

**THE VIRGINIA BOARD FOR
WATERWORKS AND WASTEWATER WORKS OPERATORS**

Criminal History Records Check Committee Meeting

MEETING MINUTES

The Criminal History Records Check Committee of the Virginia Board for Waterworks and Wastewater Works Operators met on Tuesday, February 8, 2005 in Conference Room 5 East at the offices of the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

This Committee was appointed by Chairperson Dan French during the Board's June 22, 2004 meeting to review the costs and benefits of performing criminal history records checks through fingerprints for license applicants. The committee was asked to develop recommendations for the Board to consider at the March 9, 2005 meeting.

The following members of the Committee were present:

Eileen M. Leininger, P.E., Board Member, Chairperson
Steve Cawthron, Board Member
Mark Anderson, Department of Health

The following members of DPOR staff were present during some or all of the meeting:

Karen O'Neal, Deputy Director for Licensing and Regulations
David E. Dick, Executive Director
Marilyn Mandel, Administrative Assistant

The meeting was called to order at 8:35 a.m. by Eileen Leininger, **Call to Order**
Chairperson of the Committee.

The Committee agreed without dissent to adopt the agenda **Approval of Agenda**
prepared by staff.

Chairperson Leininger opened the floor for public comment. No **Public Comment**
member of the public was present. **Period**

The Committee considered the following responses from the **Recommendations**
Department of Professional and Occupational Regulation to each of
the seven issues the Committee raised during its September 14,
2004 meeting. The Committee's recommendation to the Board
follows DPOR's response to each of the seven items.

1. DPOR Director Louise Fontaine Ware agreed to meet with Bob Crouch, Deputy Secretary of Public Safety, to determine the current view of his office concerning the need to conduct fingerprint checks on waterworks license applicants and to determine if his focus may have shifted from waterworks facilities to wastewater works facilities.

DPOR response: Report provided by Louise Fontaine Ware during December 8, 2004 Board meeting. Ms. Ware stated that she contacted Bob Crouch, Deputy Director for Public Safety. Mr. Crouch stated that George Forsman indicated that he believed it was more up to the facility to check the background of its employees. The Department and the Board possess the necessary statutory authority to begin conducting such checks. Ms. Ware stated that the Department is ready to fingerprint applicants and do background checks on short notice and will begin to do so if further guidance is received from the federal government or the Office of the Secretary of Public Safety indicating that such checks are necessary to protect the public.

Committee Recommendation: The Committee concurs and recommends that the Board take no action at this time to require criminal history background checks for initial applicants or renewal applicants. Should future events make criminal history record checks necessary or appropriate, the necessary authority and capability exist to implement such checks in a short period of time.

2. DPOR will determine the date that DPOR stopped requiring applications to be notarized and the date that DPOR added the criminal record questions to the application form.

In January 1998 the application form was modified to delete the notarization and add the questions concerning a criminal conviction record.

Committee Recommendation: This is an informational item that requires no Board action.

3. DPOR staff will determine what specifically is checked by the Virginia State Police and the FBI -- Is it limited to Felony and Misdemeanor convictions or do they also look at INS and Federal agency records. Determine if the State Police field offices will fingerprint applicants, whether they will charge for doing so and whether they will mail the completed cards to DPOR if we provide properly addressed envelopes. Determine time frame to complete record check.

Both respond concerning records of criminal conviction only.

Inquiry must be made to the State Police before fingerprinting is implemented to learn their current policy concerning fingerprinting applicants, charging applicants to take fingerprint impressions and sending completed fingerprint cards directly to DPOR.

Sheriff's departments are a possible source as they fingerprint applicants for concealed handgun permits under § 18.2-308 of the Code of Virginia. They may be in a better position to take applicant fingerprint impressions and mail them directly to DPOR.

A criminal record check by fingerprint takes about two weeks depending on the workload. The time required normally increases to between three and three and one-half weeks during July to September.

Committee Recommendation: These are informational items that require no Board action.

