City of Las Cruces®
PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 9 **Ordinance/Resolution#** 15-212

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of May 4, 2015 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☐ LEGISLATIVE ☒ ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING THE DESTRUCTION OF NON-EVIDENTIARY RECORDINGS CAPTURED BY THE LAS CRUCES POLICE DEPARTMENT.

PURPOSE(S) OF ACTION:

Authorize destruction of records.

COUNCIL DISTRICT: ALL		
Drafter/Staff Contact: Joy Mickendrow	**Department/Section:** Police/ Research and Development	**Phone:** 528-4730
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Las Cruces Police Department has revised an existing internal policy to accommodate the issuance of body worn cameras. The policy specifically addresses the retention of all recordings captured by law enforcement officers. According to the Local Government Records Retention and Disposition Schedule for New Mexico Municipalities (LGRRDS 1.19.8.807 NMAC) all non-evidentiary recordings are required to be kept for 30 days. Non-evidentiary recordings include routine surveillance footage, recordings of entrances or exits, and any other recording that is not evidence of a criminal incident. The Las Cruces Police Department would like to destroy non-evidentiary recordings after a retention of 180 days. A City Council Resolution is needed as advanced authority to do so. This would only be for non-evidentiary recordings; all evidentiary recordings would be retained and destroyed according to the specific LGRRDS guidelines and approved annually by the Las Cruces City Council destruction of records resolution.

This is advantageous for several reasons. First, this would minimize the information that will be kept on a cloud based system and second, this would minimize the expense of storing the non-evidentiary recordings. The LGRRDS authorizes destruction of non-evidentiary recordings every 30 days. The Las Cruces Police Department feels it would be best practice to keep all recordings at least 180 days versus 30 days to allow retrieval of potential recordings that may become evidentiary in nature later.

(Continue on additional sheets as required)

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", General Order 151.03 Retention of Recordings.
3. Attachment "A", Local Government Records Retention and Disposition Schedules – NM Municipalities specific to police department records.

SOURCE OF FUNDING:

Is this action already budgeted? **N/A**			
	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
	Budget Adjustment Attached	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? **N/A**			
	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $ for FY ___.
	No	☐	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the policy and allow the Chief of Police to approve the destruction of non-evidentiary recordings after 180 days of retention.
2. Vote "No"; this will keep the current policy in place where destruction occurs annually and only after a City Council resolution.
3. Vote to "Amend"; and provide changes to the resolution.
4. Vote to "Table"; and provide staff with further direction.

(Continue on additional sheets as required)

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

(Continue on additional sheets as required)

RESOLUTION NO. 15-212

A RESOLUTION APPROVING THE DESTRUCTION OF NON-EVIDENTIARY RECORDINGS CAPTURED BY THE LAS CRUCES POLICE DEPARTMENT.

The City Council is informed that:

WHEREAS, the Las Cruces Police Department revised an existing internal policy to accommodate the issuance of body worn cameras; and

WHEREAS, the policy addresses the retention of recordings; and

WHEREAS, according to the Local Government Records Retention and Disposition Schedule for New Mexico Municipalities (LGRRDS 1.19.8.807 NMAC) all non-evidentiary recordings are required to be kept for 30 days; and

WHEREAS, the Las Cruces Police Department would like to destroy non-evidentiary recordings after a retention of 180 days; and

WHEREAS, this would only be for non-evidentiary recordings as evidentiary recordings would be retained and destroyed according to the LGRRDS.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT non-evidentiary recordings are authorized to be destroyed after a retention of 180 days by appropriate method as prescribed by the custodian of record and upon the approval of the Chief of Police as stated in General Order 151.03 Retention of Recordings "Exhibit A" attached hereto.

(II)

THAT City staff is hereby to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 20___.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Levatino: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
Deputy City Attorney

EXHIBIT "A"

151.03 RETENTION OF RECORDINGS

A. All non-evidentiary recordings shall be retained for one hundred and eighty (180) days from the date the recording was submitted, at which time the recording will be destroyed upon the Chief's approval. This retention and destruction meets all Local Government Records Retention and Disposition Schedules for New Mexico Municipalities (LGRRDS) and is pursuant to City Council Resolution No. _____.

B. All evidentiary recordings shall be retained as part of the case file and will be kept and destroyed according to the LGRRDS.

C. Any recording deemed to be of value for training purposes may be forwarded to the Professional Development Unit. The recording must no longer be needed for any judicial or administrative proceedings. It is recommended that officers involved in the recording be contacted to inquire about any objection they may have to its use.

