



National Institute of Justice

Sentinel Events Initiative All-Stakeholder Forum

Meeting Summary

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Sentinel Events Initiative

All-Stakeholder Forum

PURPOSE: The following memo summarizes the key takeaways from the National Institute of Justice's (NIJ) recent All-Stakeholder Forum in support of the Sentinel Events Initiative (SEI). These lessons and insights will be integrated into program development as the national demonstration project builds over the coming years.

BACKGROUND: On June 19 and 20, 2017, nearly 100 federal, state, and local criminal justice practitioners, researchers and academics, policymakers, community representatives, and federal partners convened in Washington, D.C., to discuss learning-from-error mechanisms in the criminal justice context. NIJ hosted this meeting in partnership with the National Science Foundation to explore the potential benefits of developing the capacity for state- and local-level sentinel event reviews (SERs); discuss how lessons learned for instilling sustainable cultures of safety in the medical and aviation fields might be applied in criminal justice; explore existing research in criminal justice and other related fields; identify aspects of technical assistance necessary to support local systemwide reviews; and create a shared understanding of common goals and anticipated products from SERs while allowing for coherent local variations.

OUTCOME: The following is a high-level summary of attendee conversations, and includes insight on essential components of technical assistance provision at the state and local levels.

Guiding theories and principles

The criminal justice system has an urgent need for a mechanism to learn from error and unexpected outcomes. Participants agreed that the criminal justice system currently addresses bad outcomes almost exclusively through a blaming lens, and lacks a broadly adopted, routine mechanism for learning from error. Participants believed that a mechanism that focuses on learning from error, rather than on retrospectively assigning blame, would likely result in a decrease of bad outcomes and an overall increase of system efficiency and safety (as has occurred in analogous industries that have employed learning-from-error mechanisms).

Local variations and ownership of process are extremely important. Although participants acknowledged the similarities and applicable lessons from the National Transportation

Safety Board (NTSB) model, participants also stressed the importance of criminal justice reviews being locally driven, and highlighted the need for jurisdictions to develop their own review model responsive to their specific needs and contexts. Relatedly, NIJ's efforts in this space should not be prescriptive; rather, NIJ must seek to identify key elements of effective, sustainable reviews and understand how best to empower local jurisdictions to implement them over time.

We must move away from a culture of “bad apples.” Not only are most errors in a complex system the result of multiple actors, most instances of unethical behavior are unintentional. The criminal justice system is constructed in such a way that an actor's decisions are driven in terms of production pressure rather than ethics or moral grounding, and it is beyond a single actor to change the environment in which he or she must make decisions. In line with NIJ's strategic research plans, this is hugely supportive of a shift towards a culture of safety.

SERs can secure space for deliberate action through a safety culture. Sentinel event reviews will inform policy, procedure, and improvements in practice. It is also important to improve an individual system participant's ability to take deliberate action. No policy will pre-emptively cover all scenarios, and individuals must be both prepared and supported to take deliberate actions — beyond what is supplied in the “rule book” — to advance a culture of safety. This harkens back to previous conversations regarding empowering practitioners to “stop the line,” as is done in an assembly line when errors or the potential for errors are detected.

The adversarial nature of the system can be overcome. Participants agreed that the concern over the implementation of a sentinel event review in an inherently adversarial system would be challenging, but they also agreed that is not a bar to implementation. One participant cited the inherently adversarial relationship between multiple stakeholders in a hospital setting after the occurrence of a sentinel event, and noted that learning-from-error mechanisms have successfully been implemented in such an environment.

SERs support and inform data-driven analysis. Participants noted that sentinel event reviews will likely serve as a valuable complement to largely data-driven analyses, and may inform an operational approach to evidence-based system improvements that illuminate processes as well as outputs. While data-driven approaches such as risk assessments are often augmented by qualitative information in individual case reviews, sentinel event reviews may provide broader insight into the data and how system weaknesses may be improved.

Legislative support is important. Participants heard from legislators and policymakers who supported the implementation of learning-from-error mechanisms in criminal justice. Participants noted the incredible value of legislation that could both require reviews in specific circumstances and provide various types of “safe harbor” for information sharing and minimization of perceived risks of reviews being used in investigations of civil or criminal liability. Participants noted the need for greater understanding of the legislative landscape on these issues, and noted that model legislation would be helpful in encouraging adoption at the local level.

