

LAW ENFORCEMENT MANAGEMENT INSTITUTE

A REPORT OUTLINING THE POLICE
USE OF INVESTIGATIVE HYPNOSIS
IN TEXAS

A RESEARCH PAPER
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MODULE III



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INTRODUCTION

STATEMENT OF PURPOSE

The purpose of this report is to educate and inform Law Enforcement managers in the Police Use of Investigative Hypnosis in Texas. There has been a great increase in the use of investigative hypnosis in Texas law enforcement, especially within the past ten years. Many law enforcement managers have not been exposed to investigative hypnosis. While attending the Law Enforcement Management Institute, I have met a number of law enforcement professionals who ask, does hypnosis really work, is investigative hypnosis legal or admissible in court? I want this report to help law enforcement managers understand what hypnosis is, the history of hypnosis, and what occurs during an investigative hypnosis interview. Next, the law enforcement manager will be given an investigative hypnosis interview guide which explains the steps that a police hypnotist will follow and why. The law enforcement manager needs to know the state law, and Rules governing investigative hypnosis by commissioned peace officers.

Finally, this report will cover some of the Texas appellate court cases that support investigative hypnosis. This report will explain the police use of investigative hypnosis and how it can be a significant part of law enforcement investigations.

HYPNOSIS DEFINED

DEFINITION

Hypnosis is an altered state of consciousness which is characterized by an increased focus of attention, a heightened state of mental concentration, and a decrease of focus and concern about peripheral, or surrounding noise or stimuli.

The vast majority of the people who will be hypnotized don't really know what hypnosis is. What knowledge they do have was probably obtained via the "late-late show" or an exhibition of stage hypnosis. Many fear a hypnotist will "control" their minds or ask them personal or embarrassing questions.

Another common misconception is that hypnosis is similar to sleep in that we drop off into a deep, dark void in which we know nothing and hear nothing. As a result, they expect a dramatic change to occur.

What a hypnotist must do during the rapport building is to allay apprehensions the subject may have by describing hypnosis in simple, easily understood terms. One extremely effective method is to explain that each of us passes through a state of hypnosis twice a day; once in the morning when we go from a state of sleep to the waking state; and at night when we slide from the waking state down.

Picture for a moment a descending scale of 1 to 10 with 1 being wide awake and 10 being deep asleep. On this scale the state of hypnosis is about a 3 to 5.

When you reach a 3 to 5 you are, or can be, aware of what is going on around you. You may hear other sounds around you, but soon, they fade away because you really don't care to pay attention. Undoubtedly, you have experienced this following dinner when you sat down in front of the television and perhaps tried to read the newspaper. Soon your eyes became heavy, your mind wouldn't focus and you slipped into a "daydreamy" state and perhaps experienced a rapid series of dreams. That was a hypnotic state and if you had given yourself suggestions for improvement, they would have gone directly into the subconscious mind and been extremely effective¹.

THE HISTORY OF HYPNOSIS

The history of hypnosis as a therapeutic measure is as old as civilization itself. It was practiced by priests and medicine men of the ancient Greeks, Egyptians, and Oriental peoples and tribes, wherein prevailed an air of the supernatural. As early as 1770, a Catholic priest in Europe, known as Father Johann Gassner, demonstrated his ability to heal people combining religion with suggestions. Later, in 1773, followed Franz Antone Mesmer, a Viennese physician, from whom the term mesmerize was derived. Mesmer might be called the father of modern hypnosis for, although his theory of "animal magnetism" was wrong, he was probably the first to present the idea that cooperation of the patient was an essential factor in the successful use of hypnosis or as he called it, "animal magnetism."

Mesmer's extensive use of animal magnetism and methods created much controversy and caused many people to become disturbed at his approach to the cure of his patients. A French commission was established to determine the validity of animal magnetism as produced by Mesmer, and Benjamin Franklin was a prominent member of that commission. The commission concluded that there was no validity to the theory of animal magnetism. They said that Mesmer's theory was only a result of suggestion and imagination.

John Brais, a Scottish physician, used animal magnetism in surgery and in 1843 coined the term hypnosis from the Greek word

work "hypnos" meaning sleep. It was Braid who determined that the phenomena which occurred during hypnosis were the results of suggestions.

During the 1800's, there were two schools established for hypnosis training in the treatment of patients. The Nancy School of Hypnosis established by Amboise-Auguste Liebhault, a country physician, and Hippoly-Marie Bernheim, a professor of medicine at Strassborg, attributed the hypnotic phenomena to psychological forces, namely suggestions.

Jean Martin Charcot, a French neurologist, formed the Paris School of Hypnosis. He projected the theory that hypnotic phenomena were only found in people suffering from hysteria.

There existed an academic feud between the Nancy School and the Paris School, with the Nancy School concept of psychological suggestion finally being accepted and also ending the "Mesmeric Theory" of "Animal Magnetism."

Many physicians used hypnosis anesthesia for major surgery prior to the discovery of ether, chloroform, and nitrous oxide gas, at which time a decline in the use of hypnosis was noted.

Sigmund Freud used hypnosis in the treatment of patients; however, he abandoned its use for psychoanalysis which caused a decline in the use of hypnosis by his followers and others.

In the late 1800's and early 1900's the use of hypnosis for entertainment became popular. A book entitled "Secrets of Stage Hypnotism" by Professor Leonidas, which was originally printed in 1901, detailed the methods for producing various hypnotic phenomena

for stage entertainment and outlined the procedure for making a living including advertisement, advance contact in arranging the performance, cost factors involved, and potential problems which could be anticipated. In this particular writing, the author indicated that by following these marketing practices, a good stage hypnotist could make between \$3,000 and \$4,000 during a six-month period of one year. While stage hypnotists have probably made a contribution in keeping hypnosis alive during the latter part of the 19th and early part of the 20th century, many of the misconceptions as perceived by the general public about hypnosis can be attributed to them having viewed some bizarre behavior by a person during a stage hypnosis demonstration or someone describing a hypnosis demonstration.

Dr. Milton H. Erickson, who started his studies and use of hypnosis while attending medical school in the 1920's, made many investigations into human behavior and hypnosis and will probably go down in history as one of the leading authorities on hypnosis during this century. He contended that every person can achieve some degree of hypnosis and that a person experiences many of those phenomena which occur in hypnosis and also occur in people during the waking state such as daydreaming, being absorbed in a book or movie, driving a vehicle (highway hypnosis), becoming spellbound while listening to a lecture, and in some instances, the relaxation experienced when sitting in a barber's chair, to name a few. He also contended that hypnosis is a fluctuating state as a person will drift in and out of the state. Some authorities believe that

approximately five to ten percent of the population cannot achieve hypnosis.

Hypnosis was used extensively in the treatment of psychological disorders of World War II and Vietnam veterans.

Some of the more common misconceptions about hypnosis is that the person is in a sleep state; a person under hypnosis is aware of everything that is going on around them. The hypnotized person is in a subconscious state of mind, whereas a sleeping person is in an unconscious state. Hypnosis is an altered state of consciousness in which increased physical relaxation is combined with varying states of mental concentration and quiet.

Another misconception is that the person surrenders his will to the all powerful hypnotist. The "Svengali-Tribly" novel and motion pictures have perpetuated this myth.

← The British Medical Society, from 1953 to 1955, conducted a study of the use and value of hypnosis in therapy and in 1955 officially endorsed hypnosis as a great value and even the treatment of choice in some cases of psychosomatic disorders. The report state: "Hypnosis has proven its ability to remove symptoms and to alter morbid habits of thought and behavior." Recommendations were made for instruction and training in hypnosis.

In 1957, the American Medical Association Council on Mental Health undertook an exhaustive study of hypnosis and, in June 1958, the committee report was approved by the A.M.A., giving official status to hypnosis as a medical and dental therapeutic adjunct and as the report of the British Medical Society, the A.M.A. vigorously

condemned public exhibitions of hypnosis for entertainment and hoped for legislation to curb its use. A.M.A. made recommendations for continued high level research, and any teaching and training related to hypnosis should be under responsible medical and dental direction. Ernest R. Hilgard, Professor of Psychology and Director of Laboratory of Hypnosis Research at Stanford University, and Josephine R. Hilgard, M.D., conducted investigations into the experience of hypnosis and personality and hypnosis respectively.

Although some controversy still exists among persons in the scientific community and mental health field as to who should be allowed to teach and use hypnosis. Today there are four basic applications for the use of hypnosis today: therapeutic or medical hypnosis, primarily used for behavior and personality modification, childbirth, surgery, and dentistry with persons who are allergic to chemical anesthesia; investigative hypnosis, used to enhance the recall of forgotten information with witnesses and victims of crimes; self-hypnosis, primarily used for self-improvement in various areas such as stress reduction, improvement in memory of study material and test taking by college students, reducing stage fright for public speaking, insomnia, weight loss, smoking, and many other areas for self-benefit; and stage hypnosis, used for entertainment purposes¹.

