

Toward Ethical and Transparent Distribution of City Tickets

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EXECUTIVE SUMMARY

Oakland City officials have been receiving thousands of luxury suite tickets from the Oracle Arena and Oakland Coliseum each year pursuant to contracts with the Golden State Warriors, Oakland Raiders, and Oakland Athletics (A's) sports teams. These "City tickets" (at least two and sometimes four per event, per official) are given directly to City Councilmembers and the Mayor for their personal use and distribution. In addition, the Oakland Alameda County Coliseum Authority (Coliseum Authority) provides two tickets per event to the City Attorney and the City Administrator and upon request to other City officials, including Councilmembers, putting the total number of tickets available to City officials at over 11,000 in the two-year span of 2015-16.

According to state and local law, tickets to these events are considered gifts to public officials unless the City adopts a written ticket distribution policy that identifies the public purpose served by the distribution of the tickets. The *City of Oakland Policy for Receipt and Distribution of Passes and Tickets*, adopted in May 2009,¹ provides a list of reasons for which a City official or third party may receive and use a ticket for a "governmental purpose," including "oversight" and "review" of facilities and "rewarding" a City employee, community activist, or school/non-profit organization for their work.

News reports in 2016 reflected some elected officials attending many dozens of Golden State Warriors games using City tickets, and claiming they were there each time to "oversee the facilities." The Public Ethics Commission (Commission) used its new authority granted in 2014 to open an investigation in June 2016 to determine whether any laws were broken, and it further decided that the City's policy and process for distributing tickets also needed evaluation. As part of the latter review, the Commission held a public hearing in November 2016 to review the process by which the City receives, tracks, and distributes tickets provided to the City pursuant to agreements with the Coliseum Authority and the Oakland A's, Raiders, and Warriors teams. The Commission gathered information about the ticket distribution process, reviewed the state law that governs the receipt of free tickets and the disclosure of those transactions, discussed the current policy, and identified concerns with the process by which tickets are handed out to public officials and reported online.

While the state gift rule exception was designed to allow for City distribution of tickets that serve a public purpose, the use and distribution of tickets here in Oakland raises multiple concerns about whether the public purpose is achieved in the current process, at best, and, at worst, whether receipt and use of tickets amounts to a conflict of interest, mismanagement and misuse of public resources, or self-dealing. The Commission, in its recent review of the distribution of City and Coliseum Authority tickets, found the following significant problems:

- The City receives and distributes thousands of tickets each year in a manner that is poorly managed, allows tickets to be handed out to officials despite some officials failing to report ticket information as required by law, and permits public officials and other ticket recipients to claim purported reasons for the use of each ticket that is inconsistent with the nature or extent of their ticket use.
- The receipt and use of tickets by City officials who are involved in negotiating, drafting, and approving the contracts under which the tickets are provided to the City presents significant, inherent ethics concerns in the area of conflicts of interest and self-dealing.

¹ City Council Resolution 82032

- City tickets have been viewed as a perk of office or employment rather than a public asset to be managed and utilized for a public purpose as required by law.
- Form 802 (ticket use) data is incomplete, with several officials failing to file legally-required information; the data also is difficult to find and not provided to the public in an open data format that is searchable and easily consumed by the public.
- Thousands of luxury suite tickets go unused by the City each year, and, due to the design of the distribution process, elected officials have been required to submit hundreds of unnecessary reports of unused tickets.
- The City ticket policy provides vague and questionable reasons for attending events and lacks limitations on the allowable ticket use by officials and distribution to third parties, and the policy lacks express enforcement mechanisms to ensure compliance with the policy and the law.
- Separate from the City's ticket distribution policy and process, the Coliseum Authority's policy, which allows for the distribution and use of hundreds of tickets to certain City and Alameda County officials for facility oversight-related duties, raises many of the same ethical and public purpose concerns as in the City's policy.

The longstanding practice of handing large batches of tickets to elected officials under an outdated policy, combined with a cavalier attitude and ineffective system of reporting tickets, results in tickets being used by City officials and staff as if they were a perk – or tickets going unused or unreported – in contrast to the public purpose for which the gift exemption was intended. Given the history of the use of tickets by elected officials, and the evolution of laws and ethics policies in Oakland and other jurisdictions, the Commission recommends a new approach to both the policy and the process of receiving, distributing, and disclosing information about tickets provided to the City of Oakland.

This report summarizes the Commission's findings and provides specific recommendations that the Commission urges the Mayor, City Council, and City Administrator to implement in order to ensure that tickets provided to the City are used for public purposes and distributed and reported according to state and local law.

BACKGROUND

City Officials Receive Thousands of Tickets Each Year

The City of Oakland receives 20 luxury suite tickets to every Oracle Arena event and 18 luxury suite tickets to every Oakland Coliseum event pursuant to contract agreements with the Golden State Warriors, Oakland Raiders, and Oakland A's. In addition, City Councilmembers also receive two field tickets (on top of the two suite tickets) to every A's game. These "City tickets" are delivered to City Councilmembers (two per event), the City Council President (4 per event), and the Mayor (roughly 2 per event), resulting in approximately 8,000² tickets given to City Councilmembers and the Mayor in 2015 and 2016.

Separate from the above-described "City tickets," certain elected officials each are entitled to receive roughly two luxury suite tickets per event from the Coliseum Authority, a multi-agency joint powers authority that manages the Coliseum Complex on behalf of the City of Oakland and the County of Alameda. These sets of tickets, referred to here as "Authority tickets," are provided to members and other executives who participate on the board or assist in the work of the Coliseum Authority, including the City Attorney, City Administrator, and City Councilmembers Kaplan and Reid who sit on the Authority Board as representatives of the City, resulting in multiple sets of tickets available to these Councilmembers who receive City tickets as well as Authority tickets. Oakland City officials received over 1,100³ Authority tickets in 2016.

Tickets are Gifts Under State Law, Except for "Public Purpose"

Under state law, event tickets received by public officials (elected officials and staff) generally are considered gifts to the public official and subject to the state gift limits of \$460 (in 2016) per calendar year. In Oakland, the gift limit is \$250 per year, or \$50 if the gift-giver is or has recently done business with the City.⁴ An exception to the gift rule allows tickets to be received, distributed, and reported by the agency, in lieu of being considered a gift to the official, if that agency has adopted a written policy that identifies the public purpose served in distributing the tickets and the official adheres to the policy.⁵

California Fair Political Practices Commission (FPPC) Regulation 18944.1 outlines the exception to the gift rule for tickets given to an agency and distributed according to a written agency ticket distribution policy. The regulation states that the written policy must be adopted by the legislative body of the agency and must include all of the following:

1. A provision setting forth the public purposes of the agency for which tickets or passes may be distributed;

² Most numerical representations for "City tickets" in this report are based on data available through the City's Form 802 filings, which can be found on the City Council's website: <http://www2.oaklandnet.com/government/o/CityCouncil/index.htm>; however, the data in the 802 filings only represents information that was reported by City officials, and the data may contain duplicate reporting or data entry errors made by those reporting or approving the information. Additional data from records provided by the City Council's Executive Assistant as of has been added into this report to compare the filed 802 data with available records of unreported tickets for the time period of January 1, 2015 through September 24, 2016.

³ Numerical representations of data for "Authority tickets" are based on Form 802 data compiled manually from the Coliseum Authority's online Form 802 filings found on the Coliseum Authority's website: <http://www.oraclearena.com/oacca/public-information>.

⁴ Oakland Government Ethics Act, O.M.C Section 2.25, adopted in December 2014.

