

# Treatment Over Objection

## Clinical Outcomes, Ethical Implications and Controversy

Andrea Paulitsch-Buckingham, MD  
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# Presentation Overview

- Definition & History of TOO
- Requirements of implementing TOO
- Prior research on TOO outcomes
- TOO outcome at BPC
- Controversy
- Patients' views of coerced treatment
- Potential alternatives

**Q: What is treatment over objection?**



Source: One flew over the cuckoo's nest

# Treatment Over Objection - Definition

“When a patient is incapable of giving consent by reason of mental illness, a licensed mental health hospital may request permission to administer psychiatric medication over the patient’s objection. In some states, the patient must pose a danger to self or others to justify treatment over objection.”

Source: Legal Information Institute, Cornell Law School

# Patient's Right to Object

- Patients have the right to object any form of care and treatment
- If patients object, they have the right to have the proposed treatment reviewed by Office of Mental Health (OMH) physicians and by court
- Except for emergency situations, patients cannot be treated over their objection without court authorization

# History of TOO – Rivers v Katz

- Mark Rivers & Florence Katz were involuntarily committed at Harlem Valley Psychiatric Center (Mental Hygiene Law §9.27) and retained by court order in 1984
- They refused antipsychotic drugs
- After administrative review by hospital, both were treated against their objection

# History of TOO – Rivers v Katz

- Patients brought suit against NY State stating Involuntary administration of medication in absence of emergency or judicial declaration of incompetence violates their right to determine their own treatment
- NY Court of Appeals ruled unanimously in favor of Rivers and Katz in 1986



# TOO – requirements

1.) Physician must establish **clear and convincing evidence** that patient lacks capacity to make treatment decisions

- Source: [omh.ny.gov](http://omh.ny.gov)

# TOO - requirements

2.) Court determines that physician-proposed treatment is tailored to take into consideration:

- Patient's best interest
- Benefit to be gained from treatment
- Adverse effects associated with treatment
- Any other less intrusive alternative treatments

**Q: Does treatment over objection  
work?**

# TOO at ECMC

- 2015: 153 patients had TOO court order filed
- 83 patients went to court
- 79 patients had TOO granted
  
- Data compared to ECMC patients from same year

# TOO at ECMC – LOS by court outcome

Court outcome	Mean LOS (days)	N	Standard Deviation
TOO granted	<b>40.7</b>	71	16.6
Took medication	<b>22.6</b>	65	17.2
TOO not granted	10.5	4	3.7
No medication	14.3	4	7.4
Total cases filed	30.9	144	19.2

Outliers with a length of stay over 93.5 days were removed

# TOO at ECMC – Readmission Rate

## 1 year readmission:

- **34%** in TOO group
- **48%** in patients who agreed to take medication

# TOO in acute psychiatric hospital

- 130 patients in acute psychiatric hospital in NY, treated in 2008 – 2010 who received TOO
- Comparison group: 132 patients hospitalized in same years, matched for gender, age, diagnosis and legal status on admission
- Post-discharge outcomes: readmission rates, linkage w/ outpatient treatment, transfer to state hospitals for long-term care

# TOO in acute psychiatric hospital

- No differences in readmission rates between TOO and non-TOO group!
- TOO patients were less likely to link with outpatient care, and more likely to be transferred to state hospitals

Source: Russ et al. Outcomes associated with court-ordered treatment over objection in an acute psychiatric hospital. J Am Acad Psychiatric Law. 2013;41(2):236-44.



# T00 in State Hospital

- 51 patients in 6 NYC state hospitals, treated in 1985
- T00 patients compared with matched controls from same hospital unit who accepted medication
- Outcomes followed for duration of T00 and for 1y after

# TOO in State Hospital

No significant difference in

- Restraints/seclusions

- Length of stay:

TOO: 35.7 +/- 43.1 months

Took medication: 66.5 +/-123.8 months

- Outpatient treatment compliance

- Readmission

# TOO at BPC - Methods

- 79 patients who received TOO (medication and ECT) at BPC 2014-2017
- Retrospective chart review 2 months before & after TOO implementation
- Compared interventions 2 months prior and after TOO implementation
- Patients functioned as their own controls

# Research Questions

- Do psychiatric patients who receive TOO have better clinical outcomes in regards to interventions designed to assist with loss of behavioral control?
- Lower utilization of restraints (manual and mechanical) & seclusions?
- Fewer psychiatric emergencies (“Code Green”)?