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INTRODUCTION OF INVESTIGATIVE HYPNOSIS IN LAW ENFORCEMENT

The use of investigative hypnosis in the Criminal Justice System dates back to 1897 in a case styled Ebanks vs California and the issue of its use has been raised in numerous cases since that time.

Harry Arons, longtime veteran in the field of hypnosis who trained many of those in the medical field, developed and conducted the first training program for law enforcement officers in 1959. The training and use of hypnosis as an investigative tool are reported to have met with a tremendous amount of resistance by some citizens, prosecutors, and defense attorneys.

Today there are several schools which offer training in investigative hypnosis to law enforcement officers, lawyers, medical professionals, and others who have an interest in obtaining training in the area of assisting others to retrieve forgotten information. Some of the training schools are:

- The University of Houston, Texas, and Sam Houston State University in Huntsville, Texas, in conjunction with the Therapeutic and Forensic Hypnosis Institute, Houston, Texas.
 - North Central Texas Regional Police Academy, Arlington, Texas, in conjunction with the Hypnosis Institute, Colleyville, Texas.
 - Law Enforcement Hypnosis Institute, Inc., Los Angeles, California.
- Professional organizations for police who use investigative hypnosis have been formed to enhance the exchange of information and improve the dissemination of new information related to technique, court decisions, and current data of interest. Three of these organizations are listed below:
- International Association for Forensic Hypnosis.
 - Texas Association for Investigative Hypnosis.
 - Society for Investigative and Forensic Hypnosis.

The use of hypnosis and extensive news media coverage of the kidnapping of 26 school children and a bus driver in Chowchilla, California, probably was one of the catalysts that stimulated the use of hypnosis in criminal investigations. On July 15, 1976, three persons kidnapped 26 school children and the bus driver. All occupants were buried alive underground. After the bus driver and children dug their way out of the makeshift grave and contacted authorities, it was decided that hypnosis would be used to develop investigative leads. Dr. William S. Kroger, a leading authority on hypnosis, conducted the session of Frank Edward Ray, the 55-year-old bus driver and through ideomotor response retrieved all of the digits except one on the license plate of the vehicle used in the kidnapping. As a result of the information developed through the use of hypnosis and investigation of leads, three suspects were arrested and convicted of kidnapping the students and the bus driver.

As the use of hypnosis began to emerge in police investigations, Dr. Martin Reiser, Director, Behavioral Science Service, for the Los Angeles Police Department, spearheaded the first organized hypnosis unit for that police agency. He was responsible for development of the training program, and selecting officers, as well as training, monitoring, and evaluating the use of hypnosis in conducting investigative hypnosis sessions. Dr. Reiser developed reporting formats and maintained statistical data related to the effectiveness of hypnosis in criminal investigation. The overall results were positive in the development of additional

leads for investigations.

In those cases where hypnosis was used, additional information above that which was developed in the standard interview resulted in 60 to 70 percent of the hypnosis interviews.

Investigative hypnosis is not a substitute for good investigative work, only an additional investigative technique that should be used when all other techniques have failed to produce additional leads or resulted in an arrest.

There is some controversy between those in the mental health field as to whether or not law enforcement officers should be trained in the use and conducting of hypnosis sessions.

Some contend that only those persons who have received training in the mental health and medical areas should use hypnosis while the proponents of police using hypnosis contend that police investigators are the ones who should be conducting the sessions based on their experience and training in interviewing witnesses and victims and dealing with traumatized victims of crime.

Dr. Reiser contends that hypnosis is like a scalpel used for surgery. The surgeon trained to do heart operations uses the scalpel to make the incision to get to the heart, the brain surgeon uses the scalpel to reach the brain for surgery, and the person trained in mental health uses hypnosis for one objective and the police officer uses hypnosis for another objective. He also contends that a psychologist trained to use hypnosis for behavior modification is not qualified to use hypnosis in criminal investigations unless the person had received training in the use

and application of investigative hypnosis for the purpose.

It is imperative that procedural safeguards be followed when conducting investigative sessions and proper information soliciting techniques be used as these sessions are subject to judicial review. The possibility of judicial review of hypnosis sessions conducted by a dentist, psychologist, or psychiatrist are probably nil unless it is an investigative session relating to a criminal offense.

The use of hypnosis by trained police professionals can be a valuable investigative tool when used properly to assist witnesses and victims to increase recall accuracy of important details related to the incident which probably would not have been remembered due to the anxiety and tension experienced by the victim or witness during the occurrence of the crime. This is especially true in those cases where psychological defense result in the repression of details when a person experiences trauma as a victim/witness to a serious crime.

A person can lie when hypnotized. However, it is accepted in the law enforcement community that hypnosis should only be used on witnesses and victims of a crime when the hypnosis session is conducted at the request of the investigator or a police agency. While it would be difficult if not impossible to determine if someone were lying, by using the proper procedure and information soliciting techniques, the witness/victim will usually tell the truth unless his vital interest is threatened.

It is imperative that investigative leads develop during a

hypnosis session be corroborated in order to validate the statement made under hypnosis.

Even if it were possible to induce hypnosis against one's will, it is well documented that the hypnotized individual still can willfully lie. It is of even greater concern that cooperative hypnotized subjects remember distorted versions of actual events and are themselves deceived. When recalled in hypnosis such false memories are accompanied by strong subjective conviction and outward signs of conviction that are most compelling to almost any observer. Caution and independent verification are essential in such circumstances.

Consideration should be given to the following areas when the determination is made to utilize hypnosis in an investigation:

- 1) Have all other investigative avenues been explored?
- 2) The person designated to conduct the session should not be familiar with the facts of the case (except the type of offense, date, and location) and should not have responsibility for the outcome of the investigation.
- 3) Audio recording or video taping of the entire session from the time the officer is introduced to the subject until they depart is imperative for judicial review.
- 4) Chain of custody must be maintained on the tape and a transcription should be made prior to the case going to court.
- 5) Obtain written consent from the subject prior to the sessions and complete the standard checklist with the subject prior to the session.
- 6) The officer who is trained and designated should have the authority to make the final decision as to whether or not the session will be conducted on this victim/witness.
- 7) Authorization should be obtained from a medical doctor or psychologist for persons under their supervision with exception for very minor ailments such as common cold, etc.
- 8) Prior contact and approval of the prosecutor's office which will have ultimate responsibility for processing the case through the judicial system.
- 9) Thorough documentation of the additional information obtained beyond that which was obtained in the standard interview technique.
- 10) Follow-up investigation to corroborate the leads

developed.

11) Use of standard induction, deepening, and accepted information soliciting techniques should be employed.

There are four basic issues which will be raised in court related to the investigative hypnosis session: 1) The competence of the officer/hypnotist conducting the session, 2) the reliability of the procedure, 3) the correctness of the technique, and 4) absence of leading suggestions.

There are numerous cases in which hypnosis was used to develop investigative leads or by the defense of which a few are:

- The murder of U.S. District Judge John Wood
- Kenneth Bianchi - Hillside Strangler
- Robert F. Kennedy assassination - Sirhan Sirhan
- Deaths of patients at the V.A. Hospital in Ann Arbor, Michigan
- John F. Kennedy Assassination - by the defense on a witness for Clay Shaw who was tried in New Orleans
- The murder of John Lennon
- Atlanta mass murders

Dr. Herbert Spiegel, a leading authority on hypnosis, defended the use of investigative hypnosis by law enforcement in a letter to Dr. Fred Frankel, President of the International Society of Hypnosis. Dr. Spiegel sought a reconsideration of the ISH Resolution regarding the use of hypnosis by nonmedical personnel and denying hypnosis to investigators. In part, Dr. Spiegel wrote:

"If we have any special knowledge about hypnosis, it is our ethical obligation to share this knowledge with other who in their own fields are diligently pursuing their own work. By sharing we can very likely learn from them as well. To presumptuously claim that only we can utilize this knowledge inflates our role, invites ridicule, and undermines our own credibility... Is a police interrogator any less competent to handle a possible abreaction or to seek appropriate psychiatric or psychological help than a dentist? Since it is well documented that dentist make excellent use of hypnosis, why do we expect less of another professional group whose primary training is likewise not in psychology or psychiatry

or medicine?"

Important information can be obtained under hypnosis that cannot be brought out through the standard interview technique. Hypnosis, in many instances, saves the investigator time by obtaining information that may aid in the development of leads. In some instances, these leads may help solve criminal cases sooner, saving time and money in the investigative process.

The use of hypnosis by law enforcement in criminal investigations warrants the review and support by administrators of police agencies².