⁵ California Fair Political Practices Commission, *Reporting Ceremonial Role Events and Ticket/Admission Distribution – Form 802*, <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/reporting-ceremonial-role-events-and-ticket-admission.html>, accessed October 25, 2016

2. A provision requiring that the distribution of any ticket or pass to, or at the behest of, an agency official accomplishes a stated public purpose of the policy;
3. A provision prohibiting the transfer of any ticket received by an agency official pursuant to the distribution policy except to members of the official’s immediate family or no more than one guest solely for their attendance at the event;
4. The policy must be maintained as a public record and is subject to inspection and copying; the agency also must post the policy on its website within 30 days of adoption or amendment and send to the FPPC a link to the website where the policy is posted.⁶

Further, tickets received under this exception must be disclosed on FPPC Form 802 (shown here and attached as Appendix 1) within 45 days of the distribution of the ticket. The regulation requires the following reporting:

1. General use requires the following information to be reported:
 - a. Name of person receiving the ticket or pass;
 - b. Description of the event;
 - c. Date of the event;
 - d. Face value of the ticket or pass;
 - e. Number of tickets or passes provided to each person;
 - f. If the ticket or pass is behested, the name of the official who behested the ticket;
 - g. Description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.

Agency Report of: Ceremonial Role Events and Ticket/Pass Distributions Reset Page Print Form

A Public Document
California Form 802
 For Official Use Only

1. Agency Name: _____ Date Stamp: _____
 Division, Department, or Region (if applicable): _____
 Designated Agency Contact (Name, Title): _____
 Area Code/Phone Number: _____ E-mail: _____
 Amendment (Must Provide Explanation in Part 3.)
 Date of Original Filing: _____ (month, day, year)

2. Function or Event Information
 Does the agency have a ticket policy? Yes No Face Value of Each Ticket/Pass \$ _____
 Event Description: _____ Provide Title/Explanation _____ Date(s) ____/____/____
 Ticket(s)/Pass(es) provided by agency? Yes No If no: _____ Name of Source _____
 Was ticket distribution made at the behest of agency official? Yes No If yes: _____ Official's Name (Last, First)

3. Recipients
* Use Section A to identify the agency's department or unit. * Use Section B to identify an individual. * Use Section C to identify an outside organization.

A. Name of Agency, Department or Unit	Number of Tickets/ Passes	Describe the public purpose made pursuant to the agency's policy
B. Name of Individual (Last, First)	Number of Tickets/ Passes	Identify one of the following:
		Ceremonial Role <input type="checkbox"/> Other <input type="checkbox"/> Income <input type="checkbox"/> <small>Following "Ceremonial Role" or "Other" describe below:</small>
		Ceremonial Role <input type="checkbox"/> Other <input type="checkbox"/> Income <input type="checkbox"/> <small>Following "Ceremonial Role" or "Other" describe below:</small>
C. Name of Outside Organization (include address and description)	Number of Tickets/ Passes	Describe the public purpose made pursuant to the agency's policy

4. Verification
 I have read and understand FPPC Regulations 18944.1 and 18942. I have verified that the distribution set forth above, is in accordance with the requirements.
 Signature of Agency Head or Designee: _____ Print Name: _____ Title: _____ (month, day, year)
 Comment: _____

FPPC Form 802 (2/2016)
 FPPC Toll-Free Helpline: 888/646-6777

2. Tickets provided to an outside organization require the following information to be reported: Name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of reporting the names of each individual as required above.
3. Agency reports on tickets received by the Agency from an outside source or pursuant to a contract with the City, as described in the regulation, may include the name of the department or unit in lieu of reporting the name of the individual employee. Elected officials and members of the legislative or governing body of the agency are not included in this exception.⁷

In sum, state law provides an exception to the gift rules if a local government agency adopts a written policy that identifies the public purpose served in distributing the tickets and the official complies with the policy. Both Oakland and the Coliseum Authority have adopted such policies, and each has instituted a process for distributing tickets according to the policy.

⁶ California Fair Political Practices Commission, Regulation 18944.1.
⁷ California Fair Political Practices Commission, Regulation 18944.1.

CITY OF OAKLAND POLICY AND PROCESS

Oakland's Ticket Distribution Policy

The distribution of City tickets is governed by the *City of Oakland's Policy for Receipt and Distribution of Passes and Tickets* (Ticket policy) adopted as City Council Resolution 75052 in June 1999 and later revised as City Council Resolution 82032 in May 2009. This policy authorizes the use of tickets, as exceptions to the state gift rules which impose a limit of \$470⁸ on gifts given to a public official, if the use is for a "governmental purpose" as defined by the Ticket policy. Oakland's policy includes as a "governmental purpose" the following list of reasons for which a public official or third party may receive and use a ticket and not have the ticket be subject to the state gift limit:

1. Oversight of facilities or events that have received City funding or support;
2. Oversight of facilities or events that may require City funding or support in the near future;
3. Reviewing a facility's contribution to blight abatement within a Redevelopment Area;
4. Reviewing the ability of a facility, its operator, or a local sports team to attract business and contribute to the local economy;
5. Reviewing the ability of a facility or its operator to participate in the City's job creation goals or training programs;
6. Reviewing the contribution of a facility or an event to the City's goals for fostering arts and culture opportunities for City residents;
7. Rewarding a City of Oakland employee for his/her exemplary service to the City;
8. Rewarding a community activist for his or her service to the City of Oakland;
9. Rewarding a school or nonprofit organization for its contributions to the community; and
10. Rewarding an Oakland student for outstanding scholastic achievement.

The above reasons limit ticket use in Oakland to oversight of the facilities or the role of the the facility or event in City life, or rewarding a person or organization for their work. Unlike other cities, Oakland does not recognize other public purposes for the distribution of event tickets, such as promoting local economic development; promoting City business, resources, programs, and facilities; and promoting cultural, recreational, and educational programs and events.⁹ San Diego takes it a step further, implementing a tiered approach with dozens of public purpose reasons for the allowable use of City tickets organized into three categories with different levels of priority.¹⁰

Oakland's Ticket Policy has not been significantly updated to reflect the technical changes made to the state regulations on the use and reporting of tickets received under the policy in recent years, as well as the modern views adopted by other cities on the use of such tickets by elected officials, such as specific and narrow limits on the number of tickets that a public official can receive and personally use, or moving the distribution of tickets out of legislative control entirely. These changes have been made over

⁸ The City of Oakland now has a local gift limit per the Oakland Government Ethics Act, passed in 2014, which imposes a \$250 annual gift limit from a single source in a calendar year and a \$50 gift limit from persons doing business with or seeking to do business with the public servant's department.

⁹ City of Sacramento. Acceptance, Distribution, Use, and Reporting of Tickets Policy. 2016.

¹⁰ City of San Diego. Ticket Policy for Qualcomm Stadium, Petco Park and Other Tickets Provided to the City for Entertainment Purposes (Policy #700-22). August 18, 2016.

time, as cities recognize that the receipt and distribution of tickets by elected officials invites both legal and public perception concerns of government corruption.

Ethical Concerns Regarding City Officials Receiving Tickets Pursuant to a Contract that they Negotiated or Approved

City tickets are provided to the City of Oakland pursuant to City contracts with each of the respective teams, with language in each of the contracts setting aside certain box seats for the City of Oakland, the County of Alameda, and the Coliseum Authority, as discussed above. The contract agreements are based on the City leasing the property to the teams in exchange for consideration from the teams that includes, among other things, the sets of tickets provided to the City. City Councilmembers approve these contracts and the language contained in them.

State and local ethics laws contain provisions barring the use of public resources for private or campaign purposes and prohibiting an official from making, participating in making, or influencing a decision or contract in which the official receives a personal financial benefit.¹¹ Here, Oakland Councilmembers who approve the lease agreements that earmark tickets to the City are the direct recipients of the tickets. These Councilmembers then make decisions about how those tickets are to be distributed – many of them being used personally by the Councilmembers to the tune of dozens and sometimes hundreds of times over the course of a two-year period, as described in this report.

The participation of elected officials in the contract approval process in which the officials receive free tickets, creates, at a minimum, a perception of both a personal conflict of interest and misuse of public resources for personal gain.¹² The policy and process must therefore be amended to ensure that all tickets are used or distributed according to a legitimate public purpose and that tickets are not considered and used as a perk of office by officials, their family, or their staff.

