

Carlos Cañete-Nicolás<sup>1</sup>  
Miguel Hernández-Viadel<sup>1</sup>  
Carmen Bellido-Rodríguez<sup>2</sup>  
Guillem Lera-Calatayud<sup>3</sup>  
Pedro Asensio-Pascual<sup>1</sup>  
Juan F. Pérez-Prieto<sup>1</sup>  
Roman Calabuig-Crespo<sup>4</sup>  
Carmen Leal-Cercós<sup>1</sup>

# Involuntary outpatient treatment (iot) for severe mental patients: current situation in Spain

<sup>1</sup>Psychiatry Service  
Hospital Clínico Universitario de Valencia

<sup>2</sup>Medical Examiner  
Instituto Médico Forense  
Valencia

<sup>3</sup>Psychiatry Service  
Hospital de la Ribera  
Valencia

<sup>4</sup>Psychiatry Service  
Hospital Dr Peset  
Valencia

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Involuntary Outpatient Treatment (IOT) expects to improve treatment compliance and, therefore, prevent the impairment of patients with severe mental illness, as well as the risk for them and others.

Besides IOT introduction defenders and opponent's states, scientific literature offers contradictory results. Legislative changes have been taken in the vast majority of our neighbouring countries in order to regulate IOT application.

There is no legal regulation in Spain; however, OIT application is possible in certain Spanish cities. This article reviews IOT in Spain and surrounding countries.

#### Key words:

Involuntary outpatient treatment, Severe mental illness, Legal rules, Intensive community services

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## Situación en España del tratamiento ambulatorio involuntario (TAI) para enfermos mentales graves

El tratamiento ambulatorio involuntario (TAI) pretende mejorar la adherencia al tratamiento y, por tanto, prevenir las recaídas y el deterioro de las personas con enfermedad mental grave.

Además de las posiciones manifestadas a favor y en contra con la introducción del TAI, los estudios publicados en la literatura médica obtienen también resultados contradictorios.

En la mayoría de los países de nuestro entorno, se han

producido cambios legislativos que regulan su aplicación. En la actualidad no existe en España una normativa legal, sin embargo, es posible su aplicación en el ámbito local de algunas ciudades españolas.

En este artículo se pretende hacer una revisión del TAI en los países de nuestro entorno y España.

#### Palabras clave:

Tratamiento Ambulatorio involuntario, Enfermedad mental grave, Normativa legal, Seguimiento intensivo comunitario

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## INTRODUCTION

Involuntary outpatient treatment (IOT) is a form of involuntary treatment applied in the community that aims to assure therapeutic compliance in persons who have a severe mental illness. This means a high risk of relapse, with appearance of self or heteroaggressive behaviors, repeated hospitalization and frequent emergencies especially in those patients without disease awareness and in those who drop out of treatment.

Some patients often have toxic abuse problems and do not take their medication correctly. This contributes to deterioration of their psychiatric disease and even to the appearance of disruptive or violent behaviors.

Involuntary outpatient treatment (IOT) has different names the literature: compulsory outpatient treatment, forced or court ordered outpatient treatment, orders for treatment and compulsory treatment in the community.

This type of legal interventions or mandates in countries of our setting is used to assure treatment compliance of patients with severe mental disease.

Studies on the efficacy of IOT show contradictory results.<sup>1</sup> In the observational studies,<sup>2-9</sup> a decrease in the number of emergencies, number of admissions and days of stay in the hospital are mostly found. However, there are

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#### Correspondence:

Carlos Cañete Nicolás  
Servicio de Psiquiatría. Hospital Clínico Universitario de Valencia  
Avd. Blasco Ibáñez, 17. Valencia  
CP: 46011. España  
Tel.: +34 963862600 Fax: +34 963860073  
E.mail: carloscañetenicolás@hotmail.com

important methodological limitations (small sample size and absence of comparison groups) that decrease the confidence in the results.

