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INVESTIGATIVE HYPNOSIS:  
CASE LAW, LEGISLATION  
AND COURT DECISIONS

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## ABSTRACT

It is the intention of this researcher to show how investigative hypnosis actually is a significant and effective tool in the field of law enforcement. Implementation of it can prove to be instrumental in the outcome of an investigation or decision of a court ruling. Investigative Hypnosis, in essence, entails the mechanism of two different fields. Combined, it becomes a major asset in criminal justice. Only by understanding what investigative hypnosis is and what it involves, can we recognize its significance. Therefore, this researcher has elected to first define hypnosis and address some of the misconceptions. A brief explanation of several investigative hypnosis techniques will be discussed in Chapter 3. Legally, there are two main applications permitted to be utilized as tools in an investigative hypnosis and in obtaining testimony for court cases. Many courts have liberally defined what is permitted and what legal guidelines should be followed. Actual cases, both investigative and court cases, are detailed in this research to illustrate the degree in which investigative hypnosis contributed to the outcome of each case.

## CHAPTER I

### INTRODUCTION

This research reviews the issues of the use of hypnosis in the criminal justice system. It hypothesizes that investigative hypnosis is extremely useful and beneficial, and that Hypnosis does produce results for the Criminal Justice System, a body of results that best can be seen in the outcome of investigations and court cases.

Based on the history of success in various cases, hypnosis should be considered and encouraged whenever circumstances call for it. Criminal Justice and Hypnosis are two controversial professions on their own, but the use of hypnosis in investigations can produce positive results. The results not only benefit victims and witnesses, but also specific law enforcement agencies and society in general. The outcome of investigative hypnosis sessions can mean the apprehension of a culprit and/or the recovery of a person or a valuable. This, in turn, may result in an increase of the law enforcement agency recovery ratio and one less menace to society.

Hypnosis, an induced state of deep relaxation, has been practiced for a great period of time. It is also commonly misunderstood. Misconceptions originating from the early 18th century continue to perplex people and encourages a negative attitude, especially towards its application to criminal

investigations. This is one of the reasons why some law enforcement agencies have not completely accepted hypnosis.

These misconceptions have been proven largely unfounded. Only by becoming familiar with the techniques and methods used by a hypnotist can one really understand how hypnosis works, and appreciate its value. This is especially so in the case of criminal investigations. The legal aspects of hypnosis in criminal investigations had its use in court cases which have been matters of controversy.

Much of the controversy focuses on the role of the hypno-investigator as an expert witness, but, hypno-investigators are aware of the professional and ethical issues that they may encounter. They are also aware of precautionary procedures that should be taken to eliminate the implications of violations of law or of wrong doing. A hypno-investigator's rule of thumb is to work only with volunteer witnesses or victims who volunteer. A hypno-investigator will hypnotize a suspect or defendant only in extremely special situations or circumstances. In such cases, an agreement by the defense and prosecution will be required to eliminate violations of the suspect's constitutional rights or any accusations of biased conduct on the part of the hypnotist.

In this research, actual cases of kidnapping, murder and rape are discussed to emphasize the important role hypnosis can play. Some of these cases have been publicized cases that have made history. Among these cases are the Chowchilla kidnapping and the Theodore R. Bundy kidnapping/ murder. (Names of other

cases are listed in Appendix 2-3 , pg.29-31,of this research.)

Finally, it is important to see that attitudes are changing about the use of hypnosis in the judicial system. The judicial system of some states such as Arkansas, Colorado, Idaho, Minnesota and Texas, to name a few, are still skeptical about hypnosis and hypnosis testimony , but must allow it to some degree within the limits of prescribed guidelines. On the other hand, states such as Alaska, Louisiana, North Dakota, Tennessee and Wisconsin, allow hypnosis to be totally admissible in court.

This relationship between hypnosis and sleep has intrigued scientists throughout the history of hypnosis. Perhaps it even can be stated that the first recorded incident involving hypnosis was that attributed to God as stated in the Book of Genesis (2:21): "So the Lord God cast a deep sleep on the man, and while he was asleep, he took out one of his ribs and closed it up its place with flesh." (Udolf, 1987; The New American Bible, 1971: 6). Others point out that hypnotism originated in the attempts of practitioners to treat and cure illnesses (Sarbin & Coe, 1972).

## CHAPTER II

### HYPNOSIS

In order to comprehend how hypnosis can play a legitimate role in the outcome of criminal investigations and court cases, we need to know what hypnosis is and how it is practiced. Hypnosis is a condition or state, allied to normal sleep, which can be artificially induced. It is characterized by marked susceptibility to suggestion and considerable loss of will power and sensation (Chertok, 1966; Lincoln Webster Dictionary, 1981). The word hypnosis is derived from the Greek word hypnos, meaning sleep (Bowers, 1976; Arons, 1977; Lawrence and Perry, 1988).

Hypnosis is a state of deep relaxation but also a process used to refresh the memory. One simple way to describe hypnosis is to picture in ones' mind a descending scale of one to ten, with one being wide awake and ten being deep sleep. On this scale, the state of hypnosis is about a three to five. When one reaches a three to five, one is aware of what is going on around him/her, but soon the awareness fades away. Ones' eyes become heavy, and the mind relaxes as one slips into a dreaming state (Hilgard, 1965). There also are many parallels between the experience of sleep and the experience of hypnosis (Lawrence & Perry, 1988). A hypnotized person often appears to be asleep and may describe the experience as sleeplike (Chertok, 1966). Upon awakening from either state, the individual remembers little of what occurred, unless a post-hypnotic suggestion imparted by the

hypnotist urges total recall (Bowers, 1976). Two other similarities between sleep and hypnosis are: 1). Vivid dreams that can occur in both states and 2). A sleepwalker avoids obstacles, while a hypnotized person in a state of trance avoids colliding with objects.

Sleep and hypnosis have been further obscured by the apparent interchangeability of the two states (Fromm & Shorr, 1979). If a hypnotized person is left alone or if a direct suggestion is given, the person may pass into a natural sleep. Elatedly, a sleeping person can wake up directly into a hypnotic state rather than to a normal waking state. A person's precise state, at any given time, is extremely difficult to evaluate. However, there are several objective behavioral and physiological characteristics that help to identify the present state as either hypnosis or as sleep (Barker & Burgwin, 1949). One method involves the monitoring of brain waves. Another involves the use of biofeedback equipment.

Because a hypnotized person is aware of his/her surroundings and retains contact through a condition called "rapport", he/she is able to respond to the hypnotist's verbal description of the subjective aspects of his/her surroundings. In this regard, each of us passes through an altered state of consciousness or state of hypnosis twice a day. In the morning, we go from a state of sleep to the wakening state, and at night, we slide from the wakening state into sleep (Tart, 1969). Thus, an altered state of consciousness is created.



