

What makes a great Virtual Exchange

- We aim to record the presentation portion of this session, so that those who missed will have the core content.
- Jot down your questions and examples for a robust discussion.
- When we open for questions, we may unmute participants to ask directly or you may ask your questions in the chat box.
- Please no hold music and limit background noise if your mic is open.
- Show your face if you have a camera for the Q&A, as this is how we build relationships among members.

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Indiana Library Federation Virtual Exchange Criminal History Checks and Indiana Public Libraries

Let's take a couple polls

- 1) Who is on today? What best describes your primary role?
- 2) What best describes your library's criminal history check policy/practice for staff and volunteers?
 - No formal policy or Unknown
 - Run checks on subset of employees/volunteers (i.e. only those who work with finance or children)
 - Run checks on all employees
 - Run checks on all employees and volunteers

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Background and Goals

- Growing attention to criminal history checks from two perspectives
 - 1) Desire to keep libraries safe
 - 2) Desire to increase employment of formerly incarcerated individuals (i.e. "ban the box" and reintegration initiatives)
- Many Indiana libraries already require some level of criminal history check for certain employees and volunteers.
- During the 2019 session of Indiana General Assembly, [SB64](#) would have required ALL employees and volunteers (including program speakers) to complete a criminal history check.
- As libraries seek to implement new policies and practices, we want to learn from recent experiences in education and human services.

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Evolution of SB64 in 2019

- SB64, Criminal Background Checks, was introduced to add public libraries to the list of "qualified entities" seeking national criminal history checks for employees and volunteers (under IC 10-13-3-16).
- SB64 was amended to require background checks for libraries employees and volunteers whose scope of work is contact with children under 14.
- **SB64 passed out of the Senate 38-11.**
- SB64 did not receive a hearing in the House. However, language was amended into SB436 (a nurse interstate compact bill) and eventually died.

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ILF Advocacy in 2019

- During the 2019 legislative session, ILF
 - Surveyed members about current policies and practices
 - Educated policymakers
 - Met with IN State Police, IN Dept. of Education and key legislators about best practices in criminal history check laws and practices; identified bill language to meet legislators' goal to require libraries to operate similarly to schools in their requirements for criminal history checks.
 - Provided language to amend SB64
- ILF Position during 2019 session: ILF supports the addition of language "A public library shall adopt a criminal history check policy for employees and volunteers."

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Range of Library Policies and Practices

- Per an early-2019 survey, about 83% of Indiana Libraries run some sort of criminal history checks.
- **Libraries with criminal history check policies** range from checks on:
 - director only
 - employees who handle finances
 - employees who work with children
 - employees and volunteers who work with children.
 - all employees and regular volunteers
- Libraries utilize a range of types of checks by:
 - Local sheriff's department
 - IN State Police
 - Third-party vendor
 - Payroll provider

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What we aim to cover in this session

Criminal History Checks

- What is required
- Types of checks

Policies and Practices

- Policies
- Practices

Next Steps

- Adopting or updating a Policy
- Implementing in your library
- ILF Advocacy in 2020 and beyond

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What the law requires today

- **Public Libraries are NOT required** to run criminal history checks on employees or volunteers (2019).
- **Public, Charter and Nonpublic Schools ARE required to have a criminal history check policy** per IC 20-26-5-10.
 - Most school policies will require that each criminal history check is completed within 30 days of hire for new employees of schools.
 - Many schools will require criminal history checks to be completed on volunteers who work on a regularly or a one-on-one basis with children.

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Definitions

- **“Limited Criminal History Report”** – searched only felonies and misdemeanor arrests within the State of Indiana. A Limited Criminal History search is based upon a subject's name, date of birth, race, and gender, and if needed, Social Security Number and place of birth. This report does not give the most comprehensive information, as it does not include criminal history information from other states and counties are not required to participate.
- **“Expanded Criminal History Check”** (IC 20-26-2-1.5) – Does a search of several databases including consumer credit reporting agencies, court records, sex offender registries in all 50 states, multi-state criminal data bases, as well as verifying applicant's identity, all names associated with applicant, county records and other government units.
- **“Expanded Child Protection Index Check”** (IC 20-26-2-1.3) – Does a search to determine if the individual has been the subject of a substantiated report of child abuse or neglect since age of 18 or if the individual has had a teaching license suspended or revoked.