A comparison has been made between the randomized distribution of patients with IOT compared to a control group (that received intensive services but without court order) in second generation studies. Only two studies of this type have been found, one conducted in the city of New York<sup>10</sup> and another in North Carolina.<sup>11-15</sup> The results are contradictory. In the New York City study,<sup>10</sup> no significant differences were found in the rates of re-hospitalization, arrests, homeless patients or other results between the IOT group and control group. On the other hand, the results of the North Carolina study<sup>11</sup> indicate that persons with psychotic disorders and poor prognoses would benefit from intensive mental services and sustained compulsory treatment, reducing the number of relapses,<sup>14</sup> violent behaviors,<sup>12</sup> victimization<sup>15</sup> or arrests.<sup>11</sup> Table 1 summarizes these results on the experience and efficacy of IOT.

In qualitative studies that gather information on the opinion of persons involved in this type of treatment, it is found that mostly the relatives of patients with IOT and the psychiatrists attending to these patients consider the legal proceeding to be beneficial, finding a clinical improvement of the patient.<sup>16,17</sup> Even some of the patients per se (subjected to involuntary outpatient treatment) consider that this step is necessary to assure treatment and to avoid more coercive measures, such as involuntary admission.<sup>16, 18-21</sup>

On the other hand, the efficacy of the IOT program in the state of New York<sup>22</sup> was evaluated in the year 2009. In this evaluation, favorable results were found with a decrease in number of admissions and greater treatment adherence, without negative consequences for the patients (stigma, constraint and satisfaction with the treatment).

This article has aimed to review the situation of IOT in different countries, and in Spain specifically.

## INVOLUNTARY OUTPATIENT TREATMENT IN OTHER COUNTRIES

More than half of the states in the United States have some type of compulsory treatment in the community. This affects approximately 3 out of every 100,000 inhabitants of the general population, 9.8% of the new admissions of outpatients and 7.1% of the outpatients.<sup>23</sup> Canadian and Australian studies on IOT have shown a prevalence of 5-15 per 100,000 inhabitants of the general population.

Basically, there are two types of intervention: Supervised discharges and Compulsory Treatment in the Community.

## Supervised discharges or trial hospital leaves

The purpose of these discharges is to allow the patient to leave the hospital under the condition of complying with the treatment in the community. It is only applicable in those patients who have been hospitalized involuntarily. Non-compliance of the conditions agreed on in the therapeutic plan, due to rejection or deficient compliance by the patient may justify the patient's re-admission to hospital.

Some investigators have found that this type of intervention reduces hospital admission time and the number of aggressive behaviors.<sup>24</sup> This model is used in European countries such as Germany, France, England and Wales, Belgium, Luxemburg, Portugal and Israel. Suspending commitment for up to 6 months is contemplated in Germany. In the case of France, trial hospital leaves are contemplated under medical supervision with an initial duration of 3 months, which can be renewed. In the USA and Canada, conditioned suspension of the commitment has also been proposed.<sup>25</sup> In all of these, the discharge of the patient from the hospital with the condition that the patient complies with the therapy plan in the community for a variable period of time according to the countries (3-6 months) which can be extended is proposed.

In England and Wales, with the new 2007 Mental Health Act, the supervised discharges disappeared and they were replaced by supervised community treatment. Orders for community treatment are only possible in those patients who have been admitted to hospital involuntarily and when the responsible clinician proposes hospital discharges for the patient greater 7 days. On the contrary to the supervised discharges, the supervised community treatment that replaces them makes it possible for the patient who does not need to continue treatment in the hospital to be discharged and follow treatment in the community, however, reserving the possibility of requiring the patient to return to the hospital if necessary. This is different from the permission for hospital leave, which are still indicated to allow for short periods of leave from the hospital as part of the general management of a hospitalized patient. The duration of these community treatment orders is 6 months, extendable for periods of one year. These do not include the possibility of giving forced treatment in the community, except in cases of emergency.<sup>26,27</sup>

## Compulsory community treatment

In addition to supervised discharges or trial hospital leaves, there are two other situations for which the application of the treatment orders are proposed:

- **IOT as alternative to commitment.** This is applicable to those patients who meet the criteria for both indications.