## HISTORY OF HYPNOSIS

In ancient times, hypnosis was used in magical and religious ceremonies. Hypnosis was called different names by different cultures, religions and different individuals. The use of chants, drumming and dancing rituals could easily be associated with hypnosis. The clear relationship between the religion and hypnotic performances has led to one of the interpretations of hypnosis we now know as role enactment (Sarbin & Anderson, 1967). A hypnotized person engages himself/herself wholeheartedly into the role suggested by the hypnotist, just as a person involves himself/herself to ritual music either by singing or dancing. The individual becomes mesmerized by the process of role enactment (Hilgard, 1979). These methods have been used successfully by the Egyptians, Vikings, Indian yogas, Hindu priests and clergyman of practically all religions and denominations. The ancient Greeks had temples where patients went to be healed and were introduced to hypnosis. Hypnosis was first investigated scientifically in the late 18th century after Franz Anton Mesmer, an Austrian physician, treated mental patients by techniques he claimed were based on "animal magnetism" (Laurence and Perry, 1988; Udolf, 1987). Mesmer theorized that the human body has a magnetic polarity, and designed a tub called baquet filled with iron rods and fillings for his patients to set in (Laurence and Perry, 1988; Chertok, 1966; Mesmer, 1814). Mesmer's theory was discredited by U.S. Ambassador to France, Benjamin Franklin, who attributed Mesmer's results only to imagination (Reiser, 1980).

Following the discrediting of Mesmer, hypnosis laid dormant until the 1840's, when James Esdaile reported the use of hypnosis in India as an anesthetic in surgery. James was discredited by the British Medical Association in 1955, and he was tried as a charlatan (Chertok, 1966). However, Esdaile holds the record of performing more than 2000 operations using hypnosis, more than 300 of them were major operations (Esdaile, 1852). In 1842, James Braid, a British surgeon, first used the word "hypnosis" for what was then called "mesmerism." Braid said that the hypnotic state was brought about by suggestion (New Standard Encyclopedia, Vol. 6, 1981; Chertok, 1966).

Today, hypnosis is being used by some dentists to relax their patients and to refrain from using anesthetic drugs (Hartland, 1971). Physicians now use hypnosis with patients who are allergic to anesthesia (Hartland, 1971). Hypnosis has also been helpful in producing a less painful natural childbirth (Harmon & Hynan, 1990; Laurence & Perry, 1988). Hypnosis is not only used by dentists and physicians, but also by professional hypnotists, therapists and Law Enforcement officers. Therapeutic hypnotists can assist their patients in dealing with phobias, fears and bad habits and can assist in memory empowerment. This can be accomplished by direct suggestion given to a person in a relaxed altered state (Hewitt, 1990). For example, a person who is being treated for an overweight problem is told that he/she will take a smaller portion of food. The person is then given a suggestion to imagine himself/herself as already having reached a

desired goal weight. Suggestions have to be positive, creative and imaginable. The person needs to visualize himself/herself as already having lost some weight and feeling good about it. Presently, biofeedback is being used in conjunction with hypnosis to have the person learn to control such bodily functions as heart rate, blood pressure and skin temperature (Roberts, Schuler, Bacon, Zimmerman, and Patterson, 1975). Through the means of biofeedback and hypnosis, individuals not only relax their minds, but also their entire bodies.

Law enforcement officers have been using hypnosis to aid in criminal investigations since the mid 1970's (Reiser, 1980). Hypnosis is used on witnesses/victims to refresh their memories and to recall information that the conscious mind has blocked out (Arnold, 1991). Hypnotized individuals are aware of what is being recalled and what is being said. Hypnotized persons do not say or do anything against their will. This is a frequent misconception many individuals have about hypnosis in general, they are afraid that under its influence will reveal their dark secrets (Reiser, 1980).

#### MISCONCEPTIONS

Hypnosis has not been fully accepted by this present day society, primarily because of the adverse and inimical publicity hypnosis has created over the years by stage hypnotists, horror books, movies and television. Many people believe that a hypnotist has complete control over the subject's mind and can get the subject to do anything, even actions that go against the

subject's will and moral fiber (Connery, 1982). The medical profession, by not regarding hypnosis with seriousness, has contributed to the fallacies surrounding hypnosis, since physicians have often referred to hypnosis as a plaything of circus mountebanks (Arons, 1977). Only in 1958, did the American Medical Association endorse hypnosis as a medical and dental tool (JAMA, 1958). A more absurd misconception is that a hypnotic spell is projected unto the subject by the hypnotist. This is nonsense, since a hypnotist possesses no kind of force or magic. All that hypnotists do is to tap the natural capacity of people have to experience a trance (Speigel, 1980). Another misconception of hypnosis is that only mentally weak or sick people can be hypnotized (Speigel, 1980). In fact, only those who are mentally stable and in possession of sound mental health can be hypnotized. Examples of non-hypnotizable persons are psychopaths, persons with character disorders, schizophrenics, the mentally retarded, the depressed, and persons with neurological deficits that interfere with concentration, since these individuals have great difficulty with the discipline required for allowing the hypnotic trance to occur (Speigel, 1980).

If an adversely psychotic or suicidal individual is to be hypnotized, it is advisable to employ a mental health consultant. A Physician should be consulted in cases when the subject has a history of serious physical or emotional illness, such as epilepsy, asthma or some type of life threatening condition (West

& Dickert, 1965).

A common fear associated with hypnosis involves a misconception that a person is unable to come out of a hypnotic trance. The truth is that the person in a hypnotic state can terminate hypnosis at any time. There are those who elect to remain in that state for their own personal reasons, such as enjoying the feeling of relaxation or engaging in a contest with the hypnotist or even for some other underlying personal reason (Reiser, 1980). This is a choice of the individual.

A more recent misconception voiced by some attorneys and health professionals, is that law enforcement hypnotists will coerce a subject or shape the hypnotized person's responses in order to obtain a pre-determined answer. The issue here is not really hypnosis itself, but the ethical and professional practices of the hypnotist (Reiser, 1980). Hypnosis, in its application to police work, does subject certain conclusions in the mind of an average person that also point to misconceptions. The first of these impressions is that hypnosis is used to force criminals and/or suspects to confess to their crimes. Although in certain circumstances, law enforcement officers might be tempted, to resort to exceptional methods in order to obtain evidence that could lead to conviction (Arons, 1977), the following precautions are routinely observed: First, the consent of all concerned is required. The contemplated use of hypnosis should be discussed openly with the suspect, his/her attorney, the police investigator, and with the district attorney. At least some

actual participation of each should be obtained.

Second, the defense attorney should be present during all phases of the hypnotic interrogation or examination. This is to prevent possible recanting of the agreement by the defense attorney. If for technical reasons this is not feasible during polygraph examinations, an attempt should be made to observe this phase through the use of one-way mirrors. During hypnotic interrogations, the defense attorney should be encouraged to participate in the actual questioning.