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Key Ideas from IN State Police

- The term “Criminal History Check” is preferred over “Criminal Background Check” (more expansive from law enforcement perspective)
- **Three types of checks**
 1. **Limited criminal history check** – IN is one of 23 states that still allows this type of name and Date of birth check. This type of check frequently has false positives because of names.
 2. **Expanded criminal history check** is established in Indiana Code (IC) and is “public record based” with every jurisdiction where a person lived since age 18. Payroll and third-party vendors offer this.
 3. **National Criminal History Check** – ISP recommends because it requires fingerprints and is most thorough. Cost is about \$50 per check.

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Key Ideas from IN Dept. of Education

- July 1, 2017 marked a major overhaul of teacher criminal history checks.
- IDOE uses **both**.
 - DCS updated its online portal for Expanded Child Protection Checks in 2018.
 - Statute requires criminal history check is done within 30 days of hire (not prior to) because schools were having such a hard time finding employees and teachers.
 - The Expanded Child Protection Index Check is required within 60 days after hire.
 - Applies to everyone who works in the school who is likely to have “direct and ongoing contact with children” (janitors, bus drivers, food service) every 5 years. Schools usually pay for the checks for employees.
- Indiana Code (IC) requirement for schools *does not* include volunteers. Volunteer checks are up to local policy. Most schools have a policy requirement for volunteers with “regular and ongoing contact” with children.
- IDOE suggests that local policy should be specific in practical application and that a criminal history should NOT automatically disqualify a candidate. See IDOE's FAQ at https://www.doe.in.gov/sites/default/files/legaffairs/faq_expanded-criminal-history-and-ecpi-checks-updated-52017final.pdf

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This Session – A discussion



Greg Madouros, HR Director
Lake County Public Library

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Developing your policy and procedures

- What should be included in the **policy**?
- Considerations for **procedures**
 - **WHO?** Who runs the check? Who has access to the information? Where is the information kept?
 - **WHAT?** What happens if a check comes up positive? What types of offenses might disqualify one from employment/volunteering for what types of positions?
 - **WHEN?** When do you run the check? Pre- or post-hire? If a new policy, how do you run checks on all existing employees/volunteers?
 - **HOW?** What service do you use to conduct the check? How do you pay for it?

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Other considerations

- **New Policies**– Write simply. Consider how you will implement for existing staff.
- **Inability to share criminal history check information**– Many library staff already complete checks through schools. Entities are not permitted to share criminal history checks with each other.
- **Minors**- Criminal history information is not available for minors under 18.
- **Directors** – If a Library Board is seeking to hire a director, consider how the check will be run and reported for the director. (i.e., may authorize 1 person on staff to run the check and report to 1 person on the Board)
- **Fair Credit Reporting Act**– If you use checks in pre-hire process and disqualify someone for what is found in a check, you must inform the candidates and allow opportunity for them to dispute/correct.

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Lake County Public Library

- Has had a practice/procedure for about 5 years; in the process of creating a policy.
- HR director runs criminal history checks on all new employees over 18 immediately after hire. If a criminal history is found, it is handled on a case-by-case basis with the Director. Considerations are given to type of position, type and severity of crime, how long ago, etc.
- LCPL uses its payroll provider, which offers an expanded limited criminal history check. Additional types of checks may be added in an a la carte manner.

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LCPL Policy and Practice

- Took information from SHRM (Society of HR Mgmt)
 - Rough Draft/Information to Include BELOW
- Lake County Public Library may order a background check on you in connection with your continuing employment, employment consideration or volunteer application. The Library may order additional background reports for employment purposes, to the maximum extent permitted by applicable law. The employee, candidate or volunteer will fill out a background check authorization form and return it to the Human Resources Department. The Human Resources Manager will order the background check upon receipt of the signed release form and will be the company's representative to review the results. In instances where negative or incomplete information is obtained, the Human Resources Manager and the Director will assess the potential risks and liabilities related to the job's requirements and the length of time since any negative information. If a decision is adversely made based on the results of a background check, there may be certain additional Fair Credit Reporting Act (FCRA) requirements that will be handled by Human Resources in conjunction with the employment screening service (if applicable). Background check information will be maintained in a file separate from employees' personnel files. The Lake County Public Library reserves the right to modify this policy at any time without notice.

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Questions for Discussion

- What should be included in a policy?
- What should not be included in a policy?
- What are your best learnings and advice for others?

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