Table 1		Review on the experience and efficacy of the IOT		
FIRST GENERATION STUDIES				
STUDY	SUBJECTS	DESIGN	RESULTS	
Zanni, G., & deVeau, L. (1986).	42	Pre-post IOT study (1 year follow-up)	Decrease in no. of admissions	
Fernandez, G., & Nygard, S. (1990).	4179	Pre-post IOT study (during 1000 days)	Decrease in no. of admissions, mean stay	
Munetz, M. R., Grande, T., Kleist, J., & Peterson, G. A. (1996).	26	Pre-post IOT study (1 year follow-up)	Mean stay less and more days with an employment.	
Geller, J., Grudzinskas, A., et al.(1998).	19	Retrospective case-control study (6 month follow-up)	Decrease of admissions and mean stay	
Durst R, Teitelbaum A et al. (1999)	326	Retrospective study, 1 year of follow-up. The treatment is considered to be successful if their is continued treatment for 6 months or the admission is voluntary	The IOT was successful in 43.3 % cases, unsuccessful in 32.5% (involuntary admission) and partial success in 22.1%	
Bursten (1986)	221	To compare non-admissions with a control group	There are no differences.	
Hiday, V., & Scheid-Cook, T. (1989).	69 with IOT 84 involuntary admissions to hospital	Comparative and retrospective study of the compliance and attendance of both groups (6 months follow-up)	It is easier that the patients with IOT comply with the treatment and use the community services. There are no differences in admissions.	
Preston NJ, Kisely S et al. (2002)	228 with IOT vs 228 controls	Retrospective case-control study (1 year follow-up)	The IOT does not reduce the use of health care services.	
SECOND GENERATION STUDIES				
STUDY	SUBJECTS	DESIGN	RESULTS	
Steadman, H. J., Gounis, K., et al. (2001)	78 with IOT, 64 control group	Prospective case-control cases and randomized distribution. All the patients received intensive community treatment (ICT)	There are no significant differences in the number of admissions and mean stay	
Swartz, M. S., Swanson, J. W. et al. (1999) Swartz, M. S., Swanson, J. W. et al. (2001) Swanson, J. W., Swartz, M. S. et al. (2000) Swanson, J. W., Borum, R.,et al. (2001) Hiday, Swartz et al. (2002)	129 with IOT 135 control group	Prospective case-control cases and randomized distribution. All the patients received case management services. 1 year follow-up.	The number of admissions and mean study may decreases in orders maintained, combined with intensive treatments, in psychotic patients. The no. of violent behaviors decreases. The no. of arrests decreases. The likelihood of being a victim of aggressions decreases.	

This would mean that the least restrictive alternative would be used.

- **IOT with preventive purpose.** This is applicable for those persons who suffer a severe mental disorder, with background of poor treatment adherence and who are unlikely to voluntarily agree to follow a treatment plan. Treatment dropout is followed by deterioration or frequent relapses, with risk of aggressiveness for oneself or others. In this sense, it is likely that the patient will benefit from the outpatient treatment. This is related to treatment orders for those persons who, suffering a severe mental disease, do not meet the criteria for an involuntary admission.

In these cases, the judge authorizes the physician to apply community treatment without the patient's consent, it not being necessary for the patient to have been committed.

Countries such as the United States, Canada, Australia or New Zealand have developed legal guidelines to regulate the application of the measures.

In order to authorize an IOT, a court hearing must be held. After this hearing, the court will decide if the criteria for its application have been met. Authorization of IOT will not be pronounced prior to the previous written therapeutic plan that includes the care measures to be conducted ("supervision services" or "assertive community treatment team"). This plan should be explained by a physician to the court. Any modification in the treatment program must be approved by the court, unless said change has been foreseen in the initial authorization.