Analogous industries are bellwethers of system improvements. Participants heard from representatives of other industries that had successfully implemented learning-from-error mechanisms and experienced an increase in both system safety and the adoption of a safety culture. These industries included medicine, transportation, and the U.S. Forest Service. Participants agreed that the criminal justice system had much to learn from these

industries, while industry representatives cautioned that they too have a long way to go in terms of realizing the full potential of these reviews. Participants from other industries noted the importance of focusing reviews on “stupid human moments,” e.g., situations where errors were not the result of malicious or intentional misconduct, but rather reflected either a lapse in judgment or an inability to make appropriate choices due to system constraints and pressures.

Additional benefits of sentinel event reviews

Increase perceptions of system legitimacy. Participants noted that these reviews could clarify the distinction between failures that result from system pressure and failures that result from an individual’s inability to adhere to professional standards or effectively perform his or her duties. While the latter is a negative reflection on an individual, the former makes it clear that the system contributes to (and in some cases, forces) errors from individuals who are otherwise performing well. The sentinel event approach ensures that accountability is at the system level rather than on individuals reacting to that system.

Empower individuals to contribute to public safety improvements in their community. Participants noted that current models of community inclusion in criminal justice reviews are largely focused on punitive reviews (e.g., civilian review boards of officer misconduct). Very few models empower the public to directly contribute information and insight into non-punitive, forward-looking discussions aimed at system improvement. These discussions may yield a greater understanding for criminal justice practitioners about the impact of policies and practices, as well as greater insight for communities as to the experiences and approaches of the criminal justice practitioner. This process may also encourage practitioners and the communities they serve to jointly define what public safety looks like and how it is achieved at the local level — in other words, to “co-produce” safety.

Value accountability, apology, and disclosure. Participants reflected on the value of sentinel event reviews as a vehicle for promoting system accountability, apology, and disclosure from a systems perspective. Practitioners noted that in instances where they made public apologies (both for current bad outcomes and historical wrongs), they faced both strong criticism and support from their communities. Participants noted that some reluctance may be rooted in fears of civil liability. One participant aptly noted, “People don’t sue because they’ve been wronged. People sue because they haven’t been heard.”

Expand notions of harm. When bad outcomes occur in the criminal justice system, there are often multiple people who experience harm beyond the primary victims, some of whom may have even directly contributed to the bad outcome (e.g., the original crime victim in a wrongful conviction who provided a mistaken eyewitness identification, the responding officer in a justified/within policy shooting of an individual suffering from mental illness, an officer who unknowingly takes a false confession, or community members and relatives of wrongfully arrested or convicted individuals). Participants explored the possibility that sentinel event reviews may promote collaborative healing through a model of inclusivity, understanding, and exposure to different perspectives. This is particularly important given the comparative lack of resources for supporting harmed individuals such as those who are exonerated of a crime and survivors of crime. These reviews may not only provide vehicles for healing, but also illustrate the need for increased support and services in the aftermath of bad outcomes.

Include persons harmed and community members in the review process. Participants disagreed about how best to ensure that persons harmed and community members can be empowered to participate and contribute to review processes. Although all participants agreed that these individuals hold valuable information and insights that should be integrated into the review process, there was some disagreement as to when and how fully to promote participation. Some participants noted that early discussions may be seen as “cold and analytical,” because they usually focus on the larger context in which a single case exists. Other participants noted that actors from outside the criminal justice system may chill practitioner participation. Other participants disagreed, noting that the presence of community members and persons harmed may refocus the discussion on the specific issues at hand, and that the greater goal of transparency would best be served by participation throughout the entire process. Participants also noted that it may be helpful to include individuals with a civil rights focus in certain reviews.

Considerations and activities for technical assistance and neutral conveners¹

Orient to concept and local framework. It will be imperative for all review participants to have an understanding of what sentinel event reviews are (and are not), common definitions, and how such approaches as root cause analyses apply in the criminal justice context. Similarly, processes and procedures must be made clear at the outset. Each jurisdiction will likely require a process tailored to their specific needs, and a TA provider could lead the development of a mutually beneficial approach for all parties.

Promote peer-to-peer learning. As the sentinel event concept is implemented broadly, it will likely be beneficial for local jurisdictions to learn from each other in real time and share promising practices and lessons learned. A TA provider may provide such a mechanism, particularly for individuals serving as neutral conveners.