Attachment "A"

LOCAL GOVERNMENT RECORDS RETENTION AND DISPOSITION SCHEDULES-NM MUNICIPALITIES

1.19.8.801 OATH OF OFFICE

A. **Program:** police department records

B. **Maintenance System:** [municipal preference]

C. **Description:** originals or copies of oaths of persons serving as police officer. Oath may show department name, name of officer, affidavit, date, signature, etc.

D. **Retention:** one year after termination of service

[1.19.8.801 NMAC - Rp, 1 NMAC 3.2.94.900.801, 9/28/2001]

1.19.8.802 CRIMINAL HISTORY RECORDS (RAP SHEET)

A. **Program:** police department records

B. **Maintenance System:** [municipal preference]

C. **Description:** record of complete cumulative original history on any subject arrested for a crime by the police department. Information may include: name, date of birth, physical description, FBI number, address, employment, marital status, education, date of arrests or releases, identification information (e.g., mug shots, fingerprints, etc.), facts surrounding investigation, final disposition, etc.

D. **Retention:**

(1) **Adult records:** 75 years after date created or until death of subject or until placed on a statewide database accessible to police department, whichever comes first

(2) **Juvenile records:** when juvenile reaches age 19

E. **Confidential:** 1.19.8.802.D.2 NMAC, 32A-2-32 NMSA 1978

[1.19.8.802 NMAC - Rp, 1 NMAC 3.2.94.900.802, 9/28/2001]

1.19.8.803 INCIDENT REPORTS (OFFENSE OR INCIDENT REPORTS)

A. **Program:** police department records

B. **Maintenance System:** [municipal preference]

C. **Description:** records the original report of incident (felony or misdemeanor) and pertinent facts surrounding the incident or offense. Reports may show incident type, case number, NCIC entry, incident code, premise type, incident location, incident date, time date, reporting area, complaint, victim information, subject (suspect) data, arrest data, vehicle data, witness data, narrative, UCR (Uniform Crime Reporting) data administrative section, etc.

D. **Retention:**

(1) **Adult records:** five years after date of incident or until investigation closed, whichever is longer

(2) **Juvenile records:** five years after date of incident or until juvenile reaches age 19, whichever is less, provided investigation closed

E. **Confidential:** 1.19.8.803.D.2 NMAC, Section 32A-2-32 NMSA 1978

[1.19.8.803 NMAC - Rp, 1 NMAC 3.2.94.900.803, 9/28/2001]

1.19.8.804 ARREST REPORTS (ARREST OR BOOKING REPORTS)

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: records the arrest or booking of subject (suspect). Reports may show subject name, arrest number, physical characteristics, arrest date and time, arrest location, arresting officer name, charges, etc.

D. Retention:

(1) Adult records: five years after date of incident or until investigation closed, whichever is longer

(2) Juvenile records: five years after date of incident or until juvenile reaches age 19, whichever is less, provided investigation closed

E. Confidential: 1.19.8.804.D.2 NMAC, Section 32A-2-32 NMSA 1978

[1.19.8.804 NMAC - Rp, 1 NMAC 3.2.94.900.804, 9/28/2001]

1.19.8.805 CRIMINAL INVESTIGATION CASE FILES

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: records concerning criminal investigations conducted by police department for the purpose of criminal prosecution. Records created as an enhancement to the investigative portion of the incident report (offense or incident report). Files may contain motor vehicle records, criminal histories, photos, search warrants, arrest warrants, names of confidential sources, etc. Note: evidence and copies of case file may be forwarded to prosecuting attorney.

D. Retention:

(1) Adult case files: five years after investigation closes

(2) Juvenile case file: five years after investigation closed or until juvenile reaches age 19 whichever is less

E. Confidential: both 1.19.8.805.D.1, and 2 NMAC, Section 32A-2-32 NMSA 1978

[1.19.8.805 NMAC - Rp, 1 NMAC 3.2.94.900.805, 9/28/2001]

1.19.8.806 CONFIDENTIAL SOURCE (INFORMANT) FILES

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: records concerning confidential sources or informants utilized in criminal investigations conducted by police department. Files may contain names of informants, personal or criminal history of informants, types of information available through informant, information on monies utilized in obtaining information, etc.