In addition, the contract arrangement described above means that these tickets are City assets, or “public resources,” that must be managed wisely and may not be used for personal or campaign purposes. As a City asset, these tickets should not be handed to

Asset Value of a Luxury Box Suite

The monetary value of a box suite is difficult to quantify, according to Scott McKibben, Executive Director of the Oakland Alameda County Coliseum Authority, because prices vary depending on the type of package in which the box is provided, such as part of a sponsorship which would include advertising and other costs. Prices are also difficult to pin down for luxury suites because they are not sold on a per-ticket basis, McKibben explained. However, McKibben provided the following as general estimated ranges of the cost of a suite box to give the Commission a sense of the potential value:

- **Golden State Warriors** – between \$150,000 - \$400,000 per season, depending on the location of the suite
- **Oakland Raiders** – \$60,000 - \$75,000 per season, with recent price increases due to the team’s success in the 2016-17 season (suite boxes used to go for as little as \$5,000 per season)
- **Oakland A’s** – \$50,000 - \$150,000 per season (81 games), depending on the location of the suite

McKibben also stated that it is possible for the City to negotiate to give up the suite of tickets to the teams in exchange for an amount certain, such as \$250,000 in additional rent per year. When asked whether sets of tickets to cities and counties are typically included as part of arena deals in his experience in other cities, McKibben said, “No, not to the extent that we have here... not 3 [suite boxes].”

Scott McKibben, Executive Director, Oakland Alameda County Coliseum Authority, Oral testimony to the Public Ethics Commission, November 30, 2016.

¹¹ Oakland Government Ethics Act, O.M.C. Section 2.25.040 and 2.25.060, and California Government Code Sections 87100 and 1090.

¹² JoAnne Speers, Adjunct Professor, Public and Nonprofit Administration Programs, School of Management, University of San Francisco. Testimony provided to the Public Ethics Commission, November 30, 2016.

the legislative branch to use and distribute but should instead be presented to the City Administrator who is charged with the duty to “administer the affairs of the City” pursuant to the City Charter.¹³

Because Councilmembers participate in the contract approval process, and because tickets are a City asset that should be managed as such, all City tickets should be delivered to the City Administrator rather than City Council. A significant City asset such as these tickets should be managed and dispersed through a central, City executive branch as part of City operations, not within the legislative branch. A centralized system also would resolve additional significant problems with the ticket delivery and reporting process to be discussed in more detail below.

Ticket Delivery and Reporting Process

Under the current process in which City tickets are delivered directly to City Council, the tickets are brought by Coliseum Authority staff and handed to the Executive Assistant to the Council. The Council Assistant then makes tickets available to Councilmembers and the Mayor, requiring each office to sign for the tickets in order to review the tickets available and make decisions about how to distribute them. Some offices keep the tickets and submit the required Form 802, some return the tickets, un-used, to the Council Assistant, and some offices keep the tickets and submit no form. For those who report the data, they do so through the City’s online filing system called Radar, and the Council Assistant later e-signs the form on behalf of the City. For those who do not report the data, the Council Assistant maintains records that show who signed for the tickets and also who failed to report the required Form 802 data for the tickets that were signed out.¹⁴

Thousands of Tickets Go Unreported

According to the Council Assistant’s records, Councilmembers and the Mayor, to widely varying degrees, failed to file a combined total of at least 3,556 reports of their receipt, use, or non-use of tickets.¹⁵ These records indicate that three Councilmembers provided little or no Form 802 information about the receipt, use, or distribution of the vast majority of tickets that were signed out by their office each month. Records indicate that other officials reported on most of the tickets that were signed out, but also had some tickets that went unreported, as shown by the graph on page 12.

This missing Form 802 data results in a total lack of data, and lack of transparency for the public, for about one-third of the tickets provided to these officials. Officials who failed to provide the required reports are subject to potential fines from the Commission and the Fair Political Practices Commission according to the City policy and state law, to be determined separate from this report pursuant to the Commission’s pending investigation.

Each official is responsible for ensuring that the Form 802 has been filed in order for the ticket to be exempt from the gift rules under the law. While the potential violation falls on the public official who uses the ticket, there is no demand that the Form 802 report be filed before tickets are physically handed to Councilmembers, the Mayor, or their staff. Instead, officials are left to their own choice as to whether to file the required forms, after having been advised of the requirement by the Council

¹³ Oakland City Charter Section 504.

¹⁴ Susan Sanchez, Executive Assistant to the City Council. Statement to the Public Ethics Commission. November 30, 2016, and December 1, 2016.

¹⁵ Data derived from the Council Assistant’s records consists of activities occurring during the time period of January 2015 through September 2016.

Assistant, a subordinate position to the Council.¹⁶ This is a serious flaw in the ticket distribution system that must be addressed.

Process Puts Onus on Officials to Distribute Tickets or File “Do not use” Reports

Another flaw in the design of the Council’s process in which hundreds of tickets are handed directly to elected officials over the course of a year is that Councilmembers and the Mayor are put in the position to have to decide whether to use or distribute tickets to others. It is the official or their staff who must reach out and distribute tickets; otherwise, the tickets go unused and wasted. Further, all of these officials must file Form 802 data for any instance in which they “did not use” their tickets. This reporting requirement is unnecessary and burdensome on officials by imposing a duty to report even when they have no interest in taking or distributing tickets. It puts the burden onto each elected official to first find someone to give the set of tickets to, or file a report stating they did not use the tickets, with no alternative option – all because the tickets automatically are given to every Councilmember and the Mayor regardless of whether they requested the tickets.

The result in 2015-16: elected officials filed 1,040 reports stating that they “did not use” roughly 2,229 tickets they were given. This only includes data for those who actually filed reports – there is no way to know how many of the roughly 3,500 unreported tickets went unused as well. Again, the only reason these “did not use” reports are required is because of the process by which these City tickets are automatically given to the elected official even when they have no interest in the tickets.

Integrity of the Ticket Report (Form 802) Data

In preparing the analysis of ticket data for this report, it became clear that the City has not created an effective system for tracking City ticket data from receipt through distribution of each ticket. The Form 802 data available on the City’s website only shows information about tickets that end up getting properly reported. Separate records kept by the Council Assistant merely provide lists of tickets received and signed out by Council offices. There is no single tracking mechanism that allows the public to see ticket data from receipt by the City through use by a recipient. This means that separate records must be consulted in order to put together an overall picture of ticket receipt, use, and reporting, as is done in this report. However, the use of these separate systems, combined with occasional human errors that are evident in the online Form 802 filings, significantly impacts the quality of the data available for this report and made accessible to the public.

Further, as described above, the total failure by some Councilmembers to report Form 802 ticket data means there is no mechanism to track the use or distribution of thousands of dollars in City assets. The purpose of Form 802 reports is to understand the flow of a benefit going to a City official that would otherwise be considered a gift, to show the public purpose for the distribution and also to see who else may benefit from the distribution of a City asset. For those who fail to submit Form 802 data, basic information is missing for hundreds of tickets for which we have no information about what Councilmembers did with their tickets – whether they personally used the tickets or gave them out to friends or others.

Disclosure System Needs Upgrade, Better Transparency

¹⁶ Susan Sanchez, Executive Assistant to the City Council. Statement to the Public Ethics Commission. November 30, 2016, and December 1, 2016.

Ticket data that is reported into the City’s electronic filing system, Radar, is provided to the public at the bottom of the City Council’s main webpage as a link to “Form 802: Ticket Distribution Disclosures,” where each Form 802 is displayed as a separate “.pdf” document. Even though the data is entered electronically by City staff and maintained in an internal database, the data is not provided to the public in this form and is instead made available to the public online in such a way that requires a citizen to click on a separate link for each Form 802 entry, download the individual form as a “.pdf” document, and view the information within the form. In other words, the data is not provided in an open data format despite being collected and placed into an Excel format internally. As a result, the public does not have immediate access to the comprehensive data set in a manner that is searchable by ticket recipient, organization, or any other data category, ultimately defeating the purpose for which the reports are required. The data also is not made available regularly on the City’s Open Data Portal (Socrata), where many public City datasets are made open and accessible to the public.