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INVESTIGATIVE HYPNOSIS IN TEXAS LAW ENFORCEMENT

The use of investigative hypnosis by police in Texas began to develop several years after the Chowchilla, California investigation. On September 13, 1979, Leo E. Gossett, Assistant Director of the Texas Department of Public Safety, by memorandum, established a seven-member committee responsible for studying available data concerning law enforcement uses of hypnosis; developing recommended guidelines and criteria to be used in the selection and training of DPS personnel in the use of hypnosis; and developing recommended guidelines relative to such use.

The Texas Department of Public Safety (DPS) hypnosis program was implemented in 1980 after the committee reviewed numerous articles, training material, books on hypnosis; and met or consulted with numerous experts in the field. The committee then developed self-imposed guidelines and selected a 50 hour training course. From July 1, 1980 through December 31, 1987, 940 hypnosis sessions were conducted by DPS investigators resulting in additional information reported in 705 sessions (75 percent) and no additional information in 235 sessions (25 percent). The cases in which hypnosis was used included a wide variety of offenses such as hit-and-run traffic fatalities, rapes, assaults, robberies, kidnappings, and murders.

The initial basic training for investigators was conducted in the DPS Academy by the Therapeutic and Forensic Hypnosis Institute

of Houston, Texas, after an evaluation of the availability and adequacy of various training courses.

Some of the DPS personnel had received basic and advanced training at the North Texas Regional Police Academy in Arlington, Texas, and at the Law Enforcement Hypnosis Institute in Los Angeles, California. The Department of Public Safety subsequently developed and coordinated two in-service hypnosis schools in the DPS Academy, emphasizing practice sessions, testifying in court, and advanced techniques to enhance the confidence of the hypnotists.

The DPS stresses that hypnosis should be used as an aid to investigations, not a substitute. Investigators have been cautioned to assure that standard investigative methods have been fully utilized before hypnosis is used.

Other Texas Law Enforcement agencies have since followed the lead of the Texas Department of Public Safety by sending police investigators through investigative hypnosis training. These training courses are conducted at various Texas universities where approved basic training courses have been established. Some of these same universities offer advanced investigative hypnosis to supplement the initial basic training.

The Texas appellate courts have upheld convictions where hypnosis was utilized with either a crime victim or witness for the purpose of memory enhancement. See, e.g., Vester v. State, 713 S.W.2d 920 (Tex. Cr. App. 1986); Goudette v. State, 713 S.W.2d 206 (Tex. App. -- Tyler 1986); Walters v. State, 680 S.W.2d 60 (Tex.

App. -- Amarillo 1984); Zani v. State, 679 S.W.2d 144 (Tex. App. -- Texarkana 1984); Laird v. State, 650 S.W.2d 198 (Tex. App. -- Fort Worth 1983). Each of these cases are summarized in an upcoming chapter in this report.

Many police officers and civilians have limited understanding about what occurs during an investigative hypnosis session to enhance recall of a witness or victim of a crime event. A profile and brief explanations of what occurs during an investigative hypnosis session will provide a better understanding of the components of this type of interview.

The profile consists of the 1) pre-hypnosis interview, 2) induction, 3) information eliciting, 4) de-hypnotizing, and 5) the post-hypnosis interview.¹

PROFILE OF AN INVESTIGATIVE HYPNOSIS INTERVIEW

PRE-HYPNOSIS INTERVIEW

The pre-hypnosis interview consists of very important components which may negatively affect the outcome of the session if not handled properly. Proper handling includes the following. The police hypnotist should not be a member of the investigative team assigned to the case and should have only limited knowledge of the facts, i.e., if the person to be hypnotized is a witness or victim, as well as the time, date, location, and type of crime. There should be enough information to set the scene for the hypnotic review during information eliciting. Finally, the investigator may be present but will not participate in the hypnosis interview of the witness.

Introduction to Witness/Victim

The first step is the introduction of the witness/victim to the police hypnotist -- at which time either an audio or video recording device must be operating to document this initial contact. It is imperative that the entire contact between the police hypnotist and the witness/victim be audio or video recorded. In addition, it may be desirable for the investigating officer to make his/her own recording of the interview. The recording of the entire contact will provide the prosecutors, judges, defense attorneys, and jurors an accurate record of the interview; and to show that acceptable techniques were utilized and the interview was

not impermissibly suggestive. If the police hypnotist is a uniformed officer, it may be desirable for him/her to be dressed in civilian clothes. Almost any location is sufficient as long as it is quiet, reasonably comfortable, and nonthreatening to the individual.

Rapport Building Session

One of the main tasks of the hypnotist is to establish and maintain rapport with the individual to be hypnotized by building a sense of trust in the hypnotist and the process.

Explaining Hypnosis

Explain the hypnosis process -- what will be said and will be expected of the individual.

Discuss the Misconceptions

Explain the common misconceptions which most people hold about hypnosis, i.e., that the hypnotized person is not asleep or unconscious, will not divulge his secrets, cannot be compelled to tell the truth, will not get stuck in hypnosis, cannot be made to do foolish things, etc.

It should be noted that a person can lie, confabulate, or make up information while hypnotized if the person is motivated to do so. It is for this reason the Texas Department of Public Safety's policy prohibits the use of hypnosis with suspects and defendants.

Answer Any Questions

Allow the individual an opportunity to ask any questions which he/she may have and provide appropriate response.

Consent Form

Have the individual sign a voluntary consent to participate in a hypnosis session for the sole purpose of aiding in the criminal investigation. If the witness/victim is a juvenile, obtain parental consent. (See Appendix A Consent Form).

Checklists

Utilize the appropriate checklist with the subject to determine if the person is under the treatment of a psychologist, physician, or psychiatrist; wearing contact lenses; or has any phobias; etc.

It is recommended that department using investigative hypnosis prohibit a department authorized hypnotist from hypnotizing a subject who is under treatment for a heart condition, epilepsy, diabetes, or other serious physical problem or is taking stimulants or sedatives, without the consent of the subject's physician. Also excluded are persons who are under the care of a psychologist or psychiatrist. (See Appendix A, Prehypnosis Checklist and Checklist for investigative hypnosis session).

Hypnosis Data Report

The hypnotist should keep notes or use an agency form to document the specific information relevant to the hypnosis sessions. Examples would be the names of all persons present, the time the initial interview started and ended, the time the hypnosis session started and ended, the type of crime, and the results of the hypnosis session, etc. (See Appendix A, Investigative Hypnosis Data Report).¹

INVESTIGATIVE HYPNOSIS INDUCTION

The hypnotic induction starts with a series of suggestions to the witness/victim to allow the eyes to close, to become aware of breathing, to allow the experiencing of mental and physical relaxation, and to count numbers backwards slowly. Some induction techniques commonly used by hypnotists are progressive relaxation, confusion techniques, Chiasson's method, Spiegel eyeroll technique, eye fixation or some version of these techniques.

Relaxation Technique:

Instruction: Have the subject sit in a chair suitable for complete relaxation. Have him loosen any clothing which may be tight.

"Now take a deep breath, which will help relax the muscles as you let your breath out again. Soon you will notice that your eyelids begin to feel heavy and they will have a tendency to blink. They may blink more and more. They will grow heavier and heavier, heavier and heavier. You will find it harder and harder to hold them open. You may find your vision growing somewhat blurred. You may find that you have to swallow from time to time. The eyelids are becoming heavier and heavier now. Soon the eyes will want to close and to shut out the light. They are getting so heavy now, so awfully heavy, you can hardly hold them open. Let them close whenever they are ready. Heavy. Still heavier, and they can close now. (If the eyes have not closed now, continue with more suggestions, and if they do not close, tell the subject to close them.) "You are probably feeling a listlessness now, a drowsy, listless feeling. It is very pleasant to feel so listless and drowsy. Let yourself relax still more. A feeling of well-being gradually comes over you, as though all your cares have rolled away, as though nothing matters, nothing at all. A feeling of 'I don't care'. You are so listless now. Give way to the feeling, as it is so pleasant. Just let yourself go, drifting deeper and deeper. Deeper with every breath you take. Deeper and still deeper. You are going still deeper now.

"Pay attention only to my voice-nothing else seems to matter and nothing will disturb you. Let yourself relax completely, now, let every muscle for loose and limp. You will notice a growing feeling of heaviness in your arms and legs, perhaps over your whole body. There may be tingly feelings here and there, perhaps a numbness. And your breathing is getting slow

and easy now. Slow and easy. (Call attention to abdominal breathing if present). Give way to the drowsy listlessness. Let go completely. You are going deeper and still deeper now. "Let all your muscles relax, relax them completely. Begin with your feet and your legs. Let the muscles go loose and limp. Relax them all. Now your thighs, and your hips. Let them relax. Your stomach and abdominal muscles, now, can relax too. Let those muscles relax. Your shoulders, your arms and your hands. Relax them. Now your neck. Let it relax. Do not mind if your head bows forward or to the side. It will be perfectly comfortable. Your facial muscles can relax, and particularly the eye muscles and the lids. Relax now, completely. Every muscle in your body will relax."³

Spiegel Eye Roll - Levitation Technique

"Get as comfortable as possible with your arms resting on the arms of the chair. Now look toward me. Get as comfortable as you can. As you hold your head in that position, look upward toward your eyebrows-now toward the top of your head. As you continue to look upward, close your eyelids slowly. That's right. Keep your eyelids closed and continue to hold your eyes upward. Now take a deep breath, hold it. Now exhale, let your eyes relax and let your body float. Concentrate on a feeling of floating, floating down right through the chair. There will be something pleasant and welcome about this feeling of floating. Now while you concentrate on this floating, I am going to concentrate on your left arm and hand. In a while I am going to stroke the middle finger of your left hand. After I do, you will develop movement sensations in that finger. Then the movements will spread, causing your left hand to feel light and buoyant and you will let it float upward. Ready? (Stroke middle finger from nail to elbow.)

