

# **OAKLAND POLICE DEPARTMENT**

## **Office of Inspector General**



**REVIEW OF TASK 9**

March 31, 2010

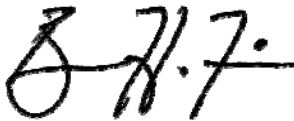
**CITY OF OAKLAND**

Memorandum

**To:** Chief Anthony W. Batts  
**From:** Captain Benson Fairrow, Inspector General  
**Date:** March 31, 2010  
**Subject:** **Contact of Citizen Complainant**

On February 1, 2010, the Audit and Inspections Unit of the Office of Inspector General initiated a review of Task 9, Contact of Citizen Complainant. The purpose of the review was to assess the Department's compliance with policy and its progress towards achieving compliance with requirements of Task 9 as set forth in the Negotiated Settlement Agreement.

The Office of Inspector General reviewed internal investigations of personnel, including the investigator reports, notes, Chronological Activity Logs, audio recordings and other supporting documents to determine if a citizen complainant was contacted as soon as possible by an Internal Affairs investigator or an investigator assigned to the investigation. The reviewed investigations were completed and closed between November 1, 2009 and January 31, 2010.

A handwritten signature in black ink, appearing to read 'B.H.F.', with a stylized flourish at the end.

Benson H. Fairrow  
Captain of Police  
Office of Inspector General

**OFFICE OF INSPECTOR GENERAL**  
Audit and Inspections Unit



**LEAD REVIEWER**  
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## EXECUTIVE SUMMARY

On February 1, 2010, the Office of Inspector General (OIG) initiated a review of Task 9. The purpose of this review was to assess the Department's compliance with policy and its progress towards achieving compliance with the requirements set forth in the Negotiated Settlement Agreement (NSA).

The OIG reviewed 68 investigations completed between November 1, 2009 and January 31, 2010. The OIG's review found the Department was consistently in compliance with Departmental policy requiring a citizen filing a complaint against Department personnel be contacted as soon as possible by an Internal Affairs investigator or investigator assigned to the investigation.

The Department also satisfied the NSA compliance standard of 90%. In 61 of the 68 (90%) investigations reviewed, an investigator assigned to the investigation contacted the complainant as soon as possible.

The three previous reviews in addition to the findings in this report demonstrate the Department has continued to improve, and has met and maintained the compliance standards of Task 9 for more than a year.

## **PURPOSE**

On February 1, 2010, in accordance with the Negotiated Settlement Agreement (NSA), the Audit and Inspections Unit of the Office of Inspector General (OIG) initiated the Department's third review of Task 9.

## **BACKGROUND**

### **Independent Monitoring Team Audit**

The Independent Monitoring Team (IMT) has completed two reviews of Task 9, Contact of Citizen Complainant. In their first review of Task 9, the IMT found that complainants in 32 of the 43 cases (74%) were contacted as soon as possible by IAD in accordance with this requirement. The IMT stated, "IAD was diligent in its efforts to contact complainants; it was not uncommon for an investigative file to record repeated attempts to make initial investigative contact with complainants." The results were published in the IMT "Fall 2006 IAD Review," published January 2007.

The second IMT review found that complainants in 28 of the 32 cases (88%) were contacted as soon as possible and the required information was obtained. The Department's compliance rate of 88% was just short of the 90% compliance rate required by the agreed-upon protocol, but was deemed sufficient for a finding of actual compliance for Task 9. The results were published in the IMT's Task 9 Review, published in February 2009.

### **Office of Inspector General**

The OIG has also completed two reviews of Task 9, Contact of Citizen Complaint. The first OIG review, published September 24, 2007, found that complainants in 36 of the 40 cases (90%) were contacted as soon as possible by IAD in accordance with the requirements of this Task.

The second OIG review, published December 22, 2008, found complainants in 40 of the 45 cases (89%) were contacted as soon as possible by IAD in accordance with the requirements of this Task.

## NEGOTIATED SETTLEMENT AGREEMENT REQUIREMENTS

### Task 9

On or before December 1, 2003, OPD shall develop a policy to ensure that citizen complainants shall be contacted, as soon as possible, by IAD or the investigator assigned to the investigation to determine the nature, scope and severity of the complaint, as well as to identify potential witnesses and/or evidence as quickly as possible.

## OIG COMPLIANCE OVERVIEW

### Task 9

Citizen complainants are contacted as soon as possible by IAD or the investigator assigned to the investigation to determine the nature, scope, and severity of the complaint, as well as to identify potential witnesses and/or evidence as quickly as possible

#### **In Compliance**

Compliance Requirement: 90%

Review Finding: 90%

## SCOPE AND POPULATION

### Audit Scope

The scope of the audit was an assessment of OPD internal investigations of complaints against personnel to determine if complainants were being contacted by IAD or an investigator assigned to the case as soon as possible to determine the nature, scope and severity of the complaint.