In most of the states of the United States, the IOT does not include the power to forcibly administer the medication in the community. In Australia, this power to enforce medication in the community can be included, without recurring to hospital admission.<sup>23, 28</sup>

## INVOLUNTARY OUTPATIENT TREATMENT IN SPAIN

### Proposals of legislative regulation

Application of IOT is not exempt of controversy, with defenders who consider that it is a way of achieving treatment compliance and the consequent clinical improvement of the patient and opponents who consider that this type of measure violates the fundamental rights of the person and that these measures entail an increase in coercion and stigma of the psychiatric patient.<sup>29</sup>

In October 2004, on request of the FEFES (The Spanish Association of Relatives of Patients with Mental), a proposal was submitted to the lower chamber of the Spanish Parliament to modify article 763 of the Criminal Procedures

Law to regulate involuntary treatments of persons with psychic disorders and to thus make it possible to legally force a certain type of patient to receive outpatient treatment.<sup>30, 31</sup> The plenary session of the Congress agreed to consider the introduction of a fifth point in this article, with the following wording: *"The court can also authorize involuntary treatment due to a psychic disorder or for a period of observation for diagnosis, when the patient's health thus requires it, after a reasoned proposal of the medical professional, court hearing of the interested part, report of the medical examiner and of the Attorney General."* *"In the resolution that is dictated, the treatment plan, its control mechanisms and the health agency responsible for such, should be established. This agency should inform the Judge, at a minimum of every 3 months, on the patient's evolution and follow-up, and on the need to continue, modify or discontinue treatment. The maximum duration of the measure will be 18 months."*

The proposal of the FEFES aims to be a measure that would allow relatives and professionals to assure treatment compliance in severe mental patients, with high risk of relapse if they abandon the treatment. It also aims to avoid more radical interventions, such as hospital admission and civil incompetence.

The debate on the adequacy of this type of measure has arisen in Spain, as well as in other countries, with defenders and critics. Thus, the Spanish Association of Psychiatry<sup>30, 31</sup> and the Spanish Association of Legal Psychiatry<sup>32</sup> have manifested in favor of the legislative change. On the contrary, the Spanish Association of Neuropsychiatry<sup>33</sup> has manifested against the change and has given greater weight to the potential disadvantages, defending the need to develop intensive community follow-up programs and the development of the General Law of Health Care (Ley General de Sanidad). Finally, and due to the lack of consensus, this legislative proposal was withdrawn from the Congress.

In October 2006, a new legislative proposal appeared. The government presented a Project of Law of Voluntary Jurisdiction<sup>25, 34</sup>, that was included in its Chapter IX on "legal authorization of involuntary treatments of persons with mental disorders." On the contrary to the 2004 proposal in which the legal measure was always based on the knowledge of the medical specialist, this new proposal would make it possible to go directly to the court without the previous well-reasoned proposal of the specialist. Finally, after its debate in the lower chamber of the Spanish Parliament, the articles on the regulation of "the involuntary treatments" was eliminated and withdrawn from the Congress again.

### PERFORMANCE OF THE IOT

Although there is no specific legal regulation on this material, the IOT in Spain is an accomplished fact: drops of

haloperidol are administered in the food without the knowledge of the patient or *depot* medication is injected although the patient expresses his/her reluctance and without having requested authorization from the Court to force the patient to an involuntary treatment.

The impact of the "spontaneous" maneuvers in our setting is not known. Based on clinical experience, it is proposed that it is useful in some patients, since it prevents worsening of their disease.

However, the frequency of this type of practice is increasingly less, due to the greater awareness of the Spanish Society in general and of the physicians in particular about the importance of respecting the rights of the patients (based on the principle of autonomy and its application by informed consent). Thus, in accordance with Law 41/2002 on the autonomy of the patient, it is recognized in its basic principles that all acts within the health care setting require the previous consent of the patient and that all patients have the right to deny the treatment.

Currently, in our legislation and for persons whose life is severely altered by a disease and who are not aware of it, only the possibility of being committed exists, and if not, of being declared as civilly incompetent. Many families try to have their relative declared incompetent with the hope of being able to force a medication on them.