"First one finger and then another." As these restless movements develop, your hand becomes light and buoyant, your elbow bends and your forearm floats into an upright position. Just let it go. This is an exercise in your imagination.

Imagine your hand feels like a balloon. When you were a seven-year-old child, you had this ability to imagine. Try to recover this feeling. If necessary, help it along. That's right, all the way up.

"Now I am going to position your arm in this manner so, and let it remain in this upright position. (Gently cup the elbow with both hands and position it in comfortable alignment on the chair arm.) In fact, it will remain in that position even after I give you the signal for your eyes to open. When your eyes are open, even when I put your hand down, it will float right back up to where it is now. You will find something pleasant and amusing about this sensation. Later, when I touch your left elbow, your usual sensation and control will return. In the future each time you get the signal for the trance experience, at the count of one, your eyes will roll upward and by the count of three your eyelids will close and you will be in a relaxed trance state. Each time you will find the experience easier and easier.

"Now I am going to count backwards, At two, your eyes will again roll upward with your eyelids closed. At one, you let them open very slowly. Ready, three, two, with your eyelids closed roll up your eyes and, one just let them open slowly. (Gently lower arm holding wrist. Touch left elbow to endpost-hypnotic suggestion.)⁴

Traditional Eye-Fixation Method

Instructions: Have the subject fixate some point or object overhead, which causes him to roll his eyes upward.

"As you stare at the object, your eyes will become tired. The natural thing to do when one's eyes are tired is to close the lids to rest them. Soon your eyelids will become heavier and heavier. When your eyes close, just let them stay closed. That is right. Now you become more and more relaxed."⁵

Hand-Levitation Technique

Instructions: Have the subject sit comfortably in a chair with his hands resting lightly on his thighs. Instruct him to look at his hands, stare at an object on the wall, or close his eyes. Having selected one, he should continue to do that until asked to do otherwise.

"Please pay attention to all the feelings that you become aware of in your right hand and fingers. You can feel the texture of the cloth, the warmth of your skin, and perhaps a

little tingling sensation in the fingers. Your fingers may move back and forth a little bit in order to increase the feeling.

"Soon you may notice a feeling of lightness in your fingers which will spread to your hand. Soon you will be aware of and fascinated by the fact that your hand is moving up from your thigh. You can help this movement by imagining, if you wish, that a huge balloon is tied to the wrist. When the hand has moved high enough so that you feel that your arm will relax and the rest of your body is relaxed also, the hand will drop back to your lap and your eyes will close. Let your hand move up until your muscles are all ready to relax completely."

Chiasson's Method

Instructions: Help the subject to put his hand directly in front of his face, about 12 inches from his nose, and the back of the hand toward the face with the fingers pressed together, elbow bent.

"You and I will look at your fingers. Soon we will see them begin to spread apart. Keep your eyes on your fingers as long as your eyes are open. Now that we see your fingers spreading, your hand will begin to approach your face. When you feel the touch of your hand on your face, usually the tip of your nose, your eyes will close if they are not already closed. Often they become so tired that they close before your hand gets to your face. Once they close, let them stay closed. When your hand touches your face you will become completely relaxed and your hand will fall to your lap and you will go deeply relaxed."

INFORMATION ELICITING

The various information eliciting techniques are designed to permit the victim/witness to recall forgotten or repressed information if he/she is willing and able to have such recall.

Some of the more commonly used techniques for eliciting information are the movie theater technique, the calendar technique, ideomotor finger signals, the blackboard technique, automatic writing, and artist composite sketch, to name a few.

Being an expert in the clinical use of hypnosis does not

qualify the hypnotist to conduct the information eliciting phase of an investigative hypnosis session with a victim/witness to a crime event for the purpose of enhancing recall unless he/she is also trained in the use of investigative hypnosis and forensic interviewing techniques.

It is imperative that the hypnotist use neutral nonleading questions, allowing the person to report in free narrative recall, and use compound or zeroing-in questions for specific details. An example would be if the witness/victim tells the hypnotist the suspect has a mustache while mentally recalling the characteristics of the perpetrator's face, the hypnotist may then ask the witness to describe the mustache, and then if it is thin, medium, or thick.

The various information eliciting techniques are designed to permit the victim/witness to recall forgotten or repressed information if he/she is willing and able to have such recall.

Some of the techniques used for eliciting information are the movie theater technique, the calendar technique, ideomotor finger signals, the blackboard technique, automatic writing, and artist composite sketch, to name a few. Two of the more commonly used techniques for regression to achieve hypermnesia are the movie theater and the calendar techniques. Both of these techniques are designed to regress a person back in time for the purpose of mentally reviewing the circumstances while experiencing a feeling of detachment. These techniques separate the event and the mental review process by time as it is well documented that tension, anxiety, and trauma that have a negative effect on recall

interrupts memory.

The Movie Theater Technique

This technique consists of a series of interview instructions given to the subject, while in hypnosis, indicating they are going to review a special documentary film of the sequence of events as they occurred on the day in question. They are advised that the film can be stopped, reversed, fast-forwarded, freeze-framed, or played in slow motion to provide them an opportunity to make a closer review of any segments of the event. The person is told even though the event was traumatic they will be watching the documentary and will be able to remain calm, relaxed, and be able to report the events as an investigative reporter.

The person is then directed, in imagination, to the inside of a theater and the review of the documentary film is started. While the person is in hypnosis with eyes closed mentally reviewing the events, they can verbally respond to the police hypnotist as to what is occurring or to questions by the hypnotist.

The witness/victim knows they are not in a theater while in hypnosis or after they are dehypnotized; however, this technique allows them to isolate some of the emotions attached to the event while they are mentally reviewing what occurred.

The Calendar Technique

This technique is another regression technique where the witness/victim is instructed to imagine a calendar on the wall. The person is then instructed to look at the calendar and see that it is _____ (month) _____ (date) _____ (year)

which is a _____ (day of the week). You should always start with the current date. The police hypnotist then starts regressing the witness/victim backwards by each day (seeing the previous day on the calendar) for recently occurred events. If it has been some time since the crime event occurred, one may want to regress the individual by months or even years. It may be necessary to regress the witness/victim back to the day prior to the crime event and have them seeing themselves go to bed that night and getting up the next morning, continuing the mental review and verbalizing the sequence of events as they are occurring. The structure of the interview will depend on the circumstances surrounding the event as reported by the witness/victim.

The Artist Composite Sketch Technique

This can be developed while the person is in hypnosis. The police hypnotist conducts the induction, has the witness/victim mentally review the events and then, while in hypnosis, asks the witness/victim to describe the physical characteristics of the perpetrator. The artist may be present and start the artist composite sketch of the perpetrator based on the description provided. The witness/victim should then be instructed to remain in hypnosis and open their eyes and compare it to the mental picture in their mind. It is permissible for the artist to discuss any changes which may need to be made with the witness as long as they are trained in forensic interviewing techniques. The police hypnotist may occasionally need to use deepening techniques between viewings of the sketch. Upon completion the subject is told to

close their eyes and then dehypnotize.

Ideomotor Finger Technique

Ideomotor activities involve the involuntary capacity of muscles to respond almost instantaneously to thoughts, feelings and ideas. These reflex responses are related to survival needs and are part of everyday, normal experience. Subcortical mechanisms are involved in involuntary responses such as blinking, breathing, heartbeat and are mediated autonomically. Reflex responses can be conditioned and brought under the subject's voluntary control. Biofeedback training programs enable individuals to produce increased alpha brain waves, or to reduce galvanic skin response. In hypnosis the subject can learn to produce reflex responses which activate fingers to yield information from subconscious levels of awareness.

The pendulum, which can be made from a piece of string and a weight, is an excellent tool to capitalize on ideomotor responses of the subject either in or out of hypnosis. There are four basic pendulum movements possible: clockwise, counterclockwise, in and out away from the subject, or back and forth across the subject. Each of these movements can be assigned a meaning. One direction can mean "yes", another direction "no". the third "I don't know", and the fourth "I don't want to answer". These responses allow questions to be answered directly from the subconscious mind by reflex via the autonomic nervous system to the musculature of the body as reflected in the micro-tremors which activate the pendulum in a particular direction.