D. Retention:

(1) Fiscal information: until audit report released

(2) All other information: until no longer needed for reference

E. Confidential: Section 14-2-1A NMSA 1978

[1.19.8.806 NMAC - Rp, 1 NMAC 3.2.94.900.806, 9/28/2001]

1.19.8.807 VIDEO RECORDINGS

A. Program: police department records

B. **Maintenance System:** [municipal preference]
C. **Description:** none
D. **Retention:**
(1) **Evidentiary footage or recording (i.e., footage or recordings of DWI arrests or any criminal incident):** one year after date of incident or 60 days after date of court disposition, whichever is less
(2) **Booking area footage or recording:** 90 days after date created
(3) **Routine surveillance footage/recordings(e.g., footage or recordings of entrance or exit areas, car parking areas, etc.):** 30 days after date created
[1.19.8.807 NMAC - Rp, 1 NMAC 3.2.94.900.807, 9/28/2001]

1.19.8.808 PROPERTY OR EVIDENCE RECORD
A. **Program:** police department records
B. **Maintenance System:** [municipal preference]
C. **Description:** record of property or evidence either seized, found, or impounded. Receipt portion of record may show property either seized or found (date, time, location of property acquisition, acquiring officer, type of offense, case number, suspect name, property owners name and address, item description, serial number or controlled substance weight, investigative section case referred to, property disposition information, etc. Chain of events portion of record may show name or number of locker in which evidence is placed, date and name of officer placing evidence in storage, date and name of person removing evidence from storage location in evidence room where evidence is placed, information of placing or removing evidence in or from evidence room (storage), certificate of release, receivers signature, property officers signature, information on disposition of evidence by evidence office, evidence officers signature, etc.
D. **Retention:** one year after date of disposition of all property or evidence for this case
[1.19.8.808 NMAC - Rp, 1 NMAC 3.2.94.900.808, 9/28/2001]

1.19.8.809 BOND LOGS
A. **Program:** police department records
B. **Maintenance System:** [municipal preference]
C. **Description:** records concerning bond monies posted to secure the release of arrested individuals. Log may show person posting cash or surety, cash or surety amount, defendant name, fine, bonding person or entity, name of person receiving cash/bond, receipt number, arrest number, etc.
D. **Retention:** six years after close of fiscal year in which created
[1.19.8.809 NMAC - Rp, 1 NMAC 3.2.94.900.809, 9/28/2001]

1.19.8.810 UNIFORM TRAFFIC CITATIONS
A. **Program:** police department records
B. **Maintenance System:** [municipal preference]
C. **Description:** MVD prepared uniform traffic citation that shows citation number, name, address, city, state of person charged, physical description, age, sex of

person charged, registration number, year, state, make, type of vehicle involved, state, number of drivers license, specific section number and common name of offense charged under NMSA 1978 or of local law, date, time of arrest, arresting officers signature, identification number, conditions existing at the time of violation, notice to appear information, penalty assessment notice, warning notice, etc.

D. Retention: three years after date citation issued (Section 30-1-8H NMSA 1978)

[1.19.8.810 NMAC - Rp, 1 NMAC 3.2.94.900.810, 9/28/2001]

[Note: four-part form. Retention on police department copy. Original forwarded to court. Abstract copy forwarded to MVD. Blue copy issued to violator.]

1.19.8.811 UNIFORM ACCIDENT REPORT

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: MVD prepared uniform accident report that shows date, time of accident, location, persons involved, vehicles involved, vehicle or property damage, injury codes, seat belt codes, witness information, road and weather conditions, apparent contributing factors, driver or pedestrian sobriety or physical condition, diagrams, etc.

D. Retention: five years after date of accident (Section 30-1-8D NMSA 1978)

[1.19.8.811 NMAC - Rp, 1 NMAC 3.2.94.900.811, 9/28/2001]

[Note: three-part form. Retention on police department copy. Remaining two parts forwarded to NM State Highway and Transportation Department.]

1.19.8.812 PARKING VIOLATION CITATIONS

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: municipal parking violation citation that shows vehicle license plate number, vehicle make and model, type of parking violation, fee, instructions, etc.

D. Retention: three years after date citation issued

[1.19.8.812 NMAC - Rp, 1 NMAC 3.2.94.900.812, 9/28/2001]

[Note: multi-part form. Retention on police department copy. Original forwarded to court. Copy issued to violator.]

1.19.8.813 RADIO OR TELEPHONE RECORDINGS (911 RECORDED CALLS)

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: radio or telephone recordings of emergency or non-emergency calls received.