Negotiate data sharing and confidentiality. Each jurisdiction will likely need to work through data- and information-sharing agreements, and discuss how best to ensure confidentiality and transparency in the review process. Participants noted that such agreements should be constructed to promote disclosure of appropriate information to the public as soon as possible. Participants from analogous industries noted that it is important to develop policy in regard to notifying individuals directly impacted by the error prior to making the report public. Participants also noted that confidentiality in pending state matters was nonnegotiable. A TA provider could lead the negotiation of these agreements across stakeholders and leverage promising practices from early attempts to implement them in criminal justice.

Promote appropriate neutral convener. Participants noted that the most important attributes of a review convener or facilitator are that review team members trust the convener, the review team members respect the convener in the criminal justice context, and the convener is seen as largely neutral in the process. Participants also noted that the convener must be influential enough to pull participants out of their silos. Particularly in the early stages of

¹ Note – Some overlap occurs at this stage of program development between the role of the TA provider and the role of the neutral convener. Depending on the capacity of the sites chosen and the availability of TA staff, TA provision may include facilitation in the early stages of implementation. This is understood as a short-term fix; the expectation is that all review team participants will be local when the program is fully implemented.

review, it will be tempting for individuals to fall into long-established patterns of isolation and finger-pointing. The neutral convener serves an essential role in continuously orienting the group to the non-blaming framework and mindfully using language to encourage that mindset. Participants also explored several options for entities to serve in the “neutral convener” role and possibly provide substantive support through document review and other means. Options included law school clinics, academic institutions, law firms through pro bono participation, and ABA disciplinary committees.

Develop template for review reporting. Although it is highly likely that the plan for dissemination of report findings will need to be tailored to the goals of each jurisdiction, sites would benefit from a baseline template from which to generate report findings. Reports could be for internal audiences or public dissemination, with distinct formats for each.

Ensure participation and negotiate group dynamics. It is highly likely that each site will experience leadership changes while implementing an SER, and the TA provider could be helpful in orienting new leadership to the concept, securing buy-in, and maintaining continuity across shifting group dynamics.

Identify essential data and information. A TA provider will be well-positioned to develop a list of essential data points and documents needed for various types of reviews, identify sources for that information, and negotiate information-sharing agreements as needed.

Connect with subject matter experts on an as-needed basis. Many of these reviews may raise questions that require expertise outside of the criminal justice system. It is also foreseeable that, in certain cases, it makes sense to include a criminal justice perspective external to the reviewing jurisdiction. TA provision could include connectivity to a stable of trusted SMEs from a broad array of disciplines who are knowledgeable in the SEI theory of change and can provide guidance on an as-needed basis.

Consider a central body across multiple reviews. Participants agreed that in the criminal justice context, local ownership of reviews is key (rather than a centralized, external, likely federal body). However, there was some discussion of the promise of a non-binding centralized clearinghouse that could serve to provide technical assistance to jurisdictions seeking to implement reviews, collect (voluntary) data, and conduct analysis across reviews. This could reveal any patterns that exist across sites, and harvest research questions surfaced by local experience.

Considerations for case selection

Cases to avoid. Participants reflected on which cases may not be appropriate for sentinel event reviews, particularly in the earlier stages of program development. Suggestions included cases where the system has not reached a consensus that a bad outcome or near miss has occurred; cases that are too recent, raw, or particularly politically charged; and cases where associated liability is yet to be determined, but is likely.

Cases to pursue. Participants were largely in favor of reviewing cases where any civil or criminal liability of system actors had already been determined, and felt that the age of the case was not necessarily a bar to learning relevant lessons. Participants noted that it is particularly important to choose cases where all parties agree that the outcome constituted a sentinel event (e.g., avoid a case where an individual is found to be innocent on procedural grounds).

Importance of reviewing “near-miss”² and “good-catch” cases. Participants seemed to agree that near-miss cases were fertile ground for learning lessons with less risk and challenges than actual bad outcomes or errors. Participants noted that these cases constituted opportunities for greater understanding rather than problems that needed to be “fixed,” and noted that the lower stakes associated with near-miss reviews might encourage greater collaboration, disclosure, and participation.

Considerations for review process and outcome

Be flexible in review team composition, and recognize the difference between an “interest” and a “role.” Participants cautioned against rigidity when assembling review teams, and noted that not all events would require participation from all aspects of the criminal justice system. They also noted the danger of including individuals in the review who had an interest in the review outcome but did not necessarily have a role to play or pertinent information to contribute. Essentially, all participants should share in the vulnerability and risk associated with information sharing, and individuals who do not have information to contribute could chill participation from those who do.

