unexpended monies or those used for unauthorized purposes. Specifically, the County Attorney should . . . [r]equire community organizations to submit a follow—up report that includes receipts for monies spent and an itemized list of the use of awarded monies compared to the budget submitted with the application.”

Response – PCAO requires that each recipient provide satisfactory documentation (i.e. receipts) reflecting that the ARF monies were used for an authorized purpose and the remaining balance thereof, if any, no later than ninety (90) days after disbursing the ARF award. Should a recipient fail to timely provide such documentation, PCAO will not grant any further ARF awards until the recipient has complied or demonstrated substantial compliance, or provided a satisfactory explanation of why compliance was not practicable under the circumstances.

Recommendation 2.b – “The County Attorney Should develop and implement internal controls to monitor the community organizations’ uses of anti-racketeering awards to ensure that they are permissible and require the organizations to return any unexpended monies or those used for unauthorized purposes. Specifically, the County Attorney should . . . [e]nsure that all supporting documentation for community outreach awards is retained, including applications, budgets, memoranda of understanding, and follow-up reports with associated receipts.”

Response – PCAO retains all documentation comprising: i) each ARF request, application and supporting documentation; ii) each request disposition (i.e. granted, granted in part, denied, and reason(s) therefore); iii) all follow-up documentation following award disbursement; and iv) all email communications between requesting agency and PCAO. PCAO organizes each request and all documentation resulting from the request into a unique numbered and secure digital filing system, as well as physical file, as appropriate.

Recommendation 2.c – “The County Attorney Should develop and implement internal controls to monitor the community organizations’ uses of anti-racketeering awards to ensure that they are permissible and require the organizations to return any unexpended monies or those used for unauthorized purposes. Specifically, the County Attorney should . . . [r]eview follow-up reports and supporting documentation to verify permissible uses of award monies and require the return of any unexpended monies or monies used for unauthorized purposes.”

Response – PCAO requires follow up documentation from all ARF award recipients verifying the authorized use(s) of the monies and remaining balance of ARF monies, if any, within ninety (90) days after the ARF award’s disbursement. PCAO administrative staff sets internal reminders and actively monitors ARF recipient’s ninety (90) day compliance requirement. If an agency fails to comply, PCAO sends a letter requesting the required documentation. Prior to reviewing new requests, PCAO staff checks compliance and reports compliance to PCAO Executive Team. Should a recipient fail to timely provide such documentation, PCAO will not grant any further ARF awards until the recipient has complied or demonstrated substantial compliance.

Finally, because the Auditor General’s recommendation to the Pinal County Sheriff, under Finding 2, expressly refers to the Pinal County Attorney’s Office, the County Attorney responds as follows:

Finding 2 – “Former Pinal County Sheriff and county sheriff employees appear to have violated conflict-of-interest policies when they participated in the award of community outreach monies to a community organization and failed to disclose their level of control over that organization’s disbursement of those awarded monies”

Recommendation – “As of May 2018, no county sheriff or county attorney employees were on the Foundation’s board or otherwise involved in foundation activities, but the County Attorney can take actions to help ensure anti-racketeering monies are awarded in compliance with conflict-of-interest policies. Specifically, the County Attorney should consider requiring all employees involved in awarding community outreach monies to sign a statement acknowledging they have complied with the county conflict-of-interest policy and will not participate in an award when they hold a potential conflict. Likewise, county employees should comply with county policy and disclose conflicts of interest when their activities have a personal or business interest or employment with another entity in which the county awards grants and contracts and abstain from any involvement in the award decisions when a conflict of interest exists. Additionally, all potential conflicts should be disclosed by written memorandum from the employee to the employee’s supervisor explaining in detail the potential conflict and confirming the employee will avoid any involvement in related decisions. This memorandum should be submitted to the County Attorney’s Office and county human resources department.”

Response – The Pinal County Attorney’s Office has followed and will continue to follow Pinal County Policy and Procedure No. 3.35⁴ as it provides for the requisite observance of conflicts of interest pursuant to Arizona law and specifically provides for the disclosure of potential conflicts of interest and abstention from conflicted matters when appropriate. Further, each member of PCAO’s Executive Team is required to sign an attestation that they are aware of and will abide by Pinal County Policy and Procedure No. 3.35. Additionally, PCAO’s revised ARF Application (see attached Exhibit “A”) requires the requesting party to attest that they have no conflict of interest in the pending matter.

Please contact me if you have any questions.

Sincerely,

Kent Volkmer
Pinal County Attorney

⁴ <http://www.pinalcountyaaz.gov/HR/PoliciesProceduresRules/pnp3.35.pdf>

Exhibit A

PINAL COUNTY ATTORNEY'S OFFICE
Agency Application for RICO Funds

Agency Name: (Select Agency)

A. Intended use of funds (Check all applicable boxes)

ACJC Title	Amount	ACJC Title	Amount
<input type="checkbox"/> Grant Match		<input type="checkbox"/> Training & Conferences	
<input type="checkbox"/> Community Support		<input type="checkbox"/> Vehicles	
<input type="checkbox"/> Witness Protection		<input type="checkbox"/> Vehicle Maintenance	
<input type="checkbox"/> Investigation Costs		<input type="checkbox"/> Canines, Firearms & Related Equip	
<input type="checkbox"/> Personnel Services		<input type="checkbox"/> Other Capital	
<input type="checkbox"/> Professional/Outside Svc.		<input type="checkbox"/> External Publications	
<input type="checkbox"/> Travel & Meals		<input type="checkbox"/> Other Operating Expense	