The City should make the full data-set available in excel format on the City Council’s website and on the Open Data Portal and should insert controls into the system to ensure that the data is collected in a manner that results in clean data that reduces chances of human error. This may require drop-down fields for items such as the purpose of the ticket use and type of recipient.

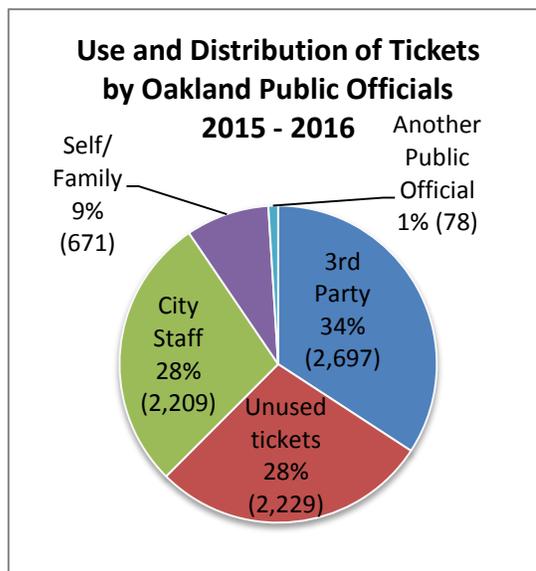
Meanwhile, despite the above data integrity concerns, this report summarizes the available information from the online Form 802 filings as provided in raw data form by the City’s Department of Information Technology, along with records maintained by Council Assistant Susan Sanchez.

City Ticket Use and Distribution by Elected Officials

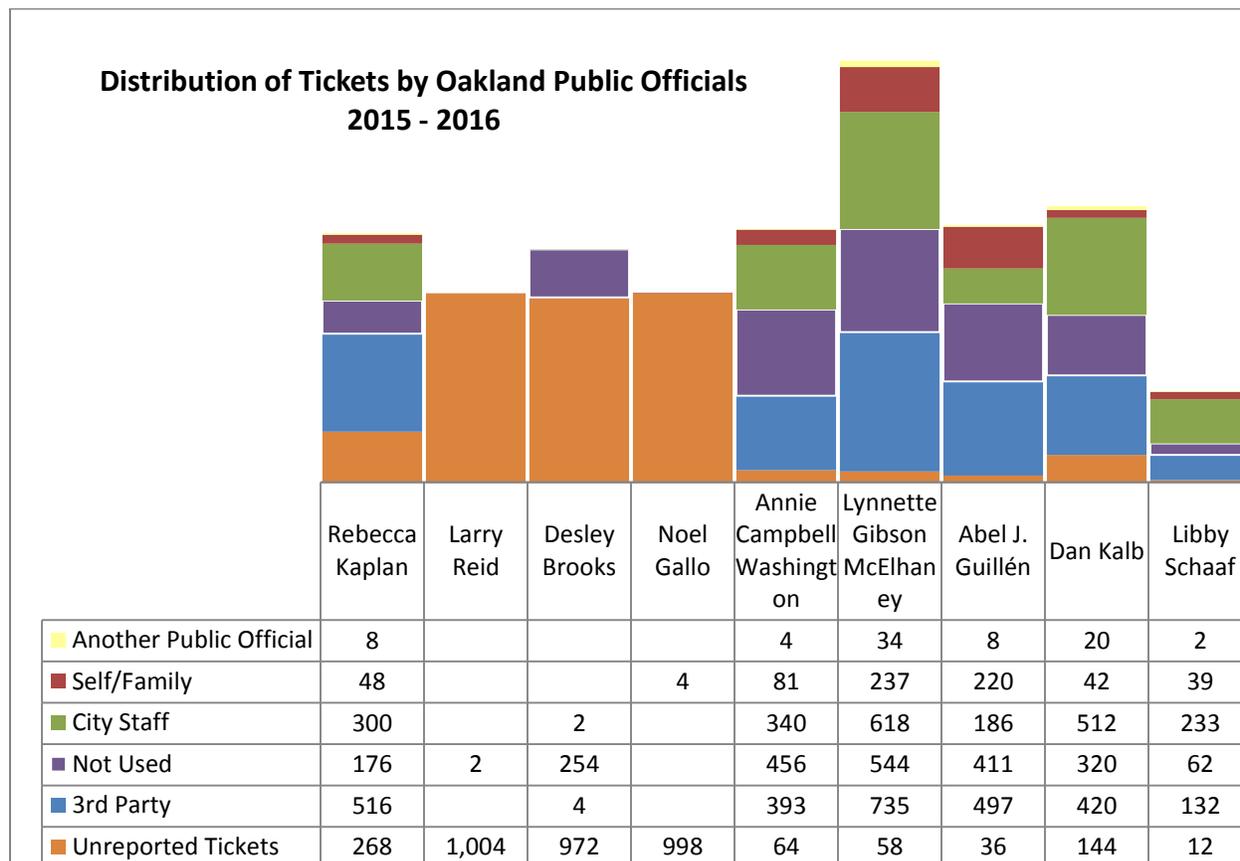
Overall, City records indicate that over 11,000 Oakland Coliseum and Oracle Arena tickets were given to the City and made available to City Councilmembers and the Mayor. Of those, approximately 7,884 tickets were reported through the Form 802 filing process. Again, this means roughly 3,500 tickets were used or distributed with no reporting as to what happened to the ticket, such as to whom the ticket was given and for what purpose.

For the 7,884 tickets for which reports were filed, the graph to the right shows the breakdown, by recipient, for all tickets reported by City Councilmembers and the Mayor. Roughly one-third of tickets went to a third party, with 28% going to City staff and another 28% reported as not being used, and 9% of all tickets being used by the public official and/or their immediate family.

Below is a comprehensive summary of the distribution and reporting of tickets per official, based on Form 802



data combined with Council Assistant records of ticket distribution and reporting to include data on tickets that were signed out but not reported via the City’s online filing system.^{17 18}



Most notable in the above chart is the lack of reporting of tickets, indicated in orange, based on records provided to the Commission by the Council Assistant who distributes the tickets. This concern has already been discussed in the above sections on ticket delivery and reporting.

The graph also shows that, of the data that was reported, approximately 750 tickets were used personally by Councilmembers and the Mayor in 2015-16, as shown in yellow and red. Personal use of these tickets, including historical trends of the number of tickets used personally, alongside the value of the tickets that were used, is discussed in detail below.

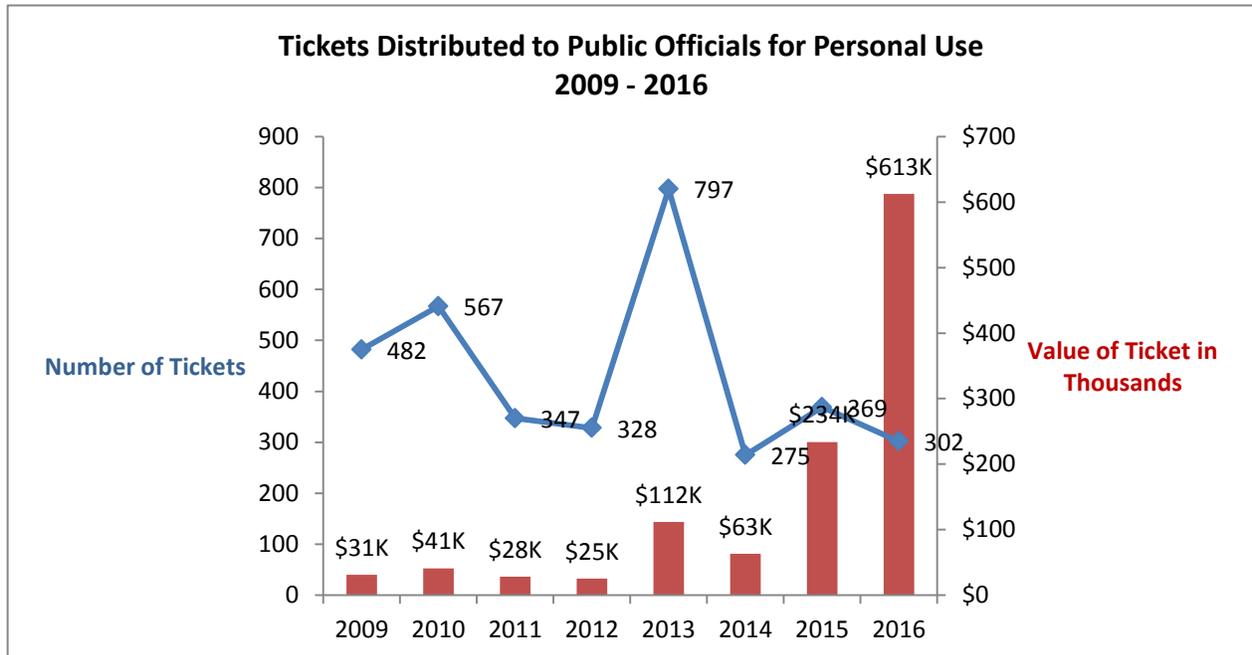
Meanwhile, other notable observations of the above chart are the extent to which tickets are used by City staff (green), the extent to which tickets are left unused (purple), and the number of tickets going to third parties (blue) – all points to be discussed below.