Third, the suspect's written consent should be obtained. For what it may be worth, the suspect should sign a simplified release, which should be witnessed by one or more persons, including the defense attorney if possible. Avoiding legalistic verbiage, the waiver should read somewhat as follows: I, the undersigned, hereby request (name of hypnotist) to place me under hypnosis. I make this request without compulsions, threat of punishment or promise of reward. Copies of the waiver should be retained by the hypnotists, the police officer, the head of the agency involved and by the prosecuting or district attorney.

Fourth, a hypnosis consultant may be engaged. It may be a wise precaution, at times, to engage an outside consultant for the hypnotic work. This should reduce insinuations that an untrained police officer is engaged in hypnotic practice. Additionally, it will lessen implications that the department routinely uses hypnosis on suspects. On the other hand, hiring a known and experienced hypnotic consultant, who can be assumed to

be impartial, may lend a little dignity to the proceedings. This prevents possible repercussions against the investigative agency involved in the case. It is also possible that if or should the court allow testimony resulting from the hypnotic examinations, the consultant may be called as an expert witness.

Fifth, due to the current furor raised by psychiatrists concerning the possibility of triggering psychosis, law enforcement officers should avoid hypnosis on suspects evaluated to be psychotic. A psychiatric report or psychological evaluation may be advisable to determine the emotional stability of the suspect. This is not to say that hypnosis might bring a person over the line. Subsequently, a person with a psychotic break might claim he/she had been hypnotized as a scapegoat. The possibility is extremely remote but should be considered in line with all the other precautions. Should there be doubt about a suspect in this regard, and should the hypnotic examination still be considered necessary, the presence or participation of the psychiatrist is probably a wise additional safeguard. The use of hypnosis is no more nor less immoral than the use of any criminological method or tool in the hypno-investigator's armamentarium (Arons, 1977). It is in the investigative and preparatory phases of criminal cases that hypnosis can be most useful.

## CHAPTER III

### INVESTIGATIVE HYPNOSIS TECHNIQUES

Prior to an induction session and before any induction techniques are applied, a pre-hypnotic interview is conducted. The purpose of this interview is to establish rapport with the subject. At this time, the subject is given factual information about hypnosis. The hypnotist will attempt to dispel all myths and misconceptions regarding hypnosis. The subject is assured that only the incident under investigation will be examined. The hypnotist will go through an entire checklist. It is of the utmost importance to complete the entire list and to find out if the subject has any special needs. The subject will be advised that the session will be video taped and recorded. At this time, the subject is asked to sign a release form. The hypnotist, will then begin the hypnotic induction (LeCron, 1972).

For investigative purposes, there are three categories of hypnosis inductions. These inductions are coupled with progressive relaxation or a state of profound relaxation (Udolf, 1987; Shone, 1983). The three categories include eye-fixation, kinetic induction and confusion. Eye-fixation may be anything for the eye to stare at, such as a tack on the ceiling, a spot on the upper wall or simply staring out into space. The purpose of eye-fixation is to suggest to the individual that the more he/she stares at the object, the more tired the eyes become and thus, the natural thing to do is to close the eyelids and rest them. As



the eyelids become heavier, the eyes close, and the subject is more relaxed.

Induction is now completed and deepening techniques will follow (Chertok, 1966; Teitelbaum, 1969; LeCron, 1972; Tebbetts, 1988). In kinetic induction, the subject is asked to close his/her eyes. He/she is then advised that some pressure will be felt on the forehead as the hypnotist presses his index and middle fingers against the subject's forehead. The hypnotist will also apply some pressure at the base of the skull with all four fingers of the other hand. As the subject focuses his/her attention on the pressure, the hypnotist is counting down from twenty, with each number suggesting relaxation of the subject's body until deep relaxation is reached. Upon reaching zero, the hypnotist quickly releases the pressure on the forehead, which allows his/her other hand to push the subject's head forward.

Induction is now completed (Teitelbaum, 1969). The confusion induction technique is a mental count down whereby the subject counts backwards from 397 by threes. This type of induction is mainly used on an analytical subject, such as a bookkeeper, a math instructor or a person who simply asks why. In this technique, the subject is asked to close his/her eyes and is asked to have a mental picture of the numbers 397. The subject is then asked to count down by 3's, while the hypnotist counts down in ones from 100 verbally. With each number counted, the subject will relax until deep relaxation is reached. Somewhere during the session, the hypnotist will advise subject to stop mentally

counting and to take one deep breath. Otherwise, the subject will remain counting through out the session. This method can also be used as a deepening technique (LeCron, 1972; Teitelbaum, 1969; Wright & Wright, 1987).

There are probably as many methods of induction as there are people using hypnosis. It is up to each individual hypnotist to use the technique with which he/she feels more comfortable. There will be certain occasions when the hypnotists method will not be applicable. Such an instance would be a hypnosis investigative session involving a child witness/victim. During a session, if a certain technique is not working, the hypnotist will immediately change to a different technique or use a more authoritative tone of voice (Fross, 1981).

#### INDUCTION TECHNIQUES

Induction is the process of going into hypnosis or assisting someone into a hypnotic state. The following are some of the induction techniques available and known to be used by hypnotists (Fross, 1988).

1). Flowers technique: A countdown technique where the subject is told to close his/her eyes and is instructed to count down from 20 to 0. The subject will close his/her eyes with every even number and to open their eyes on the odd numbers (Arons, 1977). 2). Hand-levitation technique: A hand movement technique where emphasis is placed on the subject's hand and fingers. In this technique, the subject is asked to imagine a huge balloon tied to the wrist, lifting the hand until deep relaxation is reached and the hand drops back to the same position (Fross, 1988; Tebbetts, 1988; Dowd & Healy, 1986). 3). Two-finger technique for children: A finger staring technique, where the child is instructed to put the tips of their first finger and the little finger on the arm of the chair. A game of touching the forefingers is played until the child reaches a state of deep relaxation. (Fross, 1988; Reiser, 1980). 4). Chiasson's techniques: A

hand/fingers technique where the subject is asked to place his/her hand directly in front of the nose with the back of the hand towards the face and fingers pressed together. The subject is then asked to stare at the fingers until they appear to be spread apart. At that point, his/her hand will move forward towards the face and the eyes begin to close. Upon contact of the hand on the face, subject will be completely relaxed and the hand will fall down to the lap (Reiser, 1980). 5). Progressive relaxation: A breathing technique where the subject is instructed to take deep breaths to attain relaxation and to slowly exhale (Wright & Wright, 1987; Gross, 1988). 6). Space between fingers: A finger technique where the subject is asked to stare at the space between his/her fingers until the fingers begin to move together. With each movement of the fingers, the subject relaxes until deep relaxation is reached (Fross, 1988; Udolf, 1987). The induction process has a very definite plan, which consists of three steps. This plan of induction is called the three-step procedure (Arons, 1961). The first step is the preparatory or introductory step in which the operator describes the signs of approaching hypnosis to the subject. The hypnotist speaks in the future tense, telling the subject how he/she will become relaxed, how his/her arms and legs will become heavy, how his/her eyelids will close and how he/she will fall into a deep, sound sleep. The second step is called talking sleep. In this step, the subject is told how he/she is already feeling. The hypnotist speaks in the present tense. The subject is told that his/her eyes and legs are feeling tired. His/her eyelids are heavy and drooping, and his/her body is relaxing more and more. This step is the main part of the induction procedure. It is kept up until the subject's eyes close and he/she goes into hypnosis. In the third step, the hypnotist assumes hypnotic control. The suggestions become firmer and more authoritative. The subject is told he/she is now falling into a deep and sound sleep. The monotonous stimulation of sleep talk is quickly replaced by direct, emphatic, unequivocal suggestions of sleep. These steps are used in ordinary methods of induction.