The subject is told what the four possible pendulum movements are and asked to establish his own replies. He holds the pendulum with the dominant hand, hanging between the index finger and thumb, with the elbow resting on a solid surface. The hypnotist requests the subject's subconscious mind to select one of the four movements to represent the "yes" response. The subject is also told the harder he tries to keep the pendulum still, the more it will swing in a definite direction. He is to keep his eyes on the ball of the pendulum and watch as it moves in a wider and wider arc.

When the subject has established a response for each of the four possible movements, he can then be asked questions which can be answered subconsciously by one of the replies. In situations where it is desirable not to have the subject know what his response is to a particular question, the procedure can be done with the subject's eyes closed. Hypnosis is not required for this purpose. This will tend to minimize any resistances and tendencies toward conscious control of the pendulum movement. Because the pendulum doesn't require hypnosis, it can be used with subjects who are unable to make use of a standard hypnosis approach.

Ideomotor finger signaling is also an extremely useful technique in investigative hypnosis. The subject, in hypnosis, is told that each time the index finger of his dominant hand is touched by the hypnotist, it will automatically rise up. The hypnotist then touched the index finger about five times and then indicates that whenever the finger is touched or whenever the answer to a question is honestly and accurately "yes" the finger

will also raise up by itself automatically. The hypnotist then alternates touching the index finger and saying "yes" in completing the conditioning of the index finger as a "yes" response. In similar fashion, the middle finger of the subject's right hand is conditioned as a "no" response. The subject's little finger is then conditioned as an "I don't know response" in the same way. The subject can then be asked questions that can be answered by "yes" or "no" about license numbers, names, whether the objects, faces or events of the crime were originally perceived and are now subject to recall.

Because there is sometimes a discrepancy between a license number that has been verbalized by a hypnotized subject and the letters and digits elicited by ideomotor finger signalling, it is preferable to check out this information both ways. Because ideomotor signalling involves the inhibition of higher cortical levels, resulting in a reflex movement, it is likely that the finger signal will be more reliable than the verbalized information.

In eliciting license plate information under hypnosis with ideomotor signalling, the hypno-investigator can start by asking the subject if the license plate was perceived at all initially in relationship to the crime situation. If the "yes" finger responds, the questioning can continue by eliciting the colors on the license plate, the state of origin and other identifiers such as renewal sticker or state motto. The subject can then be asked if there are six or more characters on the license plate and, by the finger

responses, determine how many there are. The subject may be asked if the first character on the license plate is a letter of the alphabet. If the answer is "no" the next question can verify it as a number. The subject is then instructed to indicate by a "yes" response when the appropriate license plate character is mentioned by the hypno-investigator. The hypnotist then slowly, allowing lag time, gives numbers from one through zero, or letters of the alphabet from A to Z, and notes the ideomotor response. This procedure is followed for each of the individual characters in the license plate until all the information is elicited. It should then be rechecked.

If the "yes" and "no" finger rise simultaneously, it suggests that either the subject did not perceive that particular item or that he has some confusion because of the way the question was phrased. It is not unusual that a witness does not register all of the letters or digits on a license plate, but still be able to recall enough information to be of help to the investigators. The kidnapping of a busload of school children in Chowchilla, California was an example. Under hypnosis the bus driver was able to recall all but one digit of the suspect's van license plate, which helped the FBI investigators in that case.³

Blackboard Technique

For recall of information which can be written or printed such as names, numbers, places or dates, the blackboard technique may be effective. In hypnosis, it is suggested that the subject imagine a large blackboard covered with a soft velvet cover obstructing the

view of what is written in the blackboard in large white block letters. The subject is told that on signal the velvet cover will be pulled away and some interesting and important information printed on the blackboard will suddenly become visible to the subject. The hypnotist begins counting to five and just before the final number is reached, adds that when the cover is removed, what is written on the blackboard will be the license number, or name, or other desired information for that particular crime event. As the last number is given, the fingers are snapped neat the subject's ear as a distractive, reinforcing cue. The subject is then asked to verbalize what is seen written on the blackboard.³

Automatic Writing

This technique can be useful in eliciting repressed information in certain situations by bypassing the subject's conscious cortical levels.

One drawback is that it may take the subject quite a long time to learn how to write freely and spontaneously with this technique. However, with this approach, the subconscious mind can freely bring out any information it wishes to.

The subject should be in a medium to deep state of hypnosis and should be told that his writing hand and arm, from fingertips all the way up to the shoulder, will develop a mind of its own and on signal will feel separate and dissociated from the rest of the body. The hypnotist should lightly stroke the subject's hand and arm to reinforce this suggestion. The subject should be seated at

a desk or have a clipboard and pad available for writing. The hypnotist should place a soft pencil or ball point pen in an upright position between the thumb and forefinger of the subject's writing hand. Additional suggestions for arm independence, separateness and dissociation are given to the subject along with the suggestion that, on signal, the hand will begin writing by itself, freely and spontaneously. The information it writes will be relevant to the crime in question and may consist of license plate data, or any other visually depictable material. It may include such diverse items as designs on the suspect's t-shirt, or the logo on a bumper sticker.

The subject doing automatic writing may respond slowly or rapidly, run words together, or write or print unintelligibly. However, suggestions can be given that, shortly, with eyes open in hypnosis, the subject will be able to look at his production, understand and interpret it for the hypno-investigator. This will sometimes enable scribbles to be rendered intelligible by the subject's subconscious knowledge.³

These techniques or a variation of these procedures are used by many practitioners for memory enhancement.

Being an expert in the clinical use of hypnosis does not qualify the hypnotist to conduct the information eliciting phase of an investigative hypnosis session with a witness/victim to a crime event for the purpose of enhancing recall unless he/she is also trained in the use of investigative hypnosis and forensic interviewing techniques.

It is imperative that the hypnotist use neutral nonleading questions, allowing the person to report in free narrative recall, and use compound or zeroing-in questions for specific details. An example would be if the witness/victim tells the hypnotist the suspect has a mustache while mentally recalling the characteristics of the perpetrator's face, the hypnotist may then ask the witness to describe the mustache, and then if it is thin, medium, or thick. A suspect description form can be utilized by the hypnotist when eliciting information about a suspects description. (See appendix A Suspect description form).

DE-HYPNOTIZE

One of the most common techniques used to de-hypnotize a person is for the hypnotist to tell the subject that, "In a moment I am going to count from one to ten and when I reach the number ten you will become alert, feeling refreshed and relaxed, opening your eyes on the count of ten."

The police hypnotist then counts from one to ten slowly while giving positive suggestions to the individual of feeling refreshed, relaxed, clear headed, and having all of the normal sensations return to all parts of the body. Upon reaching the number ten, the hypnotist tells the individual to open his/her eyes feeling refreshed and relaxed.

It is important that the hypnotist makes certain that the person is fully de-hypnotized and reoriented before terminating the post-hypnosis interview, especially with individuals who achieve a deep level of hypnosis. In most instances, this takes only a short

time.⁶

POST-HYPNOSIS INTERVIEW

The post-hypnosis interview may include questions, comments, or additional information forms. (See appendix A, acknowledgement form and Case evaluation form).

Whether or not the investigator uses standard interview techniques or hypnotic interview techniques, a witness/victim often will think of something else at a later time which may be important to the investigation. The police hypnotist should tell the witness/victim that if he/she recalls any additional information in the future, it should be reported to the investigator assigned to the case.

The audio or video recording documenting the entire contact between the police hypnotist and witness/victim may be terminated only when the hypnotist and witness/victim separate.

The chain of custody of the original recording should be maintained by the police hypnotist until all appeals have been exhausted in cases where an offender was arrested and convicted or until the statute of limitations has run out.

It should also be understood that the law enforcement officer with years of prior experience, who receives training in hypnotic interviewing techniques, brings a wealth of interviewing skills and experiences in dealing with both traumatized witnesses and victims to crime on a fairly routine basis.

AN INVESTIGATIVE HYPNOSIS INTERVIEW GUIDE

Police practitioners should consider adopting a uniform guide to enhance the organization and effectiveness of the hypnosis interview process.

The use of hypnosis by the law enforcement community has been professionalized through the establishment of minimum training standards, testing, and certification. Certification is mandated by state statute and administered by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE). Procedural safeguards as set forth by the Texas Court of Criminal Appeals have reinforced the professional and ethical practice of investigative hypnosis by police. The use of a methodical approach to the hypnotic interview will further enhance the professionalism of the police hypnotist.

Techniques pointed out in the following guide such as the nondirected and multi-review process may enhance the recall of additional facts. By having the person recall the sequence of events in free narrative, unedited, and from a different perspective may very well set the stage to allow the person to isolate some of the trauma-charged emotions during the information eliciting phase of the hypnotic interview.