¹⁷ As noted earlier in this report, the data reflected in this graph and this report contains many flaws, including some duplicate reporting, human errors, etc.

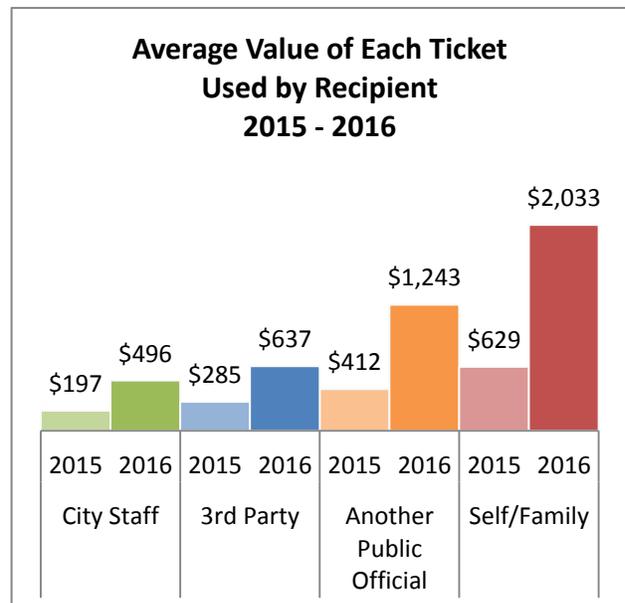
¹⁸ Note that Councilmember McElhaney, as Council President in 2015-16, typically receives four tickets to every event over the 2 received by every other Councilmember.

Value of Tickets Personally Used by Officials

The data above indicates that Councilmembers and the Mayor used a combined total of about 750 tickets in 2015 and 2016. A closer look at the trends of reported information over the years shows a general decline in the total number of tickets used by Councilmembers and the Mayor, with the exception of a spike in the year 2013. While there has been an overall decline in the number of tickets personally used, the total reported face value of tickets used by Councilmembers increased dramatically in recent years, seemingly in correlation to the success of the Golden State Warriors and the Oakland Raiders.



While the graph above shows the overall decrease in number of tickets being personally used by officials¹⁹ compared with the increase in overall value of tickets they used, we further see that Councilmembers and the Mayor have been the greatest beneficiaries of the higher value tickets in the graph to the right, which displays the breakdown of the value of City tickets used by each type of recipient. Tickets going to elected officials average more than double the face value of tickets going to City staff and third parties in 2015-16. This suggests that public officials have been using the more expensive tickets themselves, for the purpose of “reviewing facilities,” while providing the less expensive tickets to City staff and third party individuals.

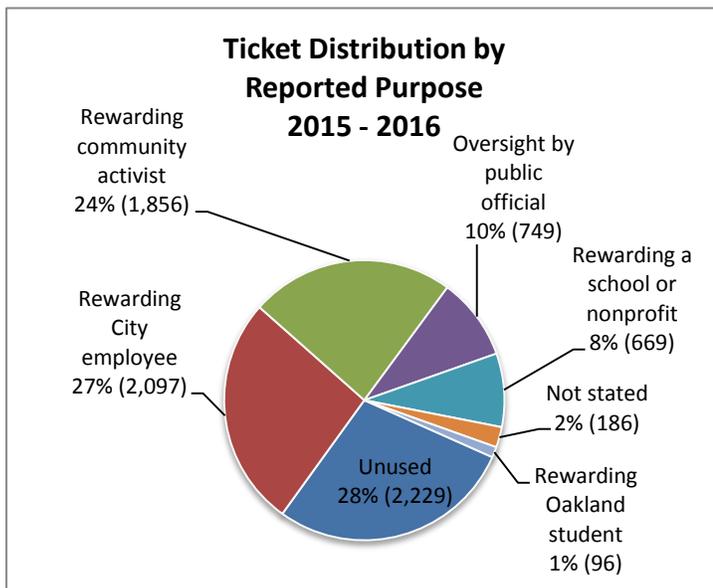


¹⁹ In 2013, roughly 1,000 more A's tickets were provided to the City and reflected in the number of tickets used by elected officials and other recipients alike.

Reasons for Personal Use by Officials

According to the Form 802 data reported by Councilmembers and the Mayor, all of the roughly 750 tickets that were used by Councilmembers were for “oversight” purposes. Two Councilmembers personally used more than 200 tickets over the two-year period for the purpose of reviewing facilities, with the rest of the reported information showing use of roughly 40 or 80 tickets each for the two-year period, for those who reported form 802 data.

Although “oversight of facilities” was the identified reason for elected official use of City tickets, during the Commission’s review, a few officials stated publicly or to the Commission that they do not attend games and events to oversee facilities or review operations, rather, they said they go to enjoy the show.



Based on its review, the Commission believes that one or two games or events per year, per facility, would be sufficient to enable an official to oversee or review the stadium/arena facility and its operations, and to advance the City interests. Furthermore, the Commission does not believe that “reviewing facilities” should be an allowable purpose for using a high-value ticket, such as a play-off game.

Other cities in California, some following newspaper reports of ticket overuse by City officials, have more recently adopted policies limiting the number of tickets given to Councilmembers, requiring that almost all tickets be distributed out for community purposes, expanding the substantive list of reasons for tickets to be used by outside individuals, and providing levels of priority for certain city purposes.²⁰ Oakland is overdue for a revision to its City Ticket policy in light of the evolution of reforms occurring statewide on this issue, and in light of the abuse of the “reviewing facilities” exception in the City’s policy.

Distribution to City Staff

As shown in the graph on page 11, ticket data indicates that 2,209 tickets went to City staff in 2015-16. According to reported Form 802 data, the typical reason that tickets are provided to City staff is to “reward a City employee” for their service. However, ticket use by City staff shows the certain staff receiving large numbers of tickets to events – with at least a dozen employees receiving 40 or 50 tickets each, and a few receiving 80 or 90. Two of these top ticket recipients provide direct administrative assistance with the ticket distribution process, and most of the top ticket recipients, other than elected officials, consist of Council or Mayor’s office aides and are also among the ticket recipients who have received the highest value tickets. Anecdotally, the Commission heard an example that likely occurs

²⁰ See Sacramento, Los Angeles, and San Diego Ticket Policies.