### Audit Population

The population for this audit consisted of all 226 investigations closed between November 1, 2009 and January 31, 2010. For this review, only completed investigations resulting in a formal finding (i.e. exonerated, unfounded, not sustained or sustained) were used.

### Identification of the Random Sample

A random sample was chosen from the 226 investigations with formal findings, using a one-tailed test. The one-tailed test required 68 investigations to be reviewed in order to achieve a confidence level of 95%  $\pm$  4%.

The 226 investigations were placed in case number order and randomized using a Research Randomizer site (<http://www.randomizer.org/index.htm>). The first 68 cases on the random order list were reviewed. Investigations initiated as the result of an on-duty vehicle accident were deselected and replaced.

Due to the dynamic nature of internal investigations, the IAD database constantly evolves and the number of completed and closed investigations changes. In order to identify a specific population and sample, this audit was based on the status of the investigations as documented on February 1, 2010.

### **Reference Material**

Department General Order M-3, *Receiving and Processing Complaints*  
Negotiated Settlement Agreement (Revised Dec 2008)  
Internal Affairs Division Policy & Procedure 05-01  
Internal Affairs Division Policy & Procedure 05-02  
IMT Internal Investigations Review Fall 2006 (Updated January 18, 2007)  
OIG Internal Investigations Review September 7, 2007  
OIG Review of Tasks 5, 8 and 9 Receiving and Processing Complaints December 2008  
IMT Contact of Citizens Complainants Review February 2009

## **AUDIT STEPS, FINDINGS, AND RECOMMENDATIONS**

### **Task 9**

*Citizen complainants shall be contacted, as soon as possible, by IAD or the investigator assigned to the investigation, to determine the nature, scope and severity of the complaint, as well as to identify potential witnesses and/or evidence as quickly as possible.*

### **Audit Steps**

Sixty-eight IAD investigations were reviewed for documentation that the complainant was contacted as soon as possible by IAD or another OPD investigator to begin gathering information regarding the complaint. The OIG considered the totality of circumstances to determine whether the contact was “as soon as possible.”

It was anticipated that in some instances the information obtained during the initial contact by a Field Supervisor or Intake Officer was sufficient to comply with this Task, while in others it was necessary for IAD to conduct an interview to obtain the information required “as soon as possible.”

### **Findings**

Sixty-one (90%) of 68 IAD investigations met the standard of this Task; seven investigations did not.



## **Recommendations**

In order to clearly identify the date, time, and investigator who made the initial contact with a citizen complainant, the OIG recommends the Department does two things: (1) Ensure the investigator includes his/her name and the date and time the interview was conducted at the start of the recorded interview, and (2) document the date, time and who conducted the interview in the Chronological Activity Log.

## **CONCLUSION**

In the past four reviews of Task 9 by the OIG and the IMT, 165 (89%) of the 185 investigations examined met the standard for this Task<sup>1</sup>. The IMT deemed the Department in actual compliance in their 2009 review. The four most recent reviews demonstrate the Department is complying with its policy and has met and maintained the compliance standards of Task 9 for more than a year.

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<sup>1</sup> 2007 OIG Review 90%, 2008 OIG Review 89%, 2009 IMT Review 88%, 2010 OIG Review 90%