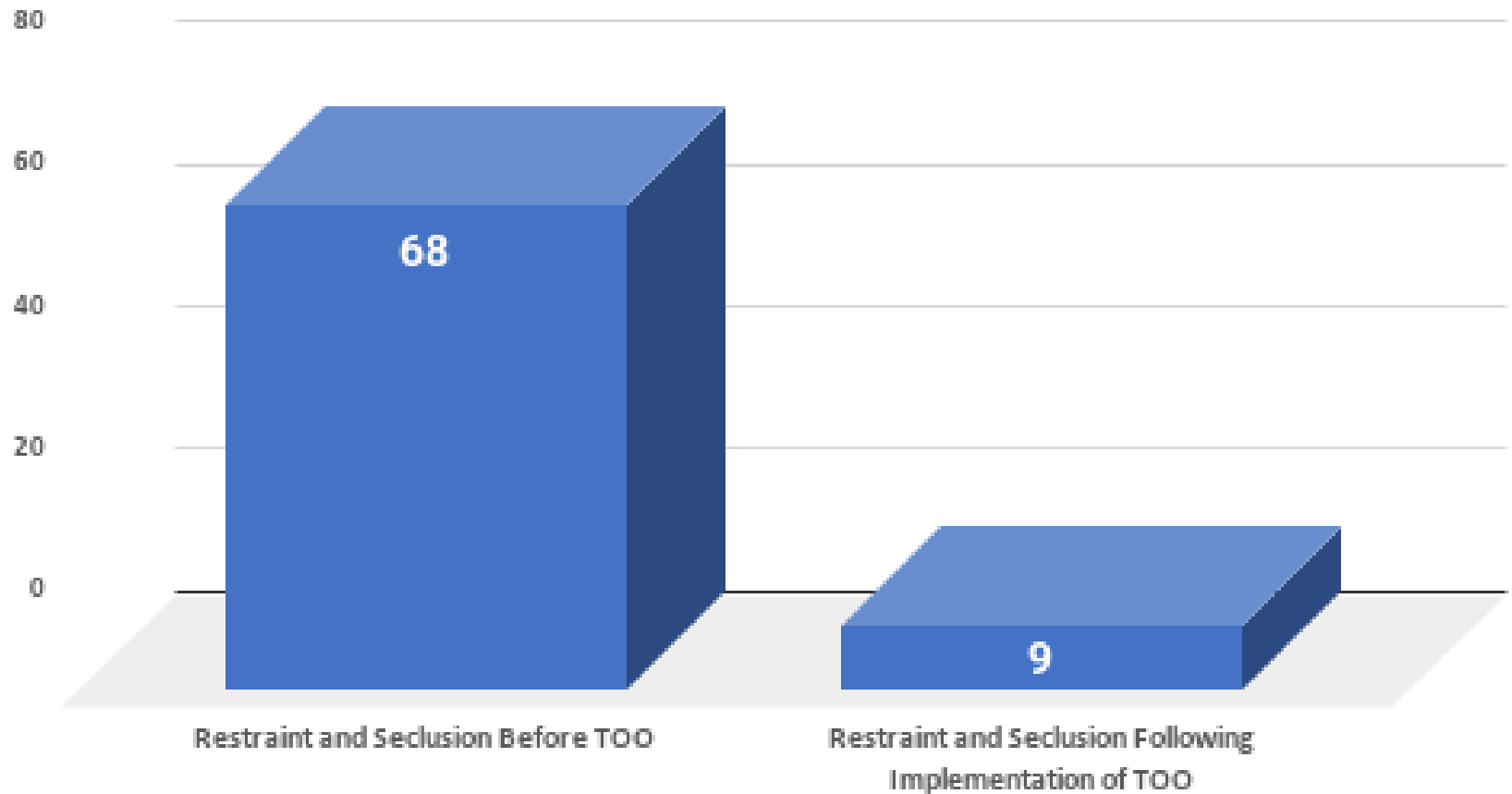
# Hypothesis for further data analysis

- Shorter length of stay in TOO admissions?
- Lower utilization of PRN medication for loss of behavioral control?

# Results – Restraints & Seclusion

- Only 38% of patients (N=30) receiving TOO required R/S during admission
- Statistically significant reduction in R&S after TOO implementation (Sig at 0.28)