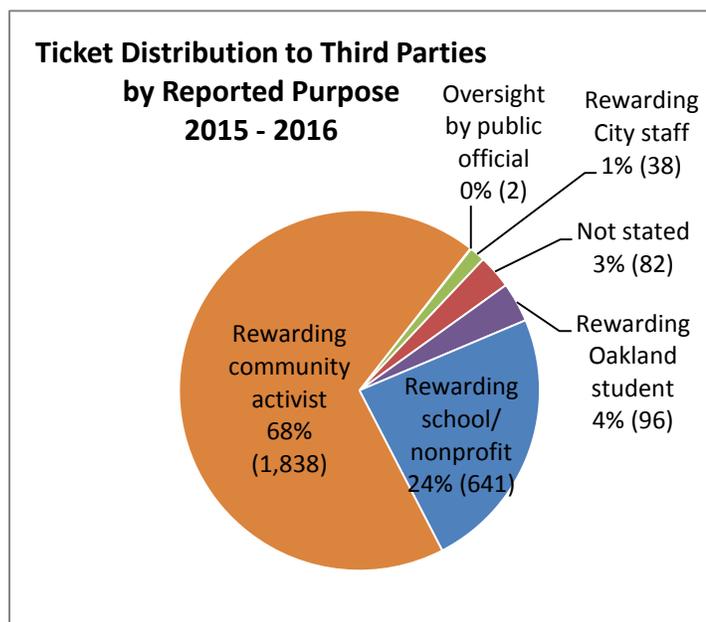
across offices: that a Council aide responsible for distributing tickets for their Councilmember may decide to go to a game last-minute because they were unable to find someone to use the tickets. Again, this points to flaws in the system by which Councilmembers receive batches of tickets and are then responsible for distributing them. But it also speaks to the need for express limitations as this level of tickets distribution puts these individuals at risk for violating the public purpose of the City policy as well as other laws.

Similar to the need for a limit on the personal use of tickets by elected officials, the Commission believes the same is true for tickets provided to staff in reward for their service – one or two tickets per event or facility, per year, would provide plenty of reward for City employee service or to support employee morale. Staffers who are responsible for distributing tickets should not be allowed to distribute tickets to themselves and should not be using tickets to attend events, and certainly not dozens of events, unless they are part of the specific public purpose for which the distribution is made.

Distribution to Other Third Parties

In addition to City staff, the data shows that 2,697 tickets went to a third party, such as an organization or individual outside of City government. Again, the data is difficult to rely on here due to the variation in how the Form was filed and who the filer considered as a “third party,” which appears to occasionally include City staff as well.

Furthermore, Form 802 information regarding third parties is inconsistent and often lacks detail to show exactly where and why the ticket was distributed to the third party. Sometimes, the data will indicate the organization’s name and description, but most often, only the third party name is listed, and the reason for the distribution is “rewarding a community activist.” For tickets going to a third party, the name, organization, and description of the organization should be mandatory (name, address, and organization description are required by state law), and tickets should not be provided to the third party without receiving this information.



Under the current system, elected officials, with their batches of tickets they automatically receive and are expected to distribute, are in a position to give many hundreds to thousands of dollars away to friends and family, or persons contributing to their campaigns, or any other third party as a “reward” for their work, leaving a gaping hole for officials to discretionarily share a City resource with little to no accountability. This bolsters the Commission’s view that the distribution of tickets must be centralized within the City Administrator’s office, so that all persons seeking tickets go through the same process Citywide. Better reporting and more centralized, neutral, and consistent management of the distribution of tickets will help resolve some of the issues with distributing tickets to third parties.

Unused Tickets

The Form 802 data further reveals that 2,229 tickets were left unused during the 2015 and 2016 calendar years, representing a surprising 28% of tickets reported as received by Councilmembers and the Mayor. This number is conservative as it does not include tickets that were unused and unreported by officials.

The Commission learned that the Executive Assistant only distributes tickets every 30 days based on an understanding that the relevant rules and regulations require the City to determine within 30 days where the tickets are going. This distribution schedule applies even if tickets were delivered all at once at the start of the sports team's season. Occasionally, for playoff games or other late-scheduled events, tickets may be delivered the week or day of the event.

Such a distribution schedule, which potentially results in an inefficient use of tickets, is unnecessary. The City policy merely requires that the Form 802 data be submitted within 25 days of the Councilmember *receiving* the ticket (the FPPC allows 45 days to report); it does not prohibit the tickets from being *distributed* sooner than 25 days before the event.

If all season tickets were made available at the start of the season, or as soon as received, presumably the tickets could be more easily distributed with advance notice to potential ticket recipients in order to maximize the available value to Oaklanders. Providing a catalog of available games as soon as tickets are available, and, more importantly, requiring all Form 802 data to be submitted before any ticket is handed out, could lead to better utilization and reporting outcomes.

Indeed, to avoid wasted tickets when Councilmembers or the Mayor declines to use tickets or do not pick them up, there should be a program in place for alternate distribution of the leftover tickets.

Creating Community One Ticket at a Time

Community Access Ticket Service (CATS) is a nonprofit organization that aims to strengthen communities by providing positive arts and cultural opportunities to disadvantaged individuals by receiving donated tickets and distributing them to under-served populations. Specifically, CATS is committed to the following:

- Creating a more inclusive community through shared cultural experiences,
- Reducing the rate of recidivism with those clients currently involved with CATS partner agencies, and
- Creating a fan base and future patrons for cultural events throughout the Bay Area.

Thanks to partnerships local venues, fine arts groups, professional and collegiate sports teams, museums and aquariums, each year CATS distributes tickets to nearly 60,000 individuals. CATS expresses its pride in including "all populations representing disadvantaged individuals: youth living in group and foster homes, veterans in need of support, those living with AIDS and HIV, adult men and women in recovery, formerly homeless individuals and families, mental health consumers, developmentally disabled and seniors in isolation."

Partnering with CATS "opens up the doors to those individuals without a tradition of attendance at cultural performances and venues [by] promoting community awareness and providing cultural enrichment through sports, the performing and visual arts, and experiential learning exhibits."

Community Access Ticket Service. Website accessed January 23, 2017. <http://www.communitytickets.org/index.html>. Thanks to Mills College, Lokey School of Business & Public Policy, graduate student class led by Professor Betsy Block for assisting with the Commission's policy review and mentioning CATS to the Commission.

Policy and Process Needs Reform, Enforcement

Given all of the problems described above, the Public Ethics Commission recommends a number of changes to the City's policy and process for distributing City tickets, including the following: revising the City Ticket Distribution policy to more clearly define and limit the use of tickets for public purposes, impose specific limits on the use of tickets by elected officials, shifting the receipt and distribution of tickets from the Council offices to the City Administrator's office, and amending the Government Ethics Act to expressly authorize the Commission to enforce the City's Ticket Distribution policy.

Other California cities have instituted changes, restrictions and oversight on the receipt and use of tickets by elected officials, including declining tickets entirely from the local sports arena (Santa Clara), authorizing the local ethics commission to oversee and enforce the ticket distribution policy (Los Angeles), creating a ticket distribution program in the executive branch of City government (Sacramento), setting priorities for how the tickets are to be used (San Diego), and limiting the number of tickets that public officials receive (San Diego and Sacramento).

The City of Oakland is in a position, with its expanded ethics commission and renewed focus on ensuring that effective ethics policies and procedures are in place, to redesign its process for receiving and distributing the thousands of tickets it receives each year so that this City resource is put to its highest and best public purpose and in a manner that complies with state and local law.

While the above sections focus on the process by which City tickets are distributed by the City of Oakland, the next section discusses the process by which the Coliseum Authority distributes its set of tickets to a few Oakland officials pursuant to the Authority's own process and ticket distribution policy.

COLISEUM AUTHORITY TICKET POLICY AND PROCESS

Coliseum Authority Distributes Tickets to the City Administrator, City Attorney, and Two Councilmembers

As mentioned above, aside from the tickets the City receives directly pursuant to its contract with the teams, the Coliseum Authority receives its own set of tickets (Suites M-39 and L-16) that are distributed directly through to Authority Board members and other individuals upon request on a first come, first served, basis.

As representatives of the City on the Coliseum Authority Board, Councilmembers Reid and Kaplan each are eligible to receive 2 suite tickets to every game and event. The Authority tickets received by these two Councilmembers are in addition to the City tickets provided through the large batch given to the City, as described in the earlier section of this report. Thus, these two Councilmembers have the ability to receive double the amount of tickets for each event, albeit the Authority tickets are distributed to the Councilmembers upon request rather than automatically.