4. DPOR staff and the Committee members will begin to develop a survey for Waterworks owners to determine whether they perform criminal records checks on employees by fingerprints, etc., and to obtain other information to assess the costs and benefits of fingerprint/criminal record checks for first time hires and periodic/random checks of current employees. The information gained from Mr. Crouch will help to determine the focus of this survey.

Staff recommends that this matter be placed on hold until such time as Ms. Ware receives additional guidance from Mr. Crouch or the federal government.

Committee Recommendation: The Committee sees no benefit to conducting the described survey at this time and concurs with the DPOR staff recommendation.

5. Consider how to address those operators already licensed, specifically those who became licensed before the criminal record questions were added to the form; those who got a criminal record after they were licensed; or those who did not disclose their conviction record on the application form. DPOR staff will determine how many current regulants have actually reported a conviction within 30 days after conviction as required by the regulations.

DPOR staff can locate no record of a current regulant reporting a criminal conviction in compliance with the Board's regulations.

Committee Recommendation: This is an informational item that requires no Board action.

6. DPOR staff will examine the current renewal form and add/emphasize a question/item drawing the renewal applicants' attention to the regulation requirement to report criminal convictions within 30 days.

The following statement has been added to the DPOR renewal notice for Waterworks Operators and Wastewater Works Operators:

"You must report any conviction of a felony or a misdemeanor to the Board in writing within 30 days after your conviction. (See 18 VAC 160-20-140 (6) of the Board's regulations.)"

The on-line renewal material will have a similar reminder added.

Committee Recommendation: DPOR staff reports that they have received one response from a renewal applicant concerning a criminal conviction occurring since the license was issued that was triggered by the new language on the renewal application. The Committee recommends to the Board that DPOR staff continue this approach and look for other ways to bring this

regulation provision to the attention of the Board's regulants.

7. DPOR staff will determine from DPOR Compliance and Investigations Division if criminal history records checks by name can be performed through the Virginia State Police for all waterworks operators that apply for renewal in February 2005. The results will reveal how many current regulants have an undisclosed criminal conviction record. If the license renewal application name checks can be performed through the Virginia State Police, consultation with the Office of the Attorney General may be necessary to confirm that an applicant for license *renewal* is included in the authority granted under § 54.1-204 C of the Code of Virginia.

DPOR CID staff advises that they cannot do criminal history background checks on individuals who are applying for license renewal. The Virginia State Police system they use allows criminal history checks only for of possible violations. It cannot be used to check the records of applicants where no allegation of wrongdoing is present.

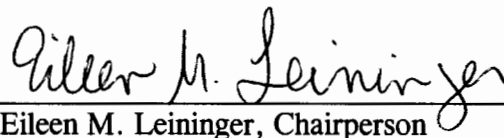
Committee Recommendation: This is an informational item that requires no Board action.

Chairperson Leininger asked the Board members to complete their conflict of interest form.

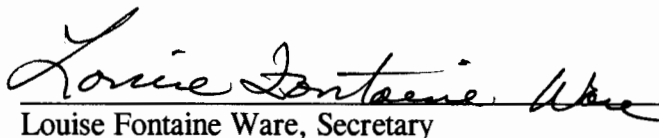
**Conflict of Interest
Forms**

Chairperson Leininger, finding no further business to conduct, adjourned the meeting at 10:30 A.M.

Adjournment



Eileen M. Leininger, Chairperson



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: Eileen Leininger
2. Title: Board Member - Waterworks and Wastewater Works Operators
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: NONE

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: water industry

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 2/8/05
Signature: Eileen Leininger

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

- 1. Name: Steve W. Cawthron
- 2. Title: Board Member - Waterworks and Wastewater Works Operators
- 3. Agency: Department of Professional and Occupational Regulation
- 4. Transaction: Board Meeting
- 5. Nature of Personal Interest Affected by Transaction: ~~Water & WW Industry~~ 8
NONE

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: Water and Wastewater Industry

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 2/8/05

Signature: 8