B. Funding Source: State Federal

C. Agencies must submit supporting documentation with the Application for RICO Funds. Check all the supporting documents that apply:

- A supplemental memorandum is attached and contains an explanation for each category.
- An itemized list of reimbursements or advances with an explanation for each category.
- A letter of request for funding from a community based program is attached that sets forth the program goals and contains the information necessary to comply with applicable statutes.
- A detailed invoice or quote has been provided for all services, material, items, equipment of other property purchased or to be purchased.

D. Payment Information

Total Request:	
Payee:	
Hold for/Deliver to:	
Address:	

The undersigned, an agent appointed to request a transfer of funds from the agency's RICO account, certifies that: (1) the above information is true and accurate; (2) all funds transferred pursuant to this request will be used for those purposes stated in A.R.S. §§ 13-2314.03(E) and 13-4315(C); (3) all funds transferred pursuant to this request will be deposited, accounted for, and expended consistent with standard accounting requirements and practices employed under state or local law for recipients of federal, state, or local funds. (4) the services, materials, items, equipment of other property purchased or to be purchased by this agency, using funds from account or subaccount of the Pinal County Attorney's Anti-Racketeering Fund have been procured under the applicable state statutes and ordinances or policies of the local government making the request for the purchase or expenditure of funds. The undersigned agrees that the agency will report and/or provide additional supporting documentation on the actual use of these transferred funds upon request from the Pinal County Attorney's Office. (5) The undersigned affirms that he/she has complied with A.R.S. §§ 38-501 et seq. regarding any potential or actual conflict(s) of interest. If the undersigned is a Pinal County employee, the undersigned further affirms that he/she has complied with Pinal County Policy and Procedure 3.35.

Signature

Date

(Typed/Print Name of Agency Representative)

For Pinal County Attorney's Office Use Only

Based upon a review of the above agent's certified request for a transfer of funds from the agency's RICO account, the requested transfer is approved for use in accordance with A.R.S. §§ 13-2314.03(E), 13-4315 (C), and federal law.

Pinal County Attorney's Office Approval

Date

Check #: _____ Date Issued: _____



Pinal County Sheriff's Office

Mark T. Lamb
Sheriff

Matthew J. Thomas
Chief Deputy

August 20, 2018

Lindsey Perry, Auditor General
Arizona Office of the Auditor General
2910 N. 44th St., Suite 410
Phoenix, AZ 85018

Dear Ms. Perry,

I want to express my gratitude for the professional manner in which the Arizona Auditor General's Office conducted this audit.

As the audit report makes clear, the evaluation period and findings involved previous administrations in the Pinal County Sheriff's Office ["PCSO"]. Since taking office in January 2017, the current administration has taken immediate and sustained steps to substantially modify PCSO's management of Anti-Racketeering funds in areas determined to be of immediate importance. These steps have included: separating PCSO from the 'Public Safety Foundation'; instituting a new process for the review of community outreach fund requests; forming a new committee for PCSO's initial review of community outreach fund requests, before forwarding the request to the County Attorney; application of the federal RICO fund guideline annual community outreach expenditure limit; adherence to and reliance on Pinal County's conflict of interest policy; compliance with each of the County Attorney's requirements for ARF funding requests; and working closely with legal counsel to ensure statutory compliance.

Therefore, the Pinal County Sheriff provides the following responses to the Auditor General's findings and recommendations:

Finding 2 – “Former Pinal County Sheriff and county sheriff employees appear to have violated conflict-of-interest policies when they participated in the award of community outreach monies to a community organization and failed to disclose their level of control over that organization's disbursement of those awarded monies”

Recommendation – As of May 2018, no county sheriff or county attorney employees were on the Foundation's board or otherwise involved in foundation activities. To help ensure anti-racketeering monies are awarded in compliance with conflict-of-interest policies, the County Attorney should take the following actions. Specifically:

Recommendation 1.a – Require county employees involved in awarding community outreach monies sign a statement acknowledging they have complied with the county conflict-of-interest policy and will not participate in an award when they hold a potential conflict.

Response – PCSO is currently creating a form to effectuate this recommendation and plans to utilize this form according to the purposes of Recommendation 1.b as soon as operationally possible.

Recommendation 1.b – Ensure county employees involved in community outreach award decisions comply with county policy by submitting a written memorandum from the employee to the employee’s supervisor detailing potential conflicts of interest and confirming the employee will avoid any involvement in related decisions. This memorandum should be submitted to the County Attorney’s Office and county human resources department.

Response – PCSO will adhere to Pinal County Policy and Procedure No. 3.35, which provides appropriate procedures and safeguards under Arizona’s conflict of interest laws. It should be noted here that PCPP 3.35 requires the disclosure of potential conflicts of interest and abstention from conflicted matters when appropriate.

Please feel free to contact me if you have any questions.

Sincerely,

Mark Lamb, Pinal County Sheriff