In addition, the Authority distributes 2 of its suite tickets to every event to City Administrator Sabrina Landreth and 2 suite tickets to every event to City Attorney Barbara Parker as additional “Authority Officials” who assist in the administration of the Coliseum Authority.

For all individuals who receive tickets directly from the Authority, the required Form 802 is filed with the Authority and made available to the public on the Authority’s website.²¹ Based on this data, Oakland city officials received 1,127 tickets to events in the single year of 2016 (as opposed to the data in the prior section, which reviewed the two-year span of 2015-16).

Coliseum Authority Policy

Authority tickets are governed by the Oakland Alameda County Coliseum Authority Policy for the Distribution of Tickets, which provides the following “public purpose” reasons for the distribution of Authority tickets to “Authority Officials:”

1. To supervise the managing agent,
2. To ensure that all duties of the Licenses are fulfilled,
3. To investigate the efficiencies of the operations of the various sporting and other events that occur at the Coliseum Complex,
4. To promote the Coliseum Complex for use by the general public and businesses to maximize revenues,

Authority Ticket Recipients

Members of the Authority Board include the following individuals:

1. Christopher Dobbins
2. Aaron Goodwin
3. Rebecca Kaplan (Oakland City Councilmember)
4. Scott Haggerty (Alameda County Supervisor)
5. Yui Hay Lee
6. Nate Miley (Alameda County Supervisor)
7. Larry Reid (Oakland City Councilmember)
8. Mary Warren

Other “Authority Officials” who are entitled to receive Authority tickets include the following:

1. City Administrator Sabrina Landreth
2. City Attorney Barbara Parker

Scott McKibben, Executive Director, Oakland Alameda County Coliseum Authority, Oral testimony to the Public Ethics Commission, November 30, 2016.

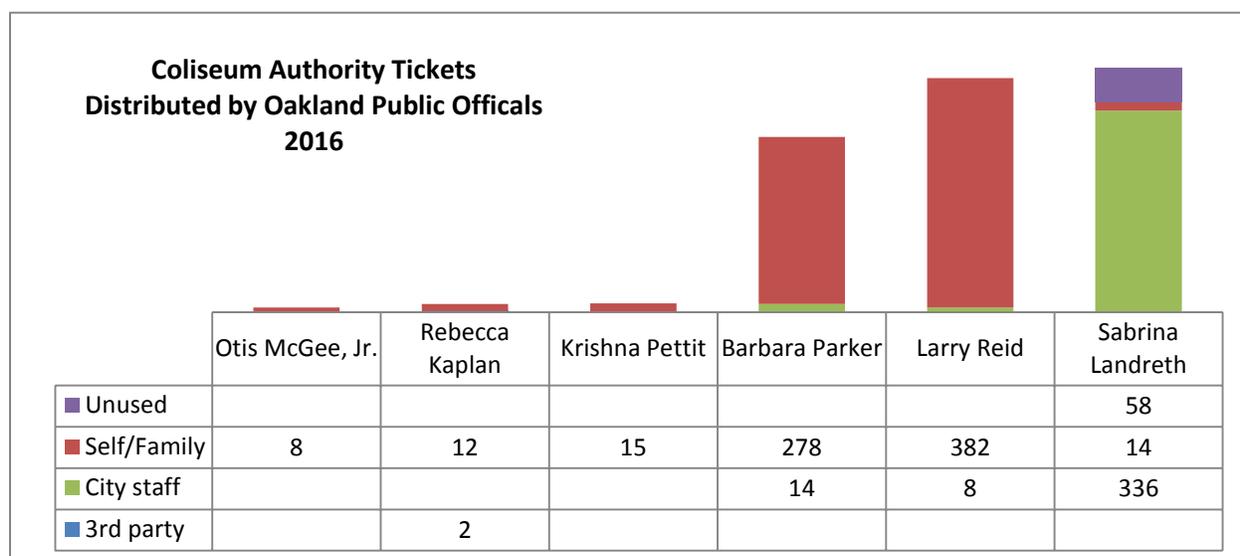
²¹ Oakland Alameda County Coliseum Authority, *Public Information*, <http://www.oraclearena.com/oacca/public-information>, accessed on November 14, 2016.

5. To provide opportunities to community groups to utilize the facility,
6. To review the performance of food and beverage concessionaires,
7. To observe the conduct of the managing agents’ employees and subcontractors,
8. To provide incentives to City and County employees that provide services to the Authority, and
9. To investigate complaints of the Warriors, the Raiders and the A’s about the Complex

A copy of the Coliseum Authority policy is appended to this report.

Use and Distribution of Authority Tickets by Oakland Officials

Below is a summary of Coliseum Authority tickets given to City of Oakland staff and officials, based on data reported on Form 802s that are posted on the Coliseum Authority’s website.



City Administrator Sabrina Landreth reported receiving 408 tickets in 2016, using 14 tickets herself/family, distributing 336 tickets to City staff, and leaving 58 tickets unused. The City Administrator’s office has put a comprehensive program in place to reward City staff for their service, taking nominations from City departments for staff who are deserving of City tickets, and distributing the tickets to these staff, who, according to City Administrator Analyst Serenity Mlay, often are excited and honored to receive the tickets.

According to the Form 802 filings submitted to the Coliseum Authority, the Oakland City Attorney Barbara Parker received 292 tickets in 2016, using 278 herself/family to “investigate the efficiencies of the operations of the various sporting and other events that occur at Coliseum Complex,” and distributing the remaining 14 tickets to City staff.

Councilmember Larry Reid received 390 tickets in 2016, using 382 for himself/family to “investigate the efficiencies of the operations of the various sporting and other events that occur at the Coliseum Complex” or “to promote the Coliseum Complex for use by the general public and businesses to maximize revenues.” He distributed 8 tickets to City staff.

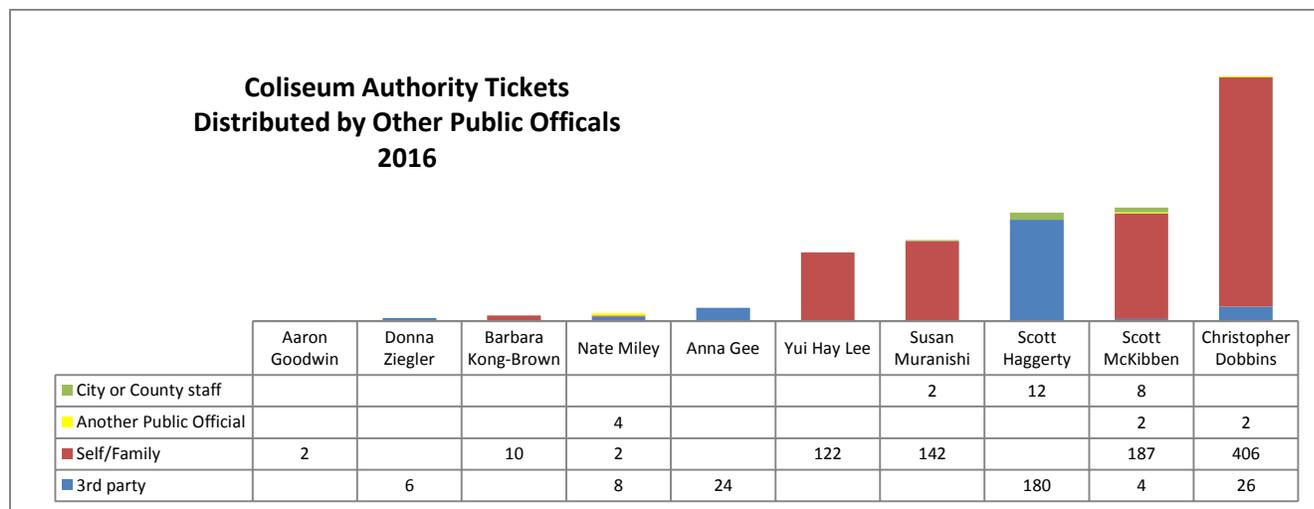
Councilmember Rebecca Kaplan received 14 tickets in 2016, using 12 for herself/family to “promote the coliseum for use by the general public and business to maximize revenues.” She distributed 2 tickets to a third party.