#### DEEPENING TECHNIQUE

Although considered separately for discussion purposes, deepening is actually an extension of the induction process and occurs naturally as the subject becomes more relaxed (Teitelbaum, 1969). The deepening of a subject to his/her maximum degree of hypnosis is more difficult than using induction techniques. When

a slight degree of hypnosis has been attained, it is often desirable to deepen the trance in order to relax the mind and body to a more suggestible state. Considering that administered suggestions will be accepted by the subconscious mind during a light trance, difficulty in retaining the trance may be encountered (Tebbetts, 1988). There are ten deepening techniques used by professional hypnotists. They are as follows:

- 1). The elevator: The subject is asked to picture himself/herself inside the elevator on the tenth floor of a building. The subject is told that as the elevator drifts down to the ground floor, he/she will be drifting into a much deeper state of relaxation. Once the elevator reaches the first floor, the subject will be relaxed, calm, comfortable, feeling very serene and deep asleep (Kuhns, 1981, Tebbetts, 1988).
- 2). The staircase: The subject is asked to picture himself/herself standing on a flight of stairs and stepping down. The subject is told that with every step, he/she will drift into a deeper state of hypnosis and complete relaxation. The subject will drift into a very deep and very sound sleep (Kuhns, 1981).
- 3). The escalator: This technique serves the same purpose as the elevator and the staircase. All three techniques are used to take the subject into a deeper state of hypnosis than he/she was before (Kuhns, 1981; Shone, 1983; Fross, 1988).
- 4). Counting down: This technique will allow the subject to go into a deeper state of relaxation with every number counted down. The subject will be told that he/she is feeling very tired and will go into a deep state of sleep (Kuhns, 1981; Tebbetts, 1988).
- 5). Background music: Soft background music will produce relaxation involuntarily when a person cannot or does not know how to relax (Udolf, 1987).
- 6). Metronome: This method is based upon the mechanical repetition of an auditory stimulus. The metronome helps the subject to concentrate. The hypnotist suggests to the subject that with every beat he/she will get sleepier (Chertok, 1966; Udolf, 1988).
- 7). Outside noises: The subject is told that any outside noises will be unimportant. This will aid him/her in attaining a deeper state of relaxation. An example would be a door slamming shut.
- 8). Words: Words such as relaxing and going deeper and deeper, are but a few of the words used by most hypnotists (Kuhns, 1981) (See Appendix 1, pg. ).
- 9). Phrases: What is said and how it is said by the hypnotist in inducing hypnosis (Kuhns, 1981).
- 10). Fractionation: The hypnotist will ask the subject to open his/her eyes on the count of three. The second time the hypnotist counts to

three, the subject will feel very sleepy, wanting to return to a relaxed state. The hypnotist repeats the count several times, and the subject will go into a deeper trance than he/she was before (Kuhns, 1981; Chertok, 1966; Tebbetts, 1988; Fross, 1988).

The purpose of these deepening techniques are:  
The reating of the induction techniques. 2). The pyramiding of the suggestions by having the subject perform minor muscular movements for developing the habit of following suggestions. 3). The use of daring challenges for the subject to perform an act will further convince subject of the existence of the hypnotic state. 4). The structuring of visions by which the subjects are able to envision themselves going deeper into the state and are then able to control the descent themselves. 5). The compounding of the suggestions whereby the subject can visually observe such phenomenon as simple anesthesia to aid them to go further into the hypnotic state. 6). The reinduction of the subject into an altered state of consciousness (hypnosis) at subsequent times to allow them to reinforce the phenomenon previously achieved. 7). The relaxing of small muscle groups until the subject is completely relaxed. 8). Giving to the subject reverse or contradictory suggestions to promote confusion in the conscious mind. 9). Directing of the subject to fantasize a previous deep state of relaxation and convincing him/her that he/she is able to go deeper. 10). The bringing of the subject into the fantasy future and directing him/her to criticize the induction technique used. When a deep state of hypnosis has been reached, the subject is ready for the eliciting of information needed by the investigating officer.

#### ELICITING INFORMATION TECHNIQUES

The purpose of the eliciting information techniques in investigative hypnosis is to slowly regress the subject back to the exact date and time of the incident. The techniques used by hypnotists to arrive to that point in time are many. Some of them include but are not limited to:

1.) The movie technique: This technique is used when the subject has experienced severe trauma. After a deep level of hypnosis is achieved, the subject is placed in a "special" private movie theater to watch a very "special" documentary film (Kuhns, 1981). 2). The time door technique: This technique is used when the subject has experienced no

trauma. The subject must also be in a medium or deeper level of hypnosis for it to work properly. In this technique, the subject is placed in front of a very "special" doorway. The subject is told that using this "special" door, he/she is able to travel to any point in his life (Reiser, 1980). 3). The calendar technique: This technique is also used when there is no trauma involved, and the subject is in a light level of hypnosis. The subject is asked to picture a large calendar with the current year in his/her mind. The hypnotist will count back the years as the subject regresses himself/herself back into time until the target date is reached (Shone, 1983). 4). Ideomotor finger signals: In this technique, one must talk with the subject's subconscious mind and concentrate on a finger. The subject is instructed that with each word the hypnotist says, his/her finger will feel like developing a mind of its own. When the hypnotist touches the finger, it will raise and lower, moving faster and faster until the movement becomes automatic. The subject's responses to the hypnotist's questions will be answered through the finger movement. This technique is used for obtaining information that is in the subconscious mind, but the subject is unable to recall (Arons, 1967; Shone, 1983). 5). Visualizing chalkboards: This technique is also used to recall information from the subject's conscious mind. While under hypnosis, a suggestion is made to the subject that he/she will be seeing a large "special" chalkboard. In the subject's mind, it will be a very "special", very beautiful chalkboard. The subject is then told that the information he/she seeks is written on the chalkboard but is covered with a drape. The subject is instructed that the hypnotist will be counting down and upon reaching zero, the drape will be ripped off, disclosing the information sought (Chertok, 1966; Reiser, 1980). 6). Automatic writing: In this technique, the subject needs to be in a deep state of hypnosis. While stroking the subject's arm, a suggestion is made by the hypnotist that the left hand and arm have become detached from the body. At this time, a writing instrument is placed in the left hand. This hand will write the information the subject seeks to find. When the hand is completely through writing, it will open and drop the writing instrument. The subject will then read what has been written. The information must be read by the subject while under hypnosis, otherwise the information written will probably look like "chicken scratch" (Shone, 1983; Arons, 1967; Chertok, 1966).

