

## Agenda Item

August 17, 2015

**TO:** Honorable Mayor and City Council

**THROUGH:** Public Safety Committee

**FROM:** Police Department

**SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO DESTROY INTERNAL AFFAIRS FILES REGARDING INVESTIGATIONS AND NON-HIRE BACKGROUND FILES**

### **RECOMMENDATION:**

It is recommended that the City Council:

1. Authorize the Chief of Police, with concurrence of the City Attorney, to destroy internal affairs investigation files concluded from 1997 through 2009, which are listed in Attachment-A.
2. Authorize the Chief of Police, with concurrence of the City Attorney, to destroy non-hire background files completed in 2009 - Attachment-B

### **BACKGROUND:**

The Pasadena Police Department is requesting authorization to destroy non-hire background files which are five years or older, as well as internal affairs investigation files which are five years or older, except for those involving allegations of sexual misconduct, integrity, dishonesty and officer involved shootings. Pursuant to Government Code §34090 destruction of these records must be approved by resolution of the City Council.

The Government Code requires that non-hire background files be kept for a minimum of two years. However, the City Attorney's Office has recommended that background files be kept for a minimum of five-years for purposes of any unforeseen litigation. The files designated for destruction are five years or older and are not involved in any litigation.

As it relates to internal affairs files, Evidence Code §1045 requires that such files be kept for no less than five years. A prior survey of area police agencies indicated that the police departments of: Alhambra, Arcadia, Glendale, Long Beach and Santa Monica

conform to this practice i.e., maintain internal affairs files for five years. The City of Torrance maintains such records for six years. The cities of Burbank and Los Angeles maintain such records indefinitely, but it is important to note that both of these agencies have operated under federal consent decrees which involve specific mandates.

Staff does not recommend maintaining these records, except for those involving allegations of sexual misconduct, integrity, dishonesty and officer involved shootings, beyond five years for the following reasons:

- Pursuant to Evidence Code §1043 /1045, complaints concerning officer conduct which are more than five years old cannot be considered for discovery or disclosure in matters of litigation.
- The Public Safety Officers Procedural Bill of Rights Act prevents police agencies from considering complaints which are five years old or more in making decisions regarding promotion, transfer, or disciplinary action. Moreover, such complaints are required to be removed from officers' general personnel files.

Based on these factors, there is no practical purpose to maintain internal affairs files beyond the statutory five years.

**COUNCIL POLICY CONSIDERATION:**

The adoption of this resolution is consistent with the City Council's Green Initiative and the City Council Goal to increase conservation and sustainability.

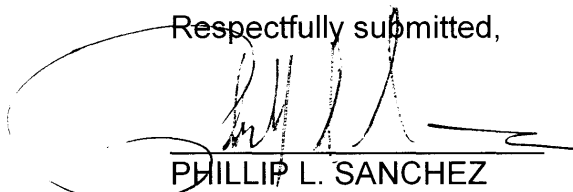
**ENVIRONMENTAL ANALYSIS:**

This action is exempt from CEQA pursuant to Article 19, Categorical Exemptions section 15300.

**FISCAL IMPACT:**

Cost for the destruction of records is included in the Police Department's approved operating budget. The Police Department spends approximately \$2,900 annually for shredding services. The records destruction is less than \$100 of that budgeted amount.

Respectfully submitted,



PHILLIP L. SANCHEZ  
Chief of Police

Prepared by:



MARIE SELL, Lieutenant  
Administrative Services Section

Approved by:



MICHAEL J. BECK  
City Manager

Attachments: (2)

Attachment A - Internal Affairs files  
Attachment B - Non-hired background files