

Commentary: Evaluations of DOJ Investigations of State Psychiatric Hospitals

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Geller and Lee use their study of Findings Letters, sent by the United States Department of Justice (DOJ) to the states after investigations of state psychiatric hospitals, as a way to study the investigation process itself. Their article serves as a useful program evaluation for DOJ and suggests important ways in which the investigations could be improved.

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Surely, state psychiatric hospitals can benefit from in-depth consultation with outside agencies. The number of state hospital beds has continued to decrease, in part because of lack of funding and in part because of a belief that psychiatric treatment should take place in the community and not in hospitals. By 2010, the number of state hospital beds had fallen to 43,318 or 14.1 beds per 100,000 population, the lowest number since 1850 when there were 14 beds per 100,000 population.¹ Certainly, the few beds that are left should be maintained at a high level of quality and effectiveness.

Thus, an objective third-party analysis provided by the Civil Rights Division of the Department of Justice (DOJ) to ensure that patients are not facing unconstitutional conditions should be welcomed by the administration and staffs of these hospitals. By the same token, the DOJ can only benefit by an examination of its investigations and evaluations of the hospitals and how these evaluations are done; after all, they want to know if their procedures can be improved, and they want to be perceived as objective and fair.

In the study published in this edition of the journal, Geller and Lee² studied the process by which the DOJ communicates to the states their evaluations of state psychiatric hospitals for the purpose of uncov-

ering and then seeking correction of civil rights violations. By studying 15 Findings Letters from the DOJ written to states concerning their state psychiatric hospitals between 2003 and 2009, the authors obtained objective data that are difficult to acquire in this kind of process evaluation. Next, they identified the individual recommended remedial measures contained in these letters and then determined the degree of duplication of wording among them. The study achieves increased credibility because the senior author has been a consultant to the Civil Rights Division of the DOJ in five states.

Geller and Lee² describe in detail several problems in the DOJ's procedures. For instance, it is required to provide the state with Findings Letters, after their investigation, which include "the facts giving rise to the alleged conditions" and "the minimum measures the Attorney General believes may remedy the alleged conditions. . . ." The hospital has usually given DOJ access to the medical and other records and essentially all aspects of the facility itself on one or more site visits. The Findings Letter and remedial plan are then prepared and sent to the State by the DOJ. One would expect the Findings Letter to be distinct and individualized to the facility. After all, the findings are based on the reports of the DOJ's experts who have examined the records and visited the site. However, this study showed that this is not the case, and wording in the remedial sections of the Findings Letters tended to be the same from letter to letter, sometimes word for word and sometimes para-

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phrased versions. This lack of specificity to the individual facilities makes the Findings Letters of limited use to the states in their attempts to remedy problems in their institutions.

Equally as important as the study of the Findings Letters, the authors suggest an alternative way that DOJ could conduct their investigations and help the states to improve their facilities. In this alternative way of operating, the states and the DOJ would be partners, the states would have more access to the findings and reports of the DOJ's experts, there would be shared decision-making with regard to remedies, and resources of both the states and DOJ could be more quickly and efficiently directed at achieving good clinical outcomes.

In my opinion, the DOJ owes a debt of gratitude to Geller and Lee for conducting this study, which should be considered program evaluation at no cost to DOJ, and for suggesting sensible and well-thought-out ways in which the DOJ could improve its mission to help the states eliminate unconstitutional conditions.

References

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