- I. AUDIO OR VIDEO RECORDER TESTED AND RUNNING (Initial Contact-HELLO to GOOD-BYE)
DOCUMENTATION ON TAPE THE-DAY-DATE-TIME and LOCATION OF THE HYPNOSIS INTERVIEW
State for the record, "THE PURPOSE FOR THIS RECORDING IS TO DOCUMENT AN INVESTIGATIVE HYPNOSIS INTERVIEW."

- The police hypnotists may consider assigning someone the responsibility of making a backup audio recording of the interview if possible.
- II. INTRODUCTION OF THE POLICE HYPNOTIST TO THE WITNESS/VICTIM
For the record, "HAVE YOU AND I EVER MET BEFORE?"
If the police hypnotist and witness/victim are acquainted it should be explained.
 - III. EXPLAIN THE PURPOSE FOR RECORDING THE INTERVIEW
In Texas, it is required that a recording be made of the entire contact between the police hypnotist and the witness or victim as a prerequisite to the admissibility of hypnotically-enhanced testimony.
 - IV. IDENTIFY ALL PERSONS PRESENT ON THE TAPE RECORDING
 - A. Name
 - B. Purpose for being present
 - C. Agency if police officer, artist, etc.
(In any event none of the persons present, except for the police hypnotist and, when appropriate, the artist may participate in the interview during the development of a composite sketch.)
 - V. ADVISE THE WITNESS/VICTIM OF YOUR TRAINING AND CREDENTIALS
 - A. _____ years of law-enforcement experience
 - B. Investigative Hypnosis Training
 - C. Certified by the Texas Commission on Law Enforcement Officer Standards and Education and authorized by the Chief, Sheriff, or Director of the agency to conduct these types of interviews.
 - D. Other type of training which may be significant to establishing your credibility with the person to be hypnotized.
 - VI. ASK THE WITNESS/VICTIM-"HAVE YOU EVER BEEN HYPNOTIZED BEFORE?"
(If they have been hypnotized before it should be explained. For example: during a previous hypnosis interview in this case, while attending college or a class on self-hypnosis, etc.)
 - VII. RAPPORT BUILDING SESSION
To provide an opportunity for the hypnotist to establish rapport with the person to be interviewed.
 - VIII. ASK THE WITNESS/VICTIM-"HAVE YOU EVER SEEN ANYONE HYPNOTIZED?"
 - IX. EXPLAIN MISCONCEPTIONS WHICH MOST INDIVIDUALS HAVE ABOUT HYPNOSIS
 - X. EXPLAIN THE HYPNOSIS PROCESS AND TELL THE PERSON "YOU MAY OR MAY NOT REMEMBER ADDITIONAL INFORMATION"
Tell them "YOU WILL BE ABLE TO RECALL EVERYTHING THAT OCCURRED DURING THE HYPNOSIS SESSION AFTER YOU COME OUT OF HYPNOSIS."
 - XI. EXPLAIN THE TERM "IN YOUR MIND'S EYE."

Have the individual close their eyes and ask them to recall a mental visual picture of the front of the place (apartment, duplex, house) where they live. After a few moments tell them to open their eyes and have them describe to you what they were viewing. Tell them that when you use the term "in your mind's eye" you are asking them to recall a visual memory and then translate that visual memory into words.

XII.

COMPLETE ALL AGENCY REQUIRED FORMS

- A. Have the witness/victim read and sign the agency's voluntary consent form.
- B. Verbal consent should then be obtained on tape for the record.
- C. The police hypnotist should then go through the standard check list to insure that all items related to the witness/victim's welfare are addressed.
- D. Ask the witness/victim "Is there any event in your life which was traumatic or painful for you to remember?"

XIII.

THE WITNESS/VICTIM SHOULD THEN BE ASKED THE FOLLOWING QUESTIONS TO ESTABLISH THEIR ORIENTATION

- A. DO YOU KNOW WHERE YOU ARE RIGHT NOW?
- B. WHO ASKED YOU TO COME HERE TODAY?
- C. WHAT IS YOUR UNDERSTANDING OF THE PURPOSE FOR COMING HERE?

By assessing the information obtained from the interview, his training and experience, the police hypnotist should be in a position to determine if he will continue with the induction and information eliciting phase of the interview.

XIV.

ASK THE WITNESS/VICTIM-"DO YOU HAVE ANY QUESTIONS?" PRIOR TO STARTING THE INFORMATION REVIEW PROCESS

XV.

THE POLICE HYPNOTIST SHOULD THEN STATE FOR THE RECORD ON TAPE WHAT HE HAS BEEN TOLD ABOUT THIS CASE PRIOR TO THIS INTERVIEW

XVI.

HAVE THE WITNESS/VICTIM EXPLAIN IN FREE NARRATIVE THE SEQUENCE OF EVENTS AS THEY OCCURRED ON THE DAY IN QUESTION

Tell the witness/victim to describe everything just as it happened in minute detail, no matter how small or insignificant. Tell everything that they can recall. DO NOT EDIT ANYTHING.

In certain cases it may be permissible to ask the witness/victim "How do you feel now as you are recalling the information?" in an effort to enhance state dependant memory.

In criminal cases involving female victims of sexual assaults, the police hypnotist should advise the witness/victim that we are not interested in the sexual aspects of the assault-only that information which will assist in identifying the

- physical or behavior pattern characteristics of the perpetrator.
- XVII. ASK THEM TO REPEAT THE INFORMATION FROM A DIFFERENT PERSPECTIVE, AS IF THEY WERE STANDING TO THE SIDE WITNESSING THE SEQUENCE OF EVENTS AS THEY ARE OCCURRING
- XVIII. INDUCTION
 A. Eye Fixation-"Deep Breathing"-Eye Closure
 B. Progressive relaxation, etc.
 C. Deepening technique (stair steps, etc.)
 D. Sensory Stimulation Technique
- XIX. INFORMATION ELICITING PHASE
 A. Mental Review (Sequence of Events)-After selecting the retrieval technique (TV - Documentary - Age Regression - Ideo-motor response, etc.) to be used and placing the witness/victim into "hypnosis," ask them to mentally review the sequence of events without verbalizing the information to the hypnotist. The witness/victim should be told to let you know when the mental review process is complete by indicating with a finger signal.
 B. Ask the witness/victim to translate their visual, auditory, kinesthetic, or olfactory memories into words as they mentally review the sequence of events for the second time.
 C. The police hypnotist may then ask zeroing-in, neutral non-leading, and compound type questions to clarify the information provided. Start with the general and go to the more specific.
- XX. GIVE THE WITNESS/VICTIM A POST-HYPNOTIC SUGGESTION THAT "YOU WILL RECALL THE INFORMATION REVIEWED DURING HYPNOSIS AFTER YOU ARE DEHYPNOTIZED"
- XXI. DEHYPNOTIZE THE WITNESS/VICTIM BY COUNTING FROM 1 TO 10 GIVING POSITIVE SUGGESTIONS OF FEELING REFRESHED, CLEAR HEADED, RELAXED, AND ALL OF THE NORMAL SENSATIONS RETURNING TO ALL PARTS OF THE BODY, ETC.
- XXII. ASK THE WITNESS/VICTIM IF THERE ARE ANY QUESTIONS OR COMMENTS WHICH THEY WOULD LIKE TO ASK OR ADDRESS
- XXIII. TELL THE WITNESS/VICTIM "SHOULD YOU RECALL ANY ADDITIONAL INFORMATION IN THE FUTURE YOU SHOULD CONTACT THE CASE INVESTIGATOR"
- XXIV. INTERVIEW TERMINATED
 (Recording must be continuous from "hello to good-bye" as required by procedural safeguards established by the Texas Court of Criminal Appeals for hypnotically enhanced testimony to be admissible in Texas.)⁷

RULES, AND STATE LAWS GOVERNING INVESTIGATIVE HYPNOSIS

Law enforcement managers need to know that the Texas Commission on Law Enforcement Standards and Education has established rules that particularly govern investigative hypnosis by commissioned Texas peace officers. It is also important that law enforcement managers be made aware of the required training necessary to become a certified investigative hypnotist. In this section, law enforcement managers can review the set standards on the number of training hours required for certification, so that future training budgets can be planned. Senate Bill 929 and commission rules in sections 211.103 and 415.036 will be covered in this section.

Senate Bill 929

The idea of this legislation originated when Marx Howell, Inspector for the Texas Department of Public Safety made a proposal to lobby for this legislation while at the 1986 Conference of the Texas Association for Investigative Hypnosis. The purpose of this legislation would be to mandate the training testing, and certification of a Law Enforcement Investigative Hypnotists. The association was receptive to this idea. Past Association President Dennis Cox forwarded outlines of this to State Representative Bill Arnold and Senator McFarlan. The legislation was introduced to the House and the Senate and it was later signed by the Governor of Texas, William Clements. This legislation was

passed on 05/20/87 to take effect on 01/01/88.