Distinguish from other blame-focused processes and investigations. Participants flagged the complications that will likely arise from concurrent investigations involving personal liability, such as civil and criminal cases, internal investigations, and performance reviews. A participant with experience in these reviews noted that it’s important to keep the processes separate, but also noted this can be difficult in the absence of some controlling legislation or court order in that jurisdiction. Participants also noted that the reviews cannot be a substitute for liability, and stressed that the strength of the criminal justice system rests in a fair process that holds individuals accountable for their actions.

Ensure management buy-in. Participation in a sentinel event review will likely be “just one more” task for which a criminal justice practitioner is responsible. Without a specific mechanism ensuring participation at the local level, it is imperative that leadership of the various criminal justice practitioners be active in and supportive of the review process to encourage involvement and input at all levels.

Consider a multi-level review process. Participants explored the utility of a multi-level review process, in which a small group focused on information gathering specific to an incident, then provided the information to a larger stakeholder group that reviewed multiple events (see, e.g., U.S. Forest Service model).

Promote all-ranks representation. One participant went so far as to describe the Sentinel Events Initiative as “NIJ’s bet on the front-line practitioner” to both contribute essential information for understanding system outcomes and recognize and promote the need for system improvement through learning from error.

Consider varying needs for phased adoption. Several practitioners discussed early attempts to implement learning-from-error reviews within a single practitioner silo. Although this violates one of the primary principles of sentinel event reviews (requiring that all stakeholders be empowered to contribute), several practitioners made the case that

² An instance in which a bad outcome nearly occurs but is averted, either through an existing “catch” in the system or the extraordinary actions of individuals.

establishing the practice within their silo has and will make it much more likely that they would be willing to partner with and include additional stakeholder input in the future. In certain disciplines, formalized review mechanisms already exist and could serve as a foundation on which to expand to broader, more inclusive reviews.

Publish reports. There was unanimous agreement that the report and recommendations from sentinel event reviews should be made public to some extent. However, participants disagreed with the extent and timing of a public release. The NTSB model was deemed worthy of exploring. In this model, the recommendations for improvement born from the review are made public, while the specific information and findings that led to those recommendations remain confidential. Participants noted that this issue would be best decided at the local level, possibly on a case-by-case basis.

Define media role. Participants discussed the significant role that the media play in public understanding of criminal justice issues, and explored how best to educate journalists on these issues and promote responsible reporting that acknowledges the systemic nature of bad outcomes (see Jennifer Gonnerman’s work in the *New Yorker*). Participants also noted the importance of the media in promoting investigation and calling for greater understanding of systemwide issues without immediately assigning blame. The Philadelphia beta site included a reporter who had extensively covered the case under review on their team.

Open questions

As expected, a number of questions still need to be answered, likely through the experience of the forthcoming demonstration project. These include the following:

- How public or transparent should reviews and the reports they generate be? What is the best way to balance criminal justice practitioner interests with public interests? At what point does public participation discourage practitioner participation, and vice versa? What is the value of transparency when weighed against the value of a private, safe space to allow full disclosure?
- Is it possible or feasible to begin a sentinel event review process in a single silo — which itself could be considered a complex system with multiple components and actors — and then expand to a multi-stakeholder review? Does this encourage eventual expansion, or chill the appetite for it? Do “solutions” satisfying a single silo simply relocate risk?
- What is the best way to manage the inevitable complications arising from liability-focused inquiries and sentinel event reviews? A sentinel event review may uncover action for which an individual should be held criminally or civilly liable. How can sentinel event reviews coexist with determinations of liability without compromising the non-blaming, forward-looking focus of a review?
- What is a reasonable amount of time to allocate for a sentinel event review to take place?
- What is the best way to include and encourage participation from individuals such as persons harmed and community members while protecting their interests and providing a safe, trauma-informed space for their participation?

- What is the best way to support implementation of recommendations generated from the review? Although some may be simple updates to policies or procedures, others may require a significant shift in agency priorities and employee behavior. Others may require additional funding (which could either come from the jurisdiction or through external funding sources like competitive grants). Tracking implementation (and the extent to which changes in policies and procedures actually result in changes in behavior) will likely be challenging.