D. Retention: three years after date of call

[1.19.8.813 NMAC - Rp, 1 NMAC 3.2.94.900.813, 9/28/2001]

[Note 1: portions of recordings may be confidential (e.g., names of minors, suspect information, etc.). Note 2: recordings may be copied and filed with investigative portion of incident reports.]

1.19.8.814 RADIO OR TELEPHONE LOGS

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: record of incoming radio/telephone calls. Logs may show date/time of call, caller name, etc.

D. Retention: three years after date of call

[1.19.8.814 NMAC - Rp, 1 NMAC 3.2.94.900.814, 9/28/2001]

1.19.8.815 DISPATCH FILES

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: record of incident or offense reported. File may contain complainant name, place of occurrence, address, time call received, dispatcher name, name of officer dispatched, etc.

D. Retention: three years after date of call

[1.19.8.815 NMAC - Rp, 1 NMAC 3.2.94.900.815, 9/28/2001]

1.19.8.816 TELETYPE FILE

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: teletypes received from other law enforcement entities (e.g., local, state, federal, foreign, etc.). Teletype may contain notice of criminal activity, request for information, facsimile, composite drawing, photograph, etc.

D. Retention: until informational value ends or one year after date received, whichever comes first

[1.19.8.816 NMAC - Rp, 1 NMAC 3.2.94.900.816, 9/28/2001]

1.19.8.817 INTERNAL AFFAIRS CASE FILE

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: records concerning complaint against officers or civilian employees and consequent investigation. File may include complaint, tapes or transcriptions, staff inspection order, order to appear, evidence (e.g., tapes, videos, reports, photographs, etc.), police reports copies, medical releases, supplementary offense report (investigation summary), review order (chain of command review), case reviews with case recommendation, determination, determination notification copy, etc.

D. Retention:

(1) Disciplinary action taken: three years after termination of officer

(2) Dismissed or cleared: three years after complaint dismissed or cleared

E. Confidential: Section 14-2-1A NMSA1978 unless appealed through an administrative open meeting process

[1.19.8.817 NMAC - Rp, 1 NMAC 3.2.94.900.817, 9/28/2001]

1.19.8.818 COURT SERVICES DOCKET SHEET

A. Program: police department records
B. Maintenance System: [municipal preference]
C. Description: record of civil processes served as directed by the municipal judge of the municipality employing the police officer. Processes include writs, citations, subpoenas, notices, injunctions, warrants, executions, etc. Docket sheet may show parties names, attorneys, type of process, date of entry, by whom served, date of service, kind of service, police department costs, general remarks or comments, etc.
D. Retention: three years after date received
[1.19.8.818 NMAC - Rp, 1 NMAC 3.2.94.900.818, 9/28/2001]
[Note: Civil processes not processed shall be returned to municipal court as per municipal policy and procedure.]

1.19.8.819 COURT SERVICES DOCKET
A. Program: police department records
B. Maintenance System: [municipal preference]
C. Description: record log of civil processes served. Docket may show parties names, attorneys, type of civil process, date of entry, by whom served, date of service, kind of service, police department costs, etc.
D. Retention: five years after date logged
[1.19.8.819 NMAC - Rp, 1 NMAC 3.2.94.900.819, 9/28/2001]
[Note: also known as writ book, receipt book for civil papers served or execution book. Docket or log may be hand posted, computer generated, or on-line.]

1.19.8.820 WRECKER LOG (IMPOUND LOG)
A. Program: police department records
B. Maintenance System: [municipal preference]
C. Description: record of vehicles towed away. Log may show date and time, name of wrecking company, operator, make of vehicle, license number, owner, location, reason for towing vehicle, etc.
D. Retention: one year after close of fiscal year in which created
[1.19.8.820 NMAC - Rp, 1 NMAC 3.2.94.900.820, 9/28/2001]

1.19.8.821 ANIMAL CONTROL FILES
A. Program: police department records
B. Maintenance System: [municipal preference]
C. Description: records concerning animal control. Files may include violations of animal control ordinances, carcass removal records, animal pound records, licensing documentation, lost and found reports, animal trap records, animal license (tag) copy, etc.
D. Retention:
(1) Ordinance violation records: one year after date of incident
(2) Carcass removal records: 30 days after date of removal
(3) Animal adoption records: one year after date of adoption
(4) Euthanasia records: 30 days after date of disposition of animal
(5) Financial records: refer to 1.15.5 NMAC RRDS for General Financial Records

(6) **All other records:** one year after date created
[1.19.8.821 NMAC - Rp, 1 NMAC 3.2.94.900.821, 9/28/2001]

1.19.8.822 SEIZURE OR FORFEITURE FILES

A. **Program:** police department records

B. **Maintenance System:** [municipal preference]

C. **Description:** records concerning property or goods seized by law enforcement entities and released by state or federal government to the municipality. Files may include copy of application for transfer of forfeited property or goods, inventory of property or goods, asset control information, purchase order copies, financial reports, etc.