In recent years, experiences are being conducted with IOT in different Spanish cities (San Sebastian, Barcelona, Alicante, Valencia) in order to improve treatment adherence of persons with severe mental disease and to avoid the extremes of hospital admission or civil incompetence.

In the city of San Sebastian and since the year 1997, an experience is being carried out with IOT with the Court of the city.<sup>30,31</sup> Between the year 1997 and 2003, the IOT was applied to 45 patients. The conclusions of this experience are that the IOT works with patients diagnosed of psychosis and that it also helps to introduce the patients that previously refused to attend the available therapeutic resources into them. Thus, it is considered to be a useful measure, although for a small percentage of patients (the severest ones).

In Barcelona, there are two courts specialized in incompetence and commitment subjects, but with different points of view when interpreting the regulation in force for the application of involuntary outpatient treatments. Court no. 59 has been applying the measure since the year 1999 as an alternative to other more radical ones, such as commitment and legal incompetence. However, on its part, court no. 40 understands that, as there is no written rule, this subject cannot even be considered, this not preventing the possibility of requesting psychiatric admission if a person worsens.<sup>30,31</sup>

In Alicante in 2008, a health care-legal action protocol for the application of IOT was developed. An 18-month application period and the need for health care device to inform the court every 6 months are established. In order to implement this protocol, a court specialized in mental health material must be created.

Specifically, other cities (Gijon, Murcia) are using the IOT when the assertive community treatment program is unsuccessful.<sup>35</sup>

In the city of Valencia, the IOT has been used since the year 2003. In accordance with the data obtained from court no. 13, responsible for the civil commitment and incapacity processes, there are 140 patients with IOT. Most are men (66%), with a mean age of 40 years. The most frequent psychiatric diagnosis is schizophrenia (68.6%) and one out of every three schizophrenics with IOT has toxic dependency or abuse problems. In most of the cases, (79%), the request for IOT is made from the acute ward of the hospital during the commitment of the patient as a previous step to the discharge. The most frequent reasons for the establishment of involuntary outpatient treatment are: frequent relapse due to abandonment of the medication (63%), null intention to follow the treatment (24%) and aggressive behavior (13%). Most of the psychiatrists who attend to these patients with IOT report to the court that the evolution of the patient is that of improvement or that the patient is stable (72%). These data are similar to those published previously by our group<sup>16</sup>. Although the impression is that it may be beneficial for some patients, more studies on this subject are needed.

Our work team has suggested that a part of these patients may possibly respond to intensive follow-up programs, such as assertive community treatment, with the need of court intervention.

It is likely that the lack of or scarcity of these health care resources increases the practice of IOT by the professionals dedicated to care of patients with severe mental disorder. However, these court orders do not replace any treatment or replace the lack or scarcity of health care resources needed for the adequate care of these patients. The IOT is not a treatment per se, but rather the form in which the treatment prescribed by the clinician is administered.

The clinician is the person who should have to evaluate and decide what the adequate treatment is for the patient, although this choice is determined by the resources available and the need, at times, for an immediate response.

A separate question is that of the organization and availability of the care resources, which remain outside of the scope of this work. We believe, as Ferreirós Marcos states,<sup>36</sup> that "regulation of the involuntary treatments does not provide a response to problems such as stigma, problems

for access to a job or to an adequate system of health care and social resources."

In this sense, we consider that it is best to speak about "community treatment orders" than about "involuntary outpatient treatment," since the latter term may suggest a deceptive form, that refers to some type of specific treatment.

Finally, we want to add that the absence of a set of rules that expressly regulate the community treatment orders not only affects those persons who suffer a severe mental disorder but also affects those persons involved in the treatment such as relatives and caregivers, and that they constitute the principal support of the patient for his/her continuity and co-existence in the community.

In summary, in most of the developed countries, there have been legislative changes that regulation the application of the IOT. At present, there is no specific regulation in Spain. However, its application in the local setting of some Spanish cities is possible.

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