The induction and deepening techniques take place during hypnosis while the subject is in the hypnotic state. Before the termination of the hypnotic state, post hypnotic suggestions can be given. These suggestions are actions to be

carried out later when the subject is in the waking state.

### **POST-HYPNOTIC SUGGESTION TECHNIQUES**

Post-hypnotic suggestions are used when the hypnotist does not obtain all the information needed during the investigative session, and the subject mentions he/she will not be able to do another session. The hypnotist will give a post-hypnotic suggestion to the subject such as, "If you recall any information which will be helpful to the investigation, you will write it down and then pick up the telephone and call me" (Kuhns, 1981). There are two types of post-hypnotic suggestions that may be given to the subject, they are:

1). In cases when two or more sessions are required, the hypnotist will give a suggestion while the subject is hypnotized. For example, "Whenever I and I alone say the word "deeper", you will immediately relax and your eyes will close. You will slide into a deeper level of hypnosis quicker than before" (Kuhns, 1981; Reiser, 1980). 2). The second post-hypnotic suggestion would be, "The next time you experience hypnosis with me and me only, you will have a very vivid recall of all the events that occurred on (date of incident)" (Kuhns, 1981; Reiser, 1980). Many hypnotists will interpose deepening suggestions between all suggestions made for any other specific purpose, such as, the subject will not awaken until the hypnotist tells him/her to. This suggestion is designed to minimize the likelihood of a spontaneous awakening (Udolf, 1987).

### **DEHYPNOTIZATION**

In "dehypnotization," a subject is assisted from the hypnotic to a non-hypnotic normally alert state. Dephypnotization should be done slowly with the awareness that many subjects may take considerable time due to the residual hypnotic effect (Reiser, 1980). There are many methods of awakening hypnotized

subjects. The most effective is the one where the hypnotist impresses authoritatively that, when awakened, the subject will feel all right in every way (Arons, 1977).

A more common practice is to count from one to five. As the numbers are counted, the subject is instructed to awaken gradually. Upon reaching a designated number, he/she will open his/her eyes and be fully awake and fully alert (Udolf, 1987). This practice provides the subject with a more comfortable, gradual transition from a deeply relaxed hypnotic state to the more active waking condition.

Difficulties in dehypnotization are usually due to resistance and should be explored directly with the subject, as to why he/she will not awaken (Reiser, 1980). Another reason for resistance could be that the hypnotist may have suggested that the subject not awaken without the qualifying phrase of "until I tell you to" (Udolf, 1987). It is very important that the hypnotist removes all suggestions made under hypnosis, even those that the subject appears not to have accepted (Udolf, 1987). Unless the subject is awakened properly with a suitable suggestion of health and general well being, he/she is more likely to experience headaches, eye strain or other discomforts after awakening. Such discomforts are quite temporary (Arons, 1977).

On awakening and before the post-hypnotic interview, the subject should be checked to make sure that there are no unwanted residual effects (Udolf, 1987). Once the subject has been brought



out of the hypnotic state and is totally alert, the hypnotist will initiate a series of questions. The questions include but are not limited to, how the subject feels personally, how he/she feels about the session and if there are any questions the subject would like to ask. Also, that he/she will remember everything that went on during the session. After the interview is completed, the subject is excused and the audio and video recording is turned off. The hypnotist and the investigating officer will then consult with each other.

All information obtained is reviewed to determine what is vital and important to the case. The information obtained during the hypnosis session must be corroborated with information obtained before the session. The investigating officer continues his investigation and presents all gathered evidence, together with a Post- Hypnosis Interview Checklist to the District Attorney's Office. The District Attorney will determine whether the case merits a warrant of arrest for the suspects involved in the crime. If a warrant is issued by the District Attorney's Office and signed by a judge, the investigating officer will then execute or serve a warrant of arrest. This process is completed when the suspects are arrested and formally charged. The hypnotist and the investigating officer will then prepare themselves for court.

## CHAPTER IV

### HYPNOSIS: AN AID TO LAW ENFORCEMENT

Hypnosis now plays a significant role in helping law enforcement agencies to solve all types of crimes, including murder and rape. Law enforcement agencies are using hypnotists to help witnesses and victims to recall details that, consciously, they do not want to remember but are aware of subconsciously, (Kuhns, 1981; Arons, 1977). This awareness is known as hypermnesia. It often occurs when a witness/victim suffers a form of amnesia because of a traumatic experience and, therefore, cannot aid the investigating officer (Reiser, 1980). In a case involving a traffic accident, for example, the hypnotist can regress the victim/witness to the time of the incident. This allows the individual to obtain a more precise picture, such as the position of the vehicle, the traffic or any other witnesses. In the case of a criminal suspect, a witness/victim may more fully provide, under hypnosis, a better description of the perpetrator, thus enabling a staff artist to prepare a more accurate sketch. Such drawings are vital in an investigation in apprehending the culprit.

In an investigative context hypnosis is used exclusively to provide leads in a context where the facts are not known. It can also help the witness/victim to remember what really transpired and avoids assumptions (Arons, 1977). For instance, in the case where a man lost his life in a fire, his roommate was thought to have started the fire through carelessness. The investigation

centered around the roommate, who had been intoxicated and careless in disposing his cigarette. The subject himself considered this conclusion a reasonable one and was unable to present any other evidence. Under hypnosis, however, other details were revealed which placed the problem in another light.

In the trance state, the subject vividly recalled arriving home intoxicated, smoking a cigarette and making a telephone call. He disposed the cigarette in the commode while urinating and not on the table as he previously thought. Another discrepancy arose when, under hypnosis, he stated how he set the electric radio alarm for 6:30 A. M. While doing so, he talked in an annoying manner about how the radio alarm had been acting up, and how the radio portion had gone haywire.

This had not been mentioned at all during his previous interrogation. He then told of getting into bed and going to sleep, awakening upon feeling the heat of the fire. He became agitated as he talked, sweating and rolling about in the chair, opening and closing his eyes. He complained of the heat and smoke hurting his eyes. It was also learned during this revivification of the incident that he had kept his eyes closed from that point forward. He groped his way out of the room into the bathroom, down the hallway and into the living room, where he fell over a hassock before he finally crawled out the door.