Also included in the above graph are two employees in the City Attorney’s office who received tickets as a result of their assistance on Coliseum Authority business.

Similar to the Commission’s conclusion regarding limits on the personal use of tickets in the prior section, the Commission reiterates its view that one or two games or events per year, per facility, would be sufficient to enable an official to oversee or investigate the stadium/arena facility and its operations, and to promote the Coliseum Complex. Furthermore, the Commission does not believe that “investigating efficiencies of the operations” of the facility should be an allowable purpose for using a high-value ticket, such as a play-off game.

Use and Distribution of Authority Tickets by Authority Officials

While the Commission has no jurisdiction over Coliseum Authority officials or County officials, the Commission had compiled data for all recipients of Authority tickets in 2016 and provides the data below for informational purposes.



Commission Concerns Regarding Authority Tickets

Tickets provided by the Authority to Oakland elected officials are not within the purview of the Public Ethics Commission, except to the extent that failure to adhere to the Authority Policy results in an unlawful gift to the public official under the Oakland Government Ethics Act.

In the process of reviewing the City’s policy and process, however, the Commission learned about the Coliseum Authority’s process – and its overlap with the City’s process – and makes the following observations to the Mayor, City Administrator, City Attorney, and City Council who are the City’s representatives in relation to the Coliseum Authority and who are in a position to effect policy changes within the Coliseum Authority:

1. The Form 802 data is buried on the Authority's website, in one large, scanned ".pdf" document for each month; the data is not provided in an open data format that is easily searchable by the public.
2. The Authority's ticket policy does not limit the number of tickets provided to "authority officials," nor does it require any activity by each authority official to conduct a written review or summary of observations made by the authority official attending each event to ensure that they are providing a service to the Authority each time they attend an event with their guest.
3. The Authority's ticket policy should be amended to more clearly articulate the public purpose and limit the number of tickets available to authority officials so that the use of the tickets is for a specific public purpose and not merely as a perk of authority membership.
4. The Coliseum Authority is a joint operation between the City of Oakland and the County of Alameda, funded with taxpayer money, so tickets received by the Authority are public resources and should be managed effectively and utilized for the public good.

CONCLUSION AND RECOMMENDATIONS

The Commission's review of the City's ticket distribution and reporting process found multiple problems that need to be addressed, including the following:

- The City receives and distributes thousands of tickets each year in a manner that is poorly managed, allows tickets to be handed out to officials despite some officials failing to report ticket information as required by law, and permits public officials and other ticket recipients to claim purported reasons for the use of each ticket that is inconsistent with the nature or extent of their ticket use.
- The receipt and use of tickets by City officials who are involved in negotiating, drafting, and approving the contracts under which the tickets are provided to the City presents significant, inherent ethics concerns in the area of conflicts of interest and self-dealing.
- City tickets have been viewed as a perk of office or employment rather than a public asset to be managed and utilized for a public purpose as required by law.
- Form 802 (ticket use) data is incomplete, with several officials failing to file legally-required information; the data also is difficult to find and not provided to the public in an open data format that is searchable and easily consumed by the public.
- Thousands of luxury suite tickets go unused by the City each year, and, due to the design of the distribution process, elected officials have been required to submit hundreds of unnecessary reports of unused tickets.
- The City ticket policy provides vague and questionable reasons for attending events and lacks limitations on the allowable ticket use by officials and distribution to third parties, and the policy lacks an express enforcement mechanism to ensure compliance with the policy and the law.
- Separate from the City's ticket distribution policy and process, the Coliseum Authority's policy, which allows for the distribution and use of hundreds of tickets to certain City and Alameda County officials for facility oversight-related duties, raises many of the same ethical and public purpose concerns as in the City's policy.

Recommendations

To resolve the above concerns, the Commission recommends the following actions:

1. The City Administrator should designate a staff person as a "ticket administrator" to receive the City's tickets from the Coliseum Authority personnel who delivers the tickets to the City so that all City tickets are provided to the City Administrator's Office (not City Council) for distribution. The Administrator should communicate this change to the Coliseum Authority.
2. The City Council should adopt a revised ticket distribution policy as an amendment to the Oakland Government Ethics Act to govern all tickets received or distributed by the City.
3. The revised ticket distribution policy should clearly define the public purposes for the allowable distribution of City tickets, limit the number of tickets that can be used by an individual each year, and provide the Public Ethics Commission with express authority to enforce the provisions.

4. The City Administrator’s “ticket administrator” should receive, control, track and distribute tickets according to the ticket policy and should not release any ticket without first receiving the required Form 802 information from the ticket recipient.
5. The City Administrator, with assistance from the Department of Information Technology and the Public Ethics Commission, should ensure that the Form 802 filing system comports with the policy and provides appropriate drop-down choices and other controls to maximize the quality of the data that is collected by the system. Form 802 data should be provided to the public on the City’s website in an open, searchable, downloadable, excel-type format for easy public access.
6. The City Council, Mayor, and City Administrator should advocate for changes to the Coliseum Authority’s policy and process for distributing the sets of tickets received and distributed separately by the Coliseum Authority so that the Authority policy comports with state law and so that mass numbers of tickets, arguably provided at public expense, are not used by Coliseum Authority officials under the guise of “reviewing facilities” and similar purposes to the extent noted in this report.
7. City officials, including the City Attorney, City Administrator, and City Councilmembers, should decline to personally use tickets provided by the Coliseum Authority beyond one or two per year, per event, in order to ensure that the use of the ticket is for the sole purpose of “reviewing facilities” or other similar purposes as needed to participate in the Authority process. Instead, City officials should request tickets through the City Administrator’s office solely; this would help ensure that all Oakland officials adhere to the policy, follow City laws, and use tickets for City of Oakland “public purposes,” which differ from the purposes allowable for Coliseum Authority members.

APPENDIX 1 – CITY TICKET POLICY

APPENDIX 2 – COLISEUM AUTHORITY TICKET POLICY

APPENDIX 3 – PEC BACKGROUND

Public Ethics Commission

The Public Ethics Commission (PEC) fosters transparency, promotes open government, and ensures compliance with ethics laws through a comprehensive approach that emphasizes prevention, enforcement, and collaboration. The Commission consists of seven Oakland residents who volunteer their time to participate on the Commission. Three members are appointed by the Mayor, City Auditor, and City Attorney, subject to City Council veto, and four members are recruited and selected by the Commission itself.

The Commission was created in 1996 with the goal of ensuring "**fairness, openness, honesty and integrity**" in City government and specifically charged with overseeing compliance with the following laws and policies:

- Oakland Government Ethics Act
- Oakland's Campaign Reform Act
- Conflict of Interest Code
- City Council Code of Conduct
- Sunshine Ordinance
- Limited Public Financing Act
- Lobbyist Registration Act
- Oakland's False Endorsement in Campaign Literature Act

Some of these ordinances grant the Commission specific powers of administration and enforcement. The citizens of Oakland have also entrusted the Commission with the authority to set the salary for Oakland City Council Members and the duty to adjust the salary by the Consumer Price Index annually. The Commission administers compliance programs, educates citizens and City staff on ethics-related issues, and works with City staff to ensure policies are in place and are being followed. The Commission also is authorized to conduct investigations, audits and public hearings, issue subpoenas, and impose fines and penalties to assist with its compliance responsibilities.

Beyond prevention and enforcement, the Public Ethics Commission enhances government integrity through collaborative approaches that leverage the efforts of City and community partners working on similar or overlapping initiatives. A collaborative approach recognizes that lasting results in transparency and accountability are achieved not through enforcement alone, but through a comprehensive strategy that aligns all points in the administration of City government – including clear policies and process, effective management and provision of staff resources, technology that facilitates the process, and public engagement.

The Commission meets on the first Monday of every month at 6:30 p.m. in City Hall, and meetings are open to the public and broadcast locally by KTOP, Oakland's cable television station.