# Results – Restraint & Seclusion

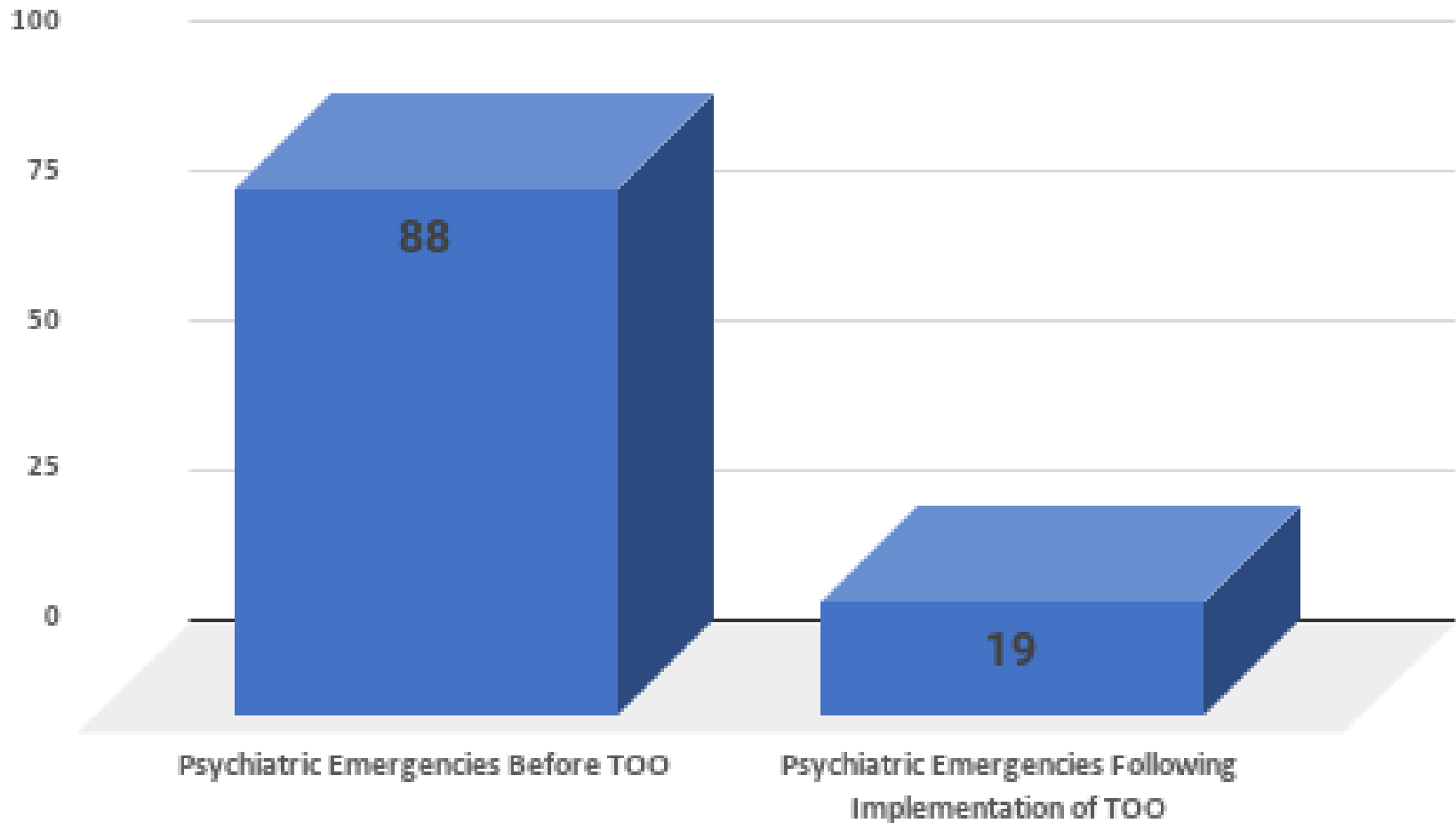


# Results – “Code Green”

- **52%** of patients (N=41) receiving TOO required psychiatric emergency intervention
- After TOO was implemented, Code Greens were significantly reduced (Sig .0001)



# Results – “Code Green”



# Discussion

Patients with difficulty controlling behavior are more likely to receive TOO. Once on meds:

- > improvement of psychiatric symptoms
- > improvement of agitation
- > improved behavioral control
- > fewer interventions needed

# Research Conclusions

- Short-term clinical outcomes of TOO are reassuring
- More robust sample size may generalize data to overall state hospital population
- Consider impact of patient demographic

# Ethical implications of T00

- Involuntary treatment is often needed to ensure safety of patient and/or public
- Can result in tension between patient and physician
- Parens patriae model (the state as parent)

# In support of TOO

- American Psychiatric Association (APA)
- Treatment advocacy center
- National Alliance on Mental Illness (NAMI)

# NAMI on TOO:

- **9.2 Involuntary Commitment/Court-ordered Treatment:**

(9.2.1) NAMI believes that all people should have the right to make their own decisions about medical treatment. However, NAMI is aware that there are individuals with serious mental illnesses such as schizophrenia and bipolar disorder who, at times, due to their illness, lack insight or good judgment about their need for medical treatment. NAMI is also aware that, in many state, laws and policies governing involuntary commitment and/or court ordered treatment are inadequate.