## APPENDIX

	Case #	Date of Incident listed on CIR	Date of Complaint listed on CIR	Date of Contact	Compliance Finding
1	09-0583	1-May-09	4-May-09	No Contact	No
2	09-0613	7-May-09	8-May-09	7-May-09	Yes
3	09-0619	7-May-09	8-May-09	7-May-09	Yes
4	09-0671	15-May-09	18-May-09	UTD	No
5	09-0730	26-May-09	26-May-09	6-Jul-09	No
6	09-0761	28-May-09	29-May-09	28-May-09	Yes
7	09-0775	30-May-09	1-Jun-09	30-May-09	Yes
8	09-0865	3-Mar-09	11-Jun-09	30-Jun-09	Yes
9	09-0898	12-Jun-09	16-Jun-09	15-Jun-09	Yes
10	09-0948	4-May-09	12-Jun-09	3-Sep-09	No
11	09-0981	27-May-09	26-Jun-09	25-Jun-09	Yes
12	09-1010	25-Jun-09	29-Jun-09	26-Jun-09	Yes
13	09-1016	19-Jun-09	30-Jun-09	29-Jun-09	Yes
14	09-1038	13-Jan-09	2-Jul-09	18-Jun-09	Yes
15	09-1040	5-Jun-09	2-Jul-09	2-Jul-09	Yes
16	09-1044	2-Jul-09	2-Jul-09	2-Jul-09	Yes
17	09-1057	3-Jul-09	6-Jul-09	10-Jul-09	Yes
18	09-1071	4-Jul-09	6-Jul-09	4-Jul-09	Yes
19	09-1111	7-Jul-09	9-Jul-09	9-Jul-09	Yes
20	09-1120	11-Jul-09	13-Jul-09	11-Jul-09	Yes
21	09-1125	4-Jul-09	13-Jul-09	4-Jul-09	Yes
22	09-1196	23-Mar-09	21-Jul-09	14-Aug-09	Yes
23	09-1199	4-Jan-09	21-Jul-09	No Contact <sup>2</sup>	Yes
24	09-1206	11-Jun-09	21-Jul-09	No Contact	No
25	09-1250	27-Jul-09	27-Jul-09	27-Jul-09	Yes
26	09-1262	29-Jul-09	29-Jul-09	29-Jul-09	Yes
27	09-1266	27-Jul-09	30-Jul-09	30-Jul-09	Yes
28	09-1275	31-Jul-09	3-Aug-09	31-Jul-09	Yes
29	09-1284	31-Jul-09	31-Jul-09	31-Jul-09	Yes
30	09-1286	2-Aug-09	3-Aug-09	2-Aug-09	Yes
31	09-1291	11-Apr-09	3-Aug-09	5-Oct-09	No
32	09-1302	12-Jun-09	5-Aug-09	13-Aug-09	Yes
33	09-1303	4-Aug-09	5-Aug-09	5-Aug-09	Yes
34	09-1309	6-Aug-09	7-Aug-09	6-Aug-09	Yes
35	09-1319	6-Aug-09	10-Aug-09	8-Aug-09	Yes
36	09-1322	9-Aug-09	10-Aug-09	9-Aug-09	Yes
37	09-1336	11-Aug-09	11-Aug-09	11-Aug-09	Yes
38	09-1351	11-Jul-09	13-Aug-09	18-Sep-09	No
39	09-1360	29-Jun-09	17-Aug-09	22-Sep-09	Yes
40	09-1370	18-Aug-09	20-Aug-09	18-Aug-09	Yes

<sup>2</sup> Contact was attempted; however the complainant's attorney would not allow an interview.

Case #	Date of Incident listed on CIR	Date of Complaint listed on CIR	Date of Contact	Compliance Finding	
41	09-1388	24-Aug-09	24-Aug-09	24-Aug-09	Yes
42	09-1392	23-Aug-09	24-Aug-09	23-Aug-09	Yes
43	09-1394	16-Jul-09	24-Aug-09	24-Aug-09	Yes
44	09-1409	25-Aug-09	25-Aug-09	25-Aug-09	Yes
45	09-1457	1-Sep-09	1-Sep-09	2-Sep-09	Yes
46	09-1473	6-Sep-09	8-Sep-09	6-Sep-09	Yes
47	09-1509	9-Sep-09	11-Sep-09	No Contact <sup>3</sup>	Yes
48	09-1531	14-Sep-09	15-Sep-09	14-Sep-09	Yes
49	09-1552	16-Sep-09	16-Sep-09	23-Sep-09	Yes
50	09-1574	21-Sep-09	21-Sep-09	21-Sep-09	Yes
51	09-1591	21-Sep-09	21-Sep-09	21-Sep-09	Yes
52	09-1664	29-Sep-09	1-Oct-09	30-Sep-09	Yes
53	09-1679	17-Aug-09	5-Oct-09	5-Oct-09	Yes
54	09-1699	6-Oct-09	6-Oct-09	8-Oct-09	Yes
55	09-1726	12-Oct-09	12-Oct-09	13-Oct-09	Yes
56	09-1745	10-Oct-09	16-Oct-09	16-Oct-09	Yes
57	09-1756	19-Oct-09	19-Oct-09	19-Oct-09	Yes
58	09-1817	25-Oct-09	26-Oct-09	26-Oct-09	Yes
59	09-1842	27-Oct-09	28-Oct-09	27-Oct-09	Yes
60	09-1845	12-Oct-09	28-Oct-09	28-Oct-09	Yes
61	09-1856	15-Sep-09	29-Oct-09	9-Oct-09	Yes
62	09-1866	31-Oct-09	2-Nov-09	31-Oct-09	Yes
63	09-1906	6-Nov-09	9-Nov-09	6-Nov-09	Yes
64	09-1931	11-Nov-09	12-Nov-09	11-Nov-09	Yes
65	09-1975	17-Nov-09	20-Nov-09	17-Nov-09	Yes
66	09-1977	19-Nov-09	19-Nov-09	20-Nov-09	Yes
67	09-2039	4-Dec-09	4-Dec-09	5-Dec-09	Yes
68	09-2108	20-Dec-09	21-Dec-09	20-Dec-09	Yes

<sup>3</sup> Attempts were made to locate and contact the complainant with negative results.