House Bill 929 mandates that on or before January 1, 1988, a peace officer who uses any hypnotic interview technique shall pass a commission-administered examination designed to test the officer's knowledge of investigative hypnosis.

Effective January 1, 1988, no peace officer shall use any hypnotic interview technique unless the officer has completed a commission-approved training course and passed a commission-administered examination designed to test the officer's knowledge of investigative hypnosis. A professional achievement or proficiency certificate may be issued to officers who meet these requirements.⁸

Rules of The Texas Commission on Law Enforcement Officer Standards and Education

There are currently approximately 168 Peace Officers in the State of Texas that are certified by the commission as Investigative Hypnotists. Section 211.103 and 415.036 of the rules of The Texas Commission on Law Enforcement Officers Standards and Education governs the use of investigative hypnosis by police officers.

Sec. 211.103. Investigative Hypnosis by a Peace Officer.

(a) The commission shall issue an investigative hypnotist proficiency certificate to a person who obtains a valid passing score on the state examination for investigative hypnosis.

(b) To qualify for either taking this examination or receiving a valid score, the person must, at the time of testing:

1. be licensed as a peace officer;
2. be commissioned as a peace officer;
3. have timely credit for an investigative hypnosis training course; and
4. have submitted documentation of any of the

requirements in paragraphs (1)-(3) of this subsection, if requested.

(c) After the effective date of this section, the standard training course shall:

1. be approved by the commission;
2. be taught both in-state and in conformity with the learning objectives approved by the commission; and
3. include comprehensive testing.

(d) The commission may approve and give credit for other similar, nonstandard training courses which were either:

1. completed in-state before the effective date of this section; or
2. completed out-of-state at any time.

(e) Such nonstandard training may be approved by the executive director or, if denied and upon petition, may be the subject of an administrative hearing held to determine approval based on:

1. testimony from the Texas Association of Investigative Hypnotists; and
2. proof that the nonstandard curriculum meets or exceeds the standard curriculum.

(f) For training course credit to be timely, it must be given for a standard course completed no more than two years before the state examination is passed, except that a person must both receive commission credit and pass the state examination within two years after either the effective date of this section or the date of peace officer commissioning, whichever is later, if that person completed at any location any nonstandard training course as defined in this section.

(g) The examination to test the officer's knowledge of investigative hypnosis shall:

1. be developed by or with the approval of the commission;
2. be administered by the commission or its agent;
3. be written only; and
4. be taken only three times after qualifying by training.

(h) After three failures or after course credit ceases to be timely, the officer must requalify for the state examination by completing a standard training course.

(i) An examination may be given credit under this section if it was administered by the commission in accordance with this section, but before its effective date.

(j) Certificates issued under this section are subject to the same provisions for cancellation as a peace officer proficiency certificate.

(k) The effective date of this section shall be January 5, 1988.⁹

Sec. 415.036. Hypnotic Interview Technique

(a) A peace officer may not use any hypnotic interview technique unless the officer has completed a training course

approved by the commission and passed an examination that is designed to test the officer's knowledge of investigative hypnosis and that is administered by the commission. A professional achievement or proficiency certificate may be issued to an officer who meets these requirements.

(b) The commission may establish minimum requirements for the training, testing, and certification of peace officers who use investigative hypnosis.⁹

Next the report will review some Texas Appellate Court cases that support the police use of investigative hypnosis in Texas.

TEXAS APPELLATE COURT CASES SUPPORTING INVESTIGATIVE HYPNOSIS

Robert Zani, Appellant v. The State of Texas, Appellee June 29, 1988

Defendant was convicted in the 126th Judicial District Court, Travis County, James Dear, Jr., of murder with malice, and he appealed. The Texarkana Court of Appeals, Sixth Supreme Judicial District, 679 S.W. 2d 144, affirmed, and petition for discretionary review was granted. The Court of Criminal Appeals, Clinton, J., held that: (1) in some instances, hypnotically enhanced testimony may be admissible; (2) defendant had no Sixth Amendment right to presence of counsel during hypnotic session of witness two and one-half weeks before indictment was filed; (3) testimony of defense expert should have been entertained by trial court in assessing admissibility of hypnotically enhanced testimony; and (4) instruction that jurors afford hypnotically refreshed testimony no greater deference than they would ordinary testimony would constitute impermissible comment on weight of evidence.¹⁰

Gary Lynn Vester, Appellant, v. The State of Texas, Appellee.

April 23, 1986

Defendant was convicted in 137th Judicial District Court, Lubbock County, Robert C. Wright J., of first-degree murder, and he appealed. The Court of Appeals, 684 S.W.2d 715, affirmed, and discretionary review was granted. The Court of Criminal Appeals, Onion, P.J., held that: (1) witness' posthypnotic in-court identification of defendant, based on independent origin from

hypnosis sessions, was admissible, and (2) any error in admission of hypnotically induced testimony was harmless.¹¹

Don Melton Laird, Jr., Appellant, v. The State of Texas, State.

April 20, 1983

Defendant was convicted in the Criminal District Court No. 3, Tarrant County, John Bradshaw, J., of aggravated rape, and he appealed. The Court of Appeals, Spurlock, J., held that: (1) permitting police officer as a witness for State to bolster complainant's identification of the defendant by telling jury she had earlier picked his photo from a spread was not error; (2) jury argument of prosecutor was not so improper and prejudicial that defendant's right to a fair trial was denied; (3) pretrial identification process was not so suggestive and conducive to mistaken identification as to deny defendant due process. The victim had picked the suspects photo from a picture lineup after being hypnotized. (4) requiring defendant to smile at jury to display his teeth as an identifying characteristic was not violative of defendant's right to remain silent.¹²

Valmore Joseph Gaudette, Appellant, v. The State of Texas, Appellee.

June 30, 1986

Defendant was convicted in the 145th District Court, Nacogdoches County, Jack Pierce, J., of aggravated sexual assault and aggravated kidnapping, and he appealed. The Court of Appeals, Colley, J., held that: (1) questions of hypnotist during interview of 15-year-old female victim of alleged sexual assault and

kidnapping were not so impermissibly suggestive as to require suppression of victim's testimony at trial where details inquired about by hypnotist during interview, description of defendant's automobile, his general personal characterization, and his clothing, had previously been given to investigating officers by victim, and no identification of victim's assailant was obtained by virtue of interview, and (2) testimony of victim to effect that defendant possessed a pistol that he threatened to use on her if she failed to comply with his order to get into automobile was sufficient to support allegations in indictment and, hence, to sustain convictions of aggravated sexual assault and aggravated kidnapping on ground that defendant used or exhibited a deadly weapon, specifically a pistol, in effectuation of offenses.¹³

George Thomas Walters, Appellant, v. The State of Texas, Appellee.

Oct. 31, 1984.

The 251st Judicial District Court, Potter County, Naomi Harney, J., convicted defendant of aggravated rape and, under enhanced indictment, sentenced him to life imprisonment, and defendant appealed. The Court of Appeals, Counties, J., held that: (1) although neighbor's warrantless entry into defendant's home at officer's request was not justified by emergency, testimony and affidavit attached to subsequently obtained search warrant established independent bases for warrant; (2) search warrant was not based on information from informant whose reliability was not detailed; and (3) absent evidence that hypnosis of victim, under which she described her attacker while police artist sketched

person described, affected victim's testimony, and absent some evidentiary connection between activities of rape crisis personnel or prosecutor and victim's testimony or evidence that those activities caused victim to give false or misleading testimony victim's testimony was admissible.¹⁴

CONCLUSION

In conclusion, this paper will have informed law enforcement managers of what hypnosis is, the history of hypnosis, and the status of investigative hypnosis in Texas law enforcement. Law Enforcement managers will now have an understanding of what happens during an investigative hypnosis interview. Information in this report has addressed questions some law enforcement managers have about the required training to become a certified investigative hypnotist. Law enforcement managers who have had little or no experience with investigative hypnosis will have a better understanding of the judicial requirements concerning the police use of investigative hypnosis in Texas. Issues concerning the commissions' rules that govern training and certification of police hypnotists have been listed in this research paper. Finally, this report should answer questions and explain some misconceptions about hypnosis and specifically the police use of investigative hypnosis in Texas.

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ROCKPORT POLICE DEPARTMENT

HYPNOSIS CONSENT FORM

I _____ do hereby voluntarily and
freely consent to enter hypnosis with the assistance of _____
_____ of the Rockport Police Department for the sole
purpose of aiding in a current criminal investigation.

