MEMORANDUM

Date: June 18, 2018

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **Board of Supervisors June 19, 2018 Addendum Item Numbers 10, 12 and 13, The County Attorney Anti-Racketeering Fund Request, Review and Approval**

As the Board knows reviewing and obtaining of the County Attorney's Anti-Racketeering Fund Request has been both problematic and frustrating. On Friday June 15, 2018 I received the attached (Attachment 1) from J. Arthur Eaves regarding the previous County Attorney proposal user of antiracketeering funds.

In the future, I would suggest the Board consider approving these requests only to form and state Board approval and has nothing to do with determining the legal eligibility of using anti-racketeering funds for the purpose requested by the County Attorney.

As the Board recalls this review and approval is an unfunded mandate that has been placed on the Board by the legislature without any funding source. The County is paying for outside attorney review of these requests through the general fund, even though we have requested the County Attorney use anti-racketeering funds for this purpose.

Hence, for the future review I would suggest the Board have a standard approval, which would indicate that the approval is given only as form and is not a determination as to the legality of the expenditure for conforming both with Arizona Law and Federal rules procedures and law with regards to the use and expenditure of anti-racketeering funds.

Finally, I believe there is a need for comprehensive legislation relating to this matter and suggest that the Board request the legislature to make all anti-racketeering funds available to offset the ever rising cost of funding the criminal justice system and not available for individual county attorney, sheriff or law enforcement expenditures.

CHH/mp

Attachment

c: The Honorable Barbara La Wall, Pima County Attorney
Michael Racy, Racy Associates, Inc.

SANDERS + PARKS
ATTORNEYS AT LAW

J. Arthur Eaves
P 602.532.5730
F 602.230.5034
Artie.Eaves@sandersparks.com

June 15, 2018

CONFIDENTIAL/ATTORNEY CLIENT PRIVILEGED

Mr. Chuck Huckelberry
Pima County Administrator
Pima County
130 West Congress Street, 10th Floor
Tucson, AZ 85701

Re: ***RICO Funds***

Dear Mr. Huckelberry:

This letter addresses several pending requests for the use of RICO funds by Ms. Barbara LaWall, Pima County Attorney. In this letter I also address the issues raised by Ms. LaWall in her Memorandum to C.H. Huckleberry, dated March 19, 2018.

I begin by addressing Ms. LaWall's Memorandum of March 19, 2018. Ms. LaWall wrote the Memorandum to clarify a number of requests for RICO funding which the Pima County Board of Supervisors failed to approve at their February 20, 2018 meeting.

As an initial matter, it should be stated that both the Pima County Board of Supervisors (PCBS) and Ms. LaWall have the mutual goal of ensuring appropriate use and allocation of shared RICO funds. The State Legislature has recently required the PCBS to approve the expenditures of RICO funds sought by Ms. LaWall. Both PCBS and Ms. LaWall must look to the United States Department of Justice guidelines for approved uses of these funds. The Guidelines are by no means comprehensive and they are certainly open to interpretation.

At issue in all of the unapproved expenditures is whether the organizations have significant ties to law enforcement sufficient to merit an award of funds. It remains my opinion that the organizations for which she has submitted clarification still lack the sufficient law enforcement nexus. Ms. LaWall feels quite strongly that the groups do carry the necessary nexus to law enforcement. Following her clarifications, I remain unconvinced.

I acknowledge Ms. LaWall's experience, her intelligence, her standing and the faith which has been placed in her by the voters. I simply disagree with her in an area where the United States Department of Justice has not issued guidelines which provide a concrete answer as to whether these organizations satisfy the law enforcement connection.

There is a remedy that is readily available to settle this good faith disagreement. Within the DOJ Guidelines, an agency is encouraged to email the DOJ if they are unsure whether a proposed expenditure is permissible. The email address is provided in the body of the Guidelines. I do not believe either agency should try to guess at the right answer in light of the guidance offered by DOJ.

It has been my position that there are thousands of after school programs which teach different subjects and provide different services to youth. All of those programs can be said to "keep kids off the streets." Most of those programs can be said to decrease the risk of delinquency. I am of the opinion that those qualifications alone do not create a sufficient law enforcement nexus to merit the use of RICO funds. Similarly, there are a number of programs which provide goods or shelter to youth. Again, I find a tenuous connection to law enforcement in programs which provide backpacks, shoes or other goods and services to children and youth.

In light of the gray area in which we find ourselves and in light of our inability to agree on this topic, I recommend that Ms. LaWall and/or the PCBS seek guidance from the DOJ regarding these outstanding requests. I think this would be very useful so that we can avoid these protracted determinations in the future.

There are two other outstanding requests by Ms. LaWall for expenditure of RICO funds.

<u>CBS Consulting Group and Raise the Bar Consulting, LLC</u>

In both instances, Ms. LaWall seeks approval to utilize RICO funds to pay a grant-writing service to seek various grants which would support the efforts of her organization. Subsection 1(f) of the DOJ Guidelines regarding permissible uses of shared funds specifically cites hiring a grant writer as a permissible use of funds. I believe these are appropriate uses of RICO funds under the DOJ Guidelines and I would recommend approving these two expenditures.

I am cognizant that the Pima County Board of Supervisors has been mindful of the possible use of RICO funds for supplanting the budget of the PCAO. I do not see evidence of supplantation here. The Guidelines give an example of supplantation occurring when one law enforcement organization grants RICO funds to another organization and then cuts

the general budget of that organization by the amount of the RICO grant. Here, Ms. LaWall is seeking to use contractors for a service that is needed on a routine basis. I do not believe that rises to the level of supplantation.

Mr. Huckleberry, you asked me to address a grant to the Southern Arizona Rescue Association (SARA). Obviously, I do not have the original application submitted to the Pima County Sheriff's Office, but based on the information you provided in your letter, it would appear that SARA is closely supportive of law enforcement efforts by providing much needed rescue services that would otherwise have to be conducted by law enforcement personnel.

Thank you for your patience in awaiting responses to these issues as I have been involved in trying one of the lengthiest and largest cases which will be tried in the State of Arizona this year. I hope I have addressed each of the outstanding issues. Please do not hesitate to contact me if you need further information.

Very truly yours,

J. Arthur Eaves
For the Firm

JAE:ml