A closer examination by the Fire Department and electricians indeed revealed that the true culprit was the defective radio alarm and not his carelessness with the cigarette. In this

investigation, hypnosis helped the subject, who was suffering from alcoholic amnesia, recall incidents he had not remembered in his conscious state. Without the aid of hypnosis, the subject would have been charged with manslaughter.

Hypnosis serves other primary functions in criminal cases and can be used as follows (Reiser, 1980):

1). As an analytical process to help in finding an individual's attitude or state of mind before or at the time of the crime. This is to show if malice was a part of the mental state. It is important to determine if there was intent to commit the crime or if the crime was committed spontaneously. This determination has a great impact in the prosecution of the suspect. 2). As a defense in a criminal case, hypnosis can expose amon dissociative disorder, characterized as split-personality. An individual with this disorder will experience a variety of different personalities. There is often selective amnesia encountered from one personality to the other. 3). As a means of developing leads for additional evidence from witnesses to help in the investigation process.

The uses of hypnosis in adjudicating legal cases are compelling. They are:

1). To obtain, if possible, a truthful account of an incident or a series of related events from a witness. 2). To enable a witness to recall incidents no longer in his/her conscious memory. 3). To detect malingerers, who are pretending to have an illness or injury, especially those persons claiming paralyses or insanity. 4). To weed out witnesses who have given false and misleading information about a crime or accident before being hypnotized. 5). To discover if hypnosis or some form of secret influence, such as brainwashing, was used to commit a crime or to evade conviction.

These are only some instances where investigative hypnosis can be instrumental. The uses of hypnosis in solving criminal cases by means of refreshing the memory of a victim/witness are numerous (Orne, 1979

## CHAPTER V

### CONCLUSION

Investigative hypnosis can be very instrumental in solving criminal and civil cases. There is much controversy about the use of investigative hypnosis, but increasingly, law enforcement agencies resort to hypnosis as a tool in their investigations. Since hypnosis is a process used to refresh the memory, information obtained in this manner is admissible in court. There are numerous documented cases in which hypnosis was used and had an impact on them.

Investigative hypnosis not only helps witnesses and victims, but it can be used to help law enforcement officers get rid of phobias, fears and bad habits such as drinking, smoking and drugs. Law enforcement agencies also utilize hypnosis to control pain, stress, tension and anxiety. Investigative hypnosis is an asset that does not require expensive equipment and can be utilized in a subject's home, office or police station. Investigative hypnosis is a positive and valuable contribution to the Law Enforcement profession. The future of investigative hypnosis, constrained by law and used effectively, seems very promising and will likely continue to expand in use because of its effectiveness.

Investigative hypnosis, used in an effective manner is assisting in the reduction of crime by implementing quicker apprehension of the suspects and being utilized by many law enforcement agencies, including the FBI.

It is the opinion of this researcher, who is a twenty year veteran in law enforcement and a state certified hypnotist, that every law enforcement agency, without regard to size, should have at least one certified hypno-investigator in their departments. If it is not feasible to have a hypnotist in their department, they should at least have access to one. Investigative hypnosis is a very interesting phenomenon which should be utilized and explored to its maximum capacity. The uses of investigative hypnosis are extensive.

## APPENDIX 1

### WORDS AND PHRASES

VISUALIZE IN YOUR MINDS EYE... GET A FEEL FOR IT... PICTURE  
YOURSELF... CRYSTAL CLEAR... FEEL A RUSH... PLEASANT... COOLING  
SENSATION... DRIFTING... FLOATING... LETTING GO... SMELL...  
SWEET... FEEL... HARD/SOFT... NUMB... NUMBNESS... WIND... CALM...  
RAIN... WATER... CALMNESS... COOL... WARM.. COLD... HOT...  
DAMP... MIST... MOIST... FLUFFY... TINGLING SENSATION... DEEPER  
AND DEEPER... SECURE... SAFE... SPRAY.. DEEP BREATH... GOING  
DEEPER WITH EACH WORD I SPEAK. GOING DEEPER WITH EACH BREATH YOU  
TAKE... GOING DEEPER WITH EACH BEAT OF YOUR HEART... THE SOUND OF  
MY VOICE CARRIES YOU DEEPER WITH EACH WORD... LOOSE... LIMP...  
RELAX... RELAXING... RELAXATION... SEE YOURSELF... WIND... DOWN,  
DOWN... WARM SUNSHINE... BEAUTIFUL SNOW FLAKE... PURE... SNOW  
COVERED MOUNTAINS... POOL OF WATER.

## APPENDIX 2

### INVESTIGATIVE CASES INVOLVING HYPNOSIS

This information is only a partial listing of cases related to the use of hypnosis in criminal investigations, they are:

State v. Pusch: N.D., 860 N.W., 2d. 508 (1950)

Cornell v. Sup. Crt., San Diego County: 52 Cal. 2d. 99,338 (1959)

People v. Marsh: 170 Cal. 2d. 284 (1959)

People v. Busch: 56 Cal. 2d. 868 (1961)

People v. Modesto: 59 Cal. 2d. 772, 382 P, 2d 33 (1963)

People v. Peters: 4 Crim. 5996, March (1974)

Wyller v. Fairchild-Hiller Corp.: 503 F 2d 506 9th. Cir. (1974)

Kline v. Ford Motor Co.: 523 F. 2d. 1067 (1975)

Jones v. State: 542 P. 2d. 1316 (Okla Crim App.) (1975)

People v. Ebanks: 117 Cal. 652, 49 P 1049 (1897)

Fry v. U.S., 293 F 1013 (D.C.C.R. 1923)

New York v. Leyra (1951)

People v. Hisler: 267 Cal. App. 2d 47, 72 Cal (1968)

Harding v. State: 5Md. App. 203, 246 A. 2d 302, 395 U.S. 949 (1968)

Wisconsin v. White, (1979)

State v. Mack, 292 NW 2nd 764, 765 (Minn 1980)

State v. LaMountain, 125 Ariz. 547, 611 P. 2d 551 (1980)

State v. Nims, 180 Conn. 589, 430 A. 2d 1306 (1980)

People v. Lucas, 435 NYS 2d 461 (NY Sup. Ct. 1980)

State v. Hurd, 86 N. J. 525, 531, 432 A 2d 86, 88 (1981)

Commonwealth v. Nazorovitch, 496 Pa. 97, 436 A. 2d 170 (1981)

State v. Mena, 624 P2d 1274, 28 Ariz. 2518 (1981)

State v. Grier, 630 P2d 575, 578 (Ariz. App. 1981)