# NAMI on TOO:

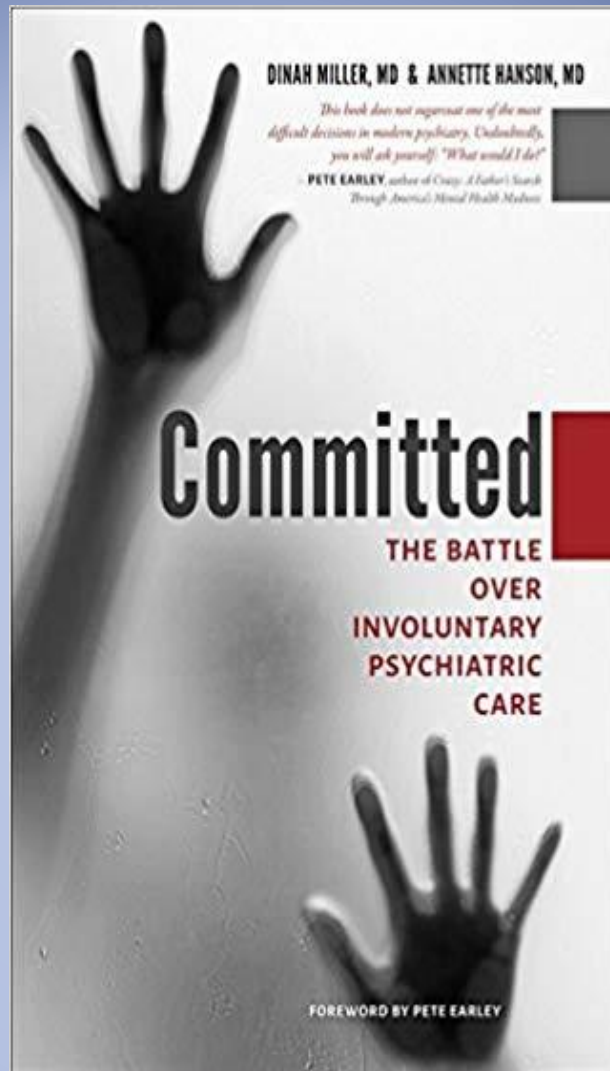
(9.2.2) NAMI, therefore, believes that:

(9.2.3) The availability of effective, comprehensive, community based systems of care for persons suffering from serious mental illnesses will diminish the need for involuntary commitment and/or court ordered treatment.

# Controversy

- Anti-psychiatry movement since 1960s
- Most societies permits compulsory treatment to mentally ill patients
- Influence of media, Scientology/CCHR etc





Authors: Dinah Miller, M.D. and Annette Hanson, M.D.

# Patients' views on TOO

**EUNOMIA:** multicenter European study on views of involuntarily admitted patients on coercive measures

- Majority (62.6%) retrospectively approved of their involuntary admission after 3 months
- Forced medication was the only coercive measure associated with the admission being seen as not justified by patients

# Patients' views on TOO

## Multicenter study on 1361 patients in England

- Higher frequency of forced i.m. medication (received or witnessed) associated with negative attitude towards all measures of containment

Source: The relationship between attitudes towards different containment measures and their usage in a national sample of psychiatric inpatients. Dack C et al. Journal of Psychiatric and Mental Health Nursing. 2012, 19:577-586.

# Alternatives to TOO?

- First: environmental modification techniques and verbal de-escalation
- Consider offering p.o. medication
- Physical restraint and forced i.m. medication as last resort

# Take home points

- Research shows mixed results on short-term and long-term clinical outcomes of TOO
- More research needed in various patient populations
- TOO is accepted by APA and advocacy groups, but remains controversial in public eye
- Consider ethical implications and effect on physician-patient relationship

Thank you to Dr. Olympia & Dr. Trigoboff!

# Questions?

## Psychiatrists



What my friends think I do



What society thinks I do



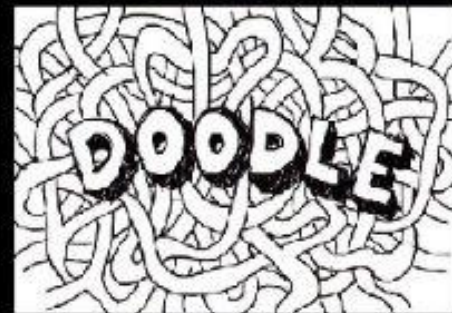
What kids think I do



What my parents think I do



What Tom Cruise thinks I do



What I actually do