D. **Retention:** six years after close of fiscal year in which property transferred to municipality
[1.19.8.822 NMAC - Rp, 1 NMAC 3.2.94.900.822, 9/28/2001]

1.19.8.823 CRIME PREVENTION FILES

A. **Program:** police department records

B. **Maintenance System:** [municipal preference]

C. **Description:** records concerning crime prevention instruction (e.g., workshops, seminars, presentations, etc.) conducted by police department staff. Files may contain agendas, programs, handouts, training materials, reports, correspondence, etc.

D. **Retention:**

(1) **Training materials:** until superseded by new materials

(2) **All other records:** five years after event date
[1.19.8.823 NMAC - Rp, 1 NMAC 3.2.94.900.823, 9/28/2001]
[Note: see also 1.15.3.139 NMAC CONFERENCES OR WORKSHOPS]

1.19.8.824 CRIME STOPPERS AWARD FUND FILES

A. **Program:** police department records

B. **Maintenance System:** [municipal preference]

C. **Description:** record of fundraising activity. Files may contain information on methods used to raise money for crime stoppers award fund, amounts contributed, expenditures, lists of contributors, etc.

D. **Retention:**

(1) **Fiscal records:** refer to 1.15.5 NMAC RRDS for General Financial Records

(2) **All other records:** until informational value ends
[1.19.8.824 NMAC - Rp, 1 NMAC 3.2.94.900.824, 9/28/2001]

1.19.8.825 CRIME STATISTICAL REPORTS

A. **Program:** police department records

B. **Maintenance System:** [municipal preference]

C. **Description:** copies of police departments monthly crime statistical reports required by the Federal Bureau of Investigation (FBI) for compilation of their annual crime statistical report.

D. Retention: until FBI annual report released
[1.19.8.825 NMAC - Rp, 1 NMAC 3.2.94.900.825, 9/28/2001]
[Note: complimentary crime statistical reports received become part of SUBJECT FILES (INFORMATION FILES). See 1.15.3.102 NMAC.]

1.19.8.826 CRIMINAL INCIDENT AUTOMATED SYSTEM

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: electronic records of all adult and juvenile criminal incidents. Record may show all information from original report of incident (felony or misdemeanor) and pertinent facts surrounding the incident or offense. Information includes incident type, case number, NCIC, entry, incident code, premise type, incident location, incident date, time and date, reporting area, complaint, victim information, subject (suspect) data, arrest data, vehicle data, witness data, narrative, UCR data administrative section, etc.

D. Retention:

(1) Juvenile data: two years after date of incident or at age 19, whichever is longer

(2) All other data: five years after date of incident or until investigation closed, whichever is longer

E. Confidential: 1.19.8.826.1, as per Section 32A-2-32 NMSA 1978
[1.19.8.826 NMAC - Rp, 1 NMAC 3.2.94.900.826, 9/28/2001]

1.19.8.827 PAWNBROKER FILES

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: records concerning local pawnbroker shops. Files may contain reports submitted to law enforcement department by local pawnbrokers as required by the Pawnbrokers Act (Section 56-12-9 NMSA 1978) and information on pawn inspections by police department. Pawnbroker reports may show name of item; description of the item, including make and model number; date of transaction; time of transaction; type of transaction; name and address of person offering item; description of person offering item; type of identification used by person offering item; etc.

D. Retention: five years after date created
[1.19.8.827 NMAC - Rp, 1 NMAC 3.2.94.900.827, 9/28/2001]

1.19.8.828 GANG ACTIVITY FILE

A. Program: police department records

B. Maintenance System: [municipal preference]

C. Description: records concerning local gang activity. File may contain gang identifier information, gang history, gang membership lists, crime involvement information, etc.

D. Retention: until informational value ends

E. Confidential: Section 32A-2-32 NMSA 1978
[1.19.8.828 NMAC - Rp, 1 NMAC 3.2.94.900.828, 9/28/2001]