People v. Shirley, 8,641 2d 775 (Cal. Sup. Ct. 1982)  
Chapman v. State, Wyo. Supreme Court (1-14-82)  
Walters v. State, 680 S.W. 2d 60 (Tx App.-Amarillo 1984)  
State v. Brown, N.D. Sup. Ct. (7-21-83)  
Leyra v. Denno, 347 U.S. 556 (1954)  
Conn v. Reilly, 5285 (1973)  
U. S. v. Thornton, (U.S. Dist. Court, W. D. Mo. 1977)  
U. S. v. Narciso and Perez, Crim. No. 7-80419E D. Mich., S. D.  
(1977)  
N.Y.C. v. Torsney, 3923 (1976)  
Rock v. Ark, 86-130 (U.S. Supreme Ct. 107 S. Ct. 2704  
Zani v, State, 1211-84, (Tx. Ct. Crim. App. 1988)  
Vester v. State, 713 S. W. 2d 920 (Tex. Cr. App. 1986)  
Goudette v. State, 713 S. W. 2d 206 (Tex. App. Tyler 1986)  
Laird v. State, 650 S.W. 2d 198 (Tex. App. Ft. Worth 1983)  
U. S. v. Miller, 411 F 2d 825 (2d C. R. 1969)  
State v. Jorgensen, 49 Pac. 2d 312 (Oregon App. (1971)  
Georgia v. Creamer Rickets (1975)  
Jones v. State, 542 P. 2d. 1316 (Okla. Crim App. (1975)  
People v. John Quaglino, 109524 (Superior Court, Santa Barbara  
County, Ca. 1976)  
U. S. v. Narisco, 446 F. Supp. (E. D. Mich. (1977)  
Reed v. State, 283 Md 374, 391 A. 2d 364 (1978)

State v. Grier, 630 P2d 575, 578 (Ariz. App. 1981)

People v. Shirley, 8,641 2d 775 (Cal. Sup. Ct. 1982)

Chapman v. State, Wyo. Supreme Court (1-14-82)

Walters v. State, 680 S.W. 2d 60 (Tx App.-Amarillo 1984)

State v. Brown, N.D. Sup. Ct. (7-21-83)

Leyra v. Denno, 347 U.S. 556 (1954)

Conn v. Reilly, 5285 (1973)

U. S. v. Thornton, (U.S. Dist. Court, W. D. Mo. 1977)

U. S. v. Narciso and Perez, Crim. No. 7-80419E D. Mich., S. D. (1977)

N.Y.C. v. Torsney, 3923 (1976)

Rock v. Ark, 86-130 (U.S. Supreme Ct. 107 S. Ct. 2704

Zani v, State, 1211-84, (Tx. Ct. Crim. App. 1988)

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Goudette v. State, 713 S. W. 2d 206 (Tex. App. Tyler 1986)

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U. S. v. Miller, 411 F 2d 825 (2d C. R. 1969)

State v. Jorgensen, 49 Pac. 2d 312 (Oregon App. (1971)

Georgia v. Creamer Rickets (1975)

Jones v. State, 542 P. 2d. 1316 (Okla. Crim App. (1975)

People v. John Quaglino, 109524 (Superior Court, Santa Barbara County, Ca. 1976)

U. S. v. Narisco, 446 F. Supp. (E. D. Mich. (1977)

Reed v. State, 283 Md 374, 391 A. 2d 364 (1978)

## APPENDIX 4

### LAWS PERTAINING TO HYPNOSIS PER STATE

ALABAMA: From the Attorney General's Office: " Alabama has no law concerning ... hypnosis."

ALASKA: No information available

ARKANSAS: No laws prohibiting hypnosis

ARIZONA: No laws prohibiting hypnosis

CALIFORNIA: "The practice of hypnotism is not prohibited by state law unless such practice constitutes an unauthorized practice of medicine or psychology.

COLORADO: "While in general there are no regulations of hypnotists depending on the particular actions taken by hypnosis or hypnotherapy could fall within definitions of medicine, psychology or social work."

CONNECTICUT: "There is nothing in the Connecticut General Statutes that deals with this specific concern." (Quote from a letter from the Attorney General, Law Librarian).

DELAWARE: No laws prohibiting hypnosis

DISTRICT OF COLUMBIA: No information available.

FLORIDA: "Hypnosis may be practiced by a licensed professional or by a "qualified person" (deemed to be so by the referring practitioner) who is competent to employ hypnotic techniques for therapeutic purposes, under supervision, direction or prescription.

(STATEMENT): It shall be unlawful for any person to engage in the practice of hypnosis for therapeutic purposes, unless such person is a practitioner of one of the healing arts, as herein defined, or acts under the supervision, direction prescriptions and responsibility of such a person (Chapter 456).

GEORGIA: "A review of the Georgia laws reveals that there is no provision pertaining to hypnosis or hypnotherapy." (Quote from the Attorney General)

HAWAII: No laws prohibiting hypnosis. However, a person which consists of, requires, and is limited to the application of psychological principles and procedures for the purpose of

understanding, predicting, or influencing behavior of an individual in order to assist in their attainment of maximum personal growth; optimal work, family, school and the interpersonal relationships and healthy personal adjustment. The application of psychological principles and procedures includes ... hypnosis."

IDAHO: No laws prohibiting hypnosis

ILLINOIS: No laws prohibiting hypnosis

INDIANA: No laws prohibiting hypnosis, however, from the Office of the Attorney General, the following was received: "Depending upon the extent of your claims for and on behalf of hypnosis, it is possible they should also inquire of the Indiana Medical Licensing Board which is located at the same address as the Psychology Board." But, (Definition): "The law essentially states that no one may call himself a psychologist, psychometrist, or any variant thereof or render services which are described as psychological or any variant thereof if the person so doing is not a licensed psychologist. The act specifically exempts teachers of institutions of higher learning recognized by the Board but even those individuals cannot style themselves psychologists or their services psychological without being licensed psychologists."

IOWA: From the Office of the Attorney General: "I am not aware of any statutes in Iowa relating to the teaching or practice of hypnosis. However, if an individual uses hypnosis to treat a human ailment, that individual may be in violation of the various practices acts in Title VIII of the Iowa Code."

KANSAS: No specific statutes prohibiting hypnosis; except that Section 21-4007 "Hypnotic Exhibition" is a Class C misdemeanor. This means that no one can "give for entertainment, any instruction, demonstration or performance in which hypnosis is used or attempted." Interpreted to mean that no hypnosis is allowed.

KENTUCKY: "We found no specific laws in kentucky applicable to the use and/or teaching of hypnosis and hypnosis and hypnotherapy."

LOUISIANA: The teaching of hypnosis comes under jurisdiction of our Proprietary School Commission. No laws prohibiting the use of hypnosis.

MAINE: No laws prohibiting hypnosis. From the Office of the Attorney General: "Maine law does not make specific reference to the practice of hypnotherapy in this state. Regulation of the practice would likely fall under the Jurisdiction of the

Board of Registration in Medicine and/or the Psychologists Examine Board."

MARYLAND: "There are no statutes concerning the use and/or teaching of hypnosis and hypnotherapy."