(Signed) _____

Date: _____

_____ Parent (if juvenile)

_____ (Hypnotist)

_____ (Witness)

ROCKPORT POLICE DEPARTMENT
PRE-HYPNOSIS CHECKLIST

NAME OF SUBJECT _____

1. DO YOU HAVE CARDIOVASCULAR PROBLEMS? _____
2. DO YOU HAVE HIGH BLOOD PRESSURE? _____
DO YOU TAKE MEDICATION? _____
3. DO YOU HAVE EPILEPSY? _____
4. ARE YOU UNDER ANY PSYCHOLOGICAL COUNSELLING? _____
5. DO YOU WEAR CONTACT LENSES? _____
(KEEP CONTACT CASE AND SOLUTION IN DESK)
6. HAVE YOU BEEN HOSPITALIZED IN THE LAST THREE (3) YEARS? _____
IF SO, WHAT FOR? _____
7. ARE YOU TAKING ANY TYPE OF MEDICATION? (PRESCRIPTION OR OTHERWISE) _____
8. DO YOU HAVE ANY BACK OR NECK INJURIES? _____
9. WHAT ARE YOUR FAVORITE COLORS? _____
10. WHAT IS YOUR LEAST FAVORITE COLOR? _____
11. DO YOU HAVE ANY HOBBIES OR SPECIAL INTERESTS? _____
12. IS THERE ANY TIME, PLACE OR PERSON THAT YOU WOULD RATHER NOT REMEMBER? (PAST CHILDHOOD/MOTHER, FATHER DECEASED OR LIVING? PAST RESIDENCES OR HOME TOWNS) _____
13. DO YOU GO BY ANY NICKNAMES? _____
14. DO YOU HAVE ANY PHOBIAS OR FEARS? _____
15. ARE YOU COLORBLIND? _____
16. DO YOU HAVE ANY SPECIAL OR FAVORITE PLACE? _____
17. DO YOU HAVE ANY CHILDREN? ARE YOU EXPECTING ANY CHILDREN? _____
18. DO YOU HAVE ANY ALLERGIES? _____
19. DO YOU OR HAVE YOU OWNED A DOG OR CAT? _____
IF SO, WHEN AND NAME OF PET? _____
20. ARE YOUR PARENTS LIVING? _____ WHERE? _____ DIVORCED? _____
21. RATE YOUR CHILDHOOD FROM 1 - 10 (1 LOWEST, 10 HIGHEST) _____
22. DO YOU HAVE ANY MYTHS, MISCONCEPTIONS OR FEARS ABOUT HYPNOSIS? _____
23. DO YOU NEED TO GO TO THE BATHROOM? _____
(SUGGEST THEY GO ANYWAY)

ROCKPORT POLICE DEPARTMENT
CHECKLIST FOR INVESTIGATIVE HYPNOSIS SESSION

CASE NO. _____
SUBJECT _____ AGE _____ SEX _____
PERSONS PRESENT _____

1. Was consent obtained? _____
2. Does subject appear to be fatigued or depressed? _____
3. Does subject appear to be emotionally upset or intoxicated? _____
- *4. Is subject under medical treatment? _____ For _____
Medication _____
- **5. Is subject under treatment by a psychiatrist or psychologist? _____
By Whom? _____ When? _____
7. Have subject remove contact lenses if worn.
8. Is subject known to be addicted to drugs or alcohol? _____
9. Does subject have any phobias? _____ if so, what? _____
10. Does subject appear to be in good mental and physical condition? _____
11. Is someone from requesting agency present? _____

* If subject is under treatment for heart condition, epilepsy, diabetes, or other serious physical problem or is taking stimulants or sedatives, do not proceed without the doctor's consent.

** Subjects under the care of a psychiatrist or psychologist will not be hypnotized without the consent of the psychiatrist or psychologist. The immediate supervisor will be fully informed of the reason for such care when authorization is requested.

ROCKPORT POLICE DEPARTMENT
INVESTIGATIVE HYPNOSIS DATA REPORT

TAPE SESSION NUMBER _____ OFFENSE NUMBER _____

OFFENSE _____ COUNTY _____ DATE _____
VICTIM _____ PLACE _____ TIME _____
OFFICER REQUESTING ASSISTANCE _____ AGENCY/ADDRESS _____ TELEPHONE NUMBER _____

BRIEF SUMMARY OF OFFENSE _____

REASON FOR HYPNOSIS REFERRAL (INFORMATION DESIRED) _____

NAME _____ SEX _____ DOB _____ AGE _____
____ WITNESS ____ VICTIM ____ OTHER OCCUPATION _____
ADDRESS _____ HOME TELEPHONE NUMBER _____

SUBJECT HYPNOTIZED BEFORE _____ IF YES-NUMBER OF TIMES _____ REASON _____
____ YES ____ NO

PRIOR HYPNOSIS IN THIS CASE IF YES-NUMBER OF TIMES DATE/OFFICER CONDUCTING
HYPNOSIS _____ YES ____ NO

CHECKLIST (2) CONSENT (1) ARTIST SKETCH
____ YES ____ YES VIDEO ____ YES AUDIO ____ YES ____ YES ____ NO
____ NO ____ NO TAPED ____ NO TAPES ____ NO ARTIST NAME _____

DATE INTERVIEW STARTED SESSION STARTED SESSION ENDED INTERVIEW ENDED
____ AM ____ PM ____ AM ____ PM ____ AM ____ PM ____ AM ____ PM

HYPNOTIST CONDUCTING SESSION _____ HYPNOTIST ASSISTING _____ LOCATION OF SESSION _____

WITNESSES PRESENT _____ AGENCY/ADDRESS & RELATIONSHIP _____ TELEPHONE NUMBER _____

WAS DESCRIPTION OF CAR OBTAINED? _____ WAS DESCRIPTION OF SUSPECT OBTAINED? _____

POLICE DEPARTMENT ACKNOWLEDGEMENT FORM 5 COMPLETED? ____ YES ____ NO

BRIEF SUMMARY OF RESULTS ACCOMPLISHED

ADDITIONAL INVESTIGATIVE DATA

_____ YES _____ NO

OFFICER'S SIGNATURE _____ ID# _____

ROCKPORT POLICE DEPARTMENT
PHYSICAL DESCRIPTION CHECK LIST

WITNESS _____ CASE # _____

SUSPECT _____

SEX: MALE _____ FEMALE _____

RACE: CAUCASIAN _____ BLACK _____ HISPANIC _____ OTHER _____

AGE _____ HEIGHT _____ WEIGHT _____

BUILD: SLENDER _____ MEDIUM _____ HEAVY _____

COMPLEXION: LIGHT _____ MEDIUM _____ DARK _____ RUDDY _____

FACE SHAPE: ROUND _____ OVAL _____ SQUARE _____

EYES: COLOR _____ SHAPE _____

HAIR: COLOR _____ STYLE _____ PART _____ LENGTH _____

FACIAL HAIR: MUSTACHE _____ BEARD _____ GOATEE _____ OTHER _____

FACIAL MARKS: ACNE _____ POCK MARKS _____ AGE LINES _____ CLEFT _____

SCARS & TATTOOS: FACE _____ ARMS _____ LEGS _____

DESCRIPTION: _____

GLASSES: SQUARE _____ ROUND _____ OVAL _____ SUN _____

OTHER _____

JEWELRY: WATCH _____ RING _____ NECKLACE _____

DESCRIPTION: _____

TEETH: MISSING _____ OTHER _____ DESCRIPTION _____

SPEECH: LOW _____ HIGH _____ VULGAR _____ LISP _____

ACCENT: _____

CLOTHING: MALE: SHIRT COLOR _____ TYPE _____

LONG SLEEVE _____ SHORT SLEEVE _____ PANTS COLOR _____

STYLE _____ SHOE COLOR _____ STYLE _____

BELT COLOR _____ HEADWEAR _____ COLOR _____

CLOTHING: FEMALE _____

DESCRIPTION: _____

OTHER REMARKS: _____

INTERVIEWING OFFICER: _____

DATE: _____ TIME _____

ROCKPORT POLICE DEPARTMENT

ACKNOWLEDGEMENT

I, _____, experienced the state of hypnosis
(Print name of subject)
on this date, from _____ M. until _____ M., and was
interviewed while in such state.

I fully recall that interview, the questions posed to me responses. During
hypnosis, I was not requested, or it was not suggested to me to perform any future
acts, or make any future statements which were not the truth.

NAME _____ DATE _____
(Signature)

WITNESS _____ TIME _____

ROCKPORT POLICE DEPARTMENT

CASE INVESTIGATOR'S EVALUATION OF HYPNOSIS SESSION

CASE OFFENSE REPORT NO. _____ AGENCY _____

DATE OF HYPNOSIS SESSIONS(S) _____

NAME OF WITNESS OR VICTIM _____

PRINCIPLE CASE INVESTIGATOR(S) _____

OVERALL USEFULNESS OF HYPNOSIS IN YOUR CASE:

EXTREMELY VALUABLE

OF NO VALUE

1

2

3

4

5

COMMENTS _____

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