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MEMORANDUM

TO: Kathy Sinnott, Irish Member, European Parliament
FROM: James B. Gottstein, Esq.
RE: Green Paper on EU Mental Health
DATE: January 9, 2006

I have been asked to review and comment on the European Union (EU) Green Paper, "Improving the mental health of the population: Towards a strategy on mental health for the European Union."

**Limitations**. I have not had a chance to review most of the many documents referenced in the Green Paper and there may be material in these documents that address the comments made herein.

**General Observation**. The Green Paper is generally good in my view. However, there are a couple of serious problems that are obscured.

**Disconnect Between Risk Factors and Treatment Approach**. The Green Paper is extremely good in recognizing the environmental factors that are the main risks for people becoming diagnosed with serious mental illness. Risk factors identified are (1) genetic factors, (2) factors related to pregnancy and birth, (3) early childhood experiences, (4) family environment, (5) social circumstances, (6) physical environment, (7) education, (8) employment, (9) work conditions and (10) housing.[1] Only the first one, genetic factors, is subsumed within the very controversial "biologic" or "Medical Model" of mental illness, which is good.[2]

In ¶6.1, the Green Paper discusses a number of environmental approaches to promote mental health and prevent mental ill health, which is good. However, ¶4 seems to envision a medical approach (mostly psychiatric drugs) to treatment:

> There is agreement that a first priority is to provide effective and high-quality mental health care and treatment services, accessible to those with mental ill health. However, although medical interventions play a central role in tackling challenges, they alone cannot address and change social determinants. . . .

It then goes on to reinforce that environmental approaches should be used to promote mental health and prevent mental ill health.

Taken together, it appears the approach is that the environmental methods are only for promotion/preventative measures and not for treatment where medical methods are to be used. This is wrong-headed and has resulted in a mental health system that is not only broken, but counterproductive. A recent article published in *Ethical Human Psychology and Psychiatry* documents how there has been a six-fold increase in the rate of disability of people diagnosed with mental illness in the United States since the introduction of Chlorpromazine (Thorazine) in 1955, with a significant rise in the disability rate following the marketing of each succeeding class of

[1] Annex 1.
[2] The role of genetic factors itself, contrary to conventional wisdom, is far from established, especially the extent to which it plays a role. *See*, e.g., The Gene Illusion: Genetic Research In Psychiatry And Psychology Under The Microscope, by Jay Joseph, *Algora Publishing*, August, 2004.

psychiatric drugs.[3] There is no doubt a similar positive correlation between the use of psychiatric drugs and mental ill health and disability as a result thereof occurs in the EU. The truth is the same sorts of social and environmental interventions, albeit more intense, the Green Paper suggests for promotion of mental health and the prevention of mental ill health should be utilized in the treatment of mental ill health.[4]

**Laws Protecting Rights Regarding Compulsory Admission and Involuntary Treatment Are Not Enough: Rights Must Be Honored**. ¶6.2 discusses the importance of laws protecting people's rights, which is good, but does not go far enough. Around the world people faced with Compulsory Admission and Involuntary Treatment universally experience their rights being ignored as a matter of course. With respect to this in the United States, legal scholar, Michael L Perlin has noted:

> [C]ourts accept . . . testimonial dishonesty . . . specifically where witnesses, especially expert witnesses, show a "high propensity to purposely distort their testimony in order to achieve desired ends." . . .
>
> Experts frequently . . . and openly subvert statutory and case law criteria that impose rigorous behavioral standards as predicates for commitment . . .
>
> This combination . . . helps define a system in which (1) dishonest testimony is often regularly (and unthinkingly) accepted; (2) statutory and case law standards are frequently subverted; and (3) insurmountable barriers are raised to insure that the allegedly "therapeutically correct" social end is met . . .. In short, the mental disability law system often deprives individuals of liberty disingenuously and upon bases that have no relationship to case law or to statutes.[5]

Laws protecting rights are meaningless unless they are honored and for various reasons, society(ies) support the disingenuous deprivation of rights for those charged with serious mental illness.[6] Effective mechanisms to honor people's rights must be included to be meaningful.

Finally, unrecognized in the Green Paper is that coercion is extremely counterproductive in treating mental ill health.

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[3] "Anatomy of an Epidemic: Psychiatric Drugs and the Astonishing Rise of Mental Illness in America," by Robert Whitaker, Volume 7, Number I: 23-35 Spring 2005, which can be found on the Internet at http://psychrights.org/Articles/EHPPPsychDrugEpidemic(Whitaker).pdf.

[4] *See*, e.g., resources cited at http://psychrights.org/Research/Digest/Effective/effective.htm.

[5] Perlin, "The ADA and Persons with Mental Disabilities: Can Sanist Attitudes Be Undone?" *Journal of Law and Health*, 8 JLHEALTH 15, 33-34 (1993/1994), (emphasis added, citations omitted)

[6] For a more detailed discussion of this as it relates to the United States, *see* "How the Legal System Can Help Create a Recovery Culture in Mental Health Systems," which can be found on the Internet at http://psychrights.org/Education/Alternatives05/RoleofLitigation.pdf