MASSACHUSETTS: No laws prohibiting hypnosis, however, from the Office of the Attorney General: "Section two to six and section eight shall not be held to discriminate against any particular school or system of medicine...persons practicing hypnotism, magnetic healing, mind cures. Christian Science or cosmopathic method of healing, if they do not violate any provision of the preceding section."

MICHIGAN: No laws prohibiting hypnosis, however, from the Office of the Attorney General: "This state does not specifically license the practice of hypnosis as a distinct activity".

MINNESOTA: "Minn. Stat. SS147.10 (1976) is the only Minnesota statute that specifically addresses hypnosis. Basically, that statute provides that no other than physicians or psychologists licensed in Minnesota may use hypnosis "for treatment of or relief of any wound, fracture, or bodily injury, infirmity or disease."

MISSISSIPPI: No laws prohibiting hypnosis.

MISSOURI: No laws prohibiting hypnosis.

MONTANA: From the Attorney General's Office, "I am aware of no laws in this state which specifically regulate the use of hypnosis or hypnotherapy."

NEBRASKA: From the Attorney General's Office: "You will not violate any state laws by holding a two day informational meeting in Omaha.

Has only prohibition of "exhibiting person in trance." "We cannot determine whether they (other laws regarding the practice of medicine and of psychology, affect the use/or teaching of hypnosis here."

NEVADA: From the Attorney General's Office: "Nevada has no state laws on the subject of hypnosis and hypnotherapy."

NEW HAMPSHIRE: From the Attorney General's Office: "It has been determined by the Board of Registration in medicine that hypnosis and hypnotherapy are part of the practice of medicine and can be performed only by someone who's licensed to practice medicine in this state."

NEW JERSEY: No laws prohibiting hypnosis.

NEW MEXICO: Referred to the Board of Educational Finance/Commission of Post-Secondary Education. Their comment: "No laws prohibiting hypnosis."

NEW YORK: From the Attorney General's Office, "Unless the members of your staff are licensed physicians, they may not lawfully use hypnosis nor teach the use of hypnosis in this State."

NORTH CAROLINA: No laws prohibiting hypnosis.

NORTH DAKOTA: No laws prohibiting hypnosis.

OHIO: "Ohio Revised Code-Section 4732.01 (c) includes hypnosis within the definition of "psychological procedures."

OKLAHOMA: No laws prohibiting hypnosis.

ONTARIO, CANADA: Section 2: Subject to Section 3, no person shall hypnotize or attempt to hypnotize another person. 1960-61, C.38, S.2.

Section 3: Section 2 does not apply to: (a) any legally qualified medical practitioner; (b) any dentist registered under the Dentistry Act; (c) any psychologist registered under the Psychologists Registration Act.

OREGON: Oregon Revised Statutes 167.1870 regards hypnosis as prohibited. References are only made to "exhibiting person in trance," "exertion of the will power or suggestion of another person over such subject or consents to or aids or abets such exhibition."

PENNSYLVANIA: "Although no licensing statutes apply directly by their terms to hypnosis, presently, it is conceivable that a number of statutes could be so applied.

RHODE ISLAND: No laws prohibiting hypnosis.

SOUTH CAROLINA: "We find no statute in the South Carolina of Laws, or any published opinion of the Attorney General, which would apply to question..."

SOUTH DAKOTA: (Similar law to Oregon's) Statute Numbers are: 22.20.1 to 22.20.3.

TENNESSEE: No laws prohibiting hypnosis. The Attorney General supplied the following quote: "Due to manning and budgetary constraints, we regret that this office cannot provide legal advice or assistance to private entities."

TEXAS: No laws prohibiting hypnosis.

UTAH: No laws prohibiting hypnosis.

VERMONT: No laws prohibiting hypnosis.

VIRGINIA: Section 18.2.315 is the only section of the Virginia Code dealing with hypnotism. (The use of hypnosis). "But this section shall not apply to hypnotism or mesmerism performed at the request of the patient by a licensed physician, licensed clinical psychologist or dentist or at the request of a licensed physician in the practice of his profession.

WASHINGTON: A search of Washington statutory and case law indicates that there is no Washington Law dealing specifically with hypnosis or hypnotherapy. No laws prohibiting hypnosis.

WEST VIRGINIA: The West Virginia statute is silent upon the subject of the practice or use of hypnosis, and the absence of any statute controlling same has not been interpreted by the West Virginia Medical Licensing Board as vesting in it the authority to authorize the practice of use of hypnosis.

WISCONSIN: Wisconsin does not have any statutes specifically relating to the teaching or use of hypnosis and hypnotherapy. "However, it is clear that an individual cannot engage in the practice of same for the purpose of attempting to cure or treat the physically or mentally ill without being under the supervision or direction of a licensed physician or psychologist or psychiatrist."

WYOMING: No laws prohibiting hypnosis.

## APPENDIX 5

### COURT DECISIONS/HYPNOSIS TESTIMONY

Inadmissible	Admissible	Safe- guards	Pre- Hypnosis Only	No Law
-----				
<b>FEDERAL COURTS</b>				
<b>Supreme</b>		x		
1st Circuit	x			
2nd Circuit	x			
4th Circuit	x			
5th Circuit		x		
6th Circuit	x			
8th Circuit		x		
9th Circuit		x		
 <b>STATE COURTS</b>				
Alabama			x	
Alaska	x			
Arizona			x	
Arkansas		x		
California			x	
Colorado		x		
Connecticut			x	
Delaware			x	
D. C.				x
Florida			x	
Georgia			x	
Hawaii			x	
Idaho		x		
Illinois			x	
Indiana			x	
Iowa			x	
Kansas			x	
Kentucky				x
Louisiana	x			
Maine				x
Maryland			x	
Massachusetts			x	
Michigan			x	



Inadmissible	Admissible	Safe- guards	Pre- Hypnosis Only	No Law	
-----					
Minnesota		x			
Mississippi		x			
Missouri			x		
Montana				x	
Nebraska			x		
Nevada				x	N e w
Hampshire				x	
New Jersey		x			
New Mexico		x			
New York			x		
North Carolina			x		
North Dakota	x				
Ohio		x			
Oklahoma			x		
Oregon			x		
Pennsylvania			x		
Rhode Island			x		
South Carolina	(Cannot be used for truth of matter)				
South Dakota				x	
Tennessee	x				
Texas		x			
Utah				x	
Vermont				x	
Virginia			x		
Washington			x		
W. Virginia				x	
Wisconsin		x			
Wyoming	x				
<b>COURT TOTALS</b>	0	9	14	24	11

## APPENDIX 6

### HYPNOSIS-CASE LAW AND LEGISLATION

#### FEDERAL COURTS

Supreme Court	Rock v. Arkansas, 107 S. Ct. 2704 (1987)
1st Circuit Ct.	Clay v. Vose, 771 F. 2d 1 (1st Cir. 1985)
2nd Circuit Ct.	U.S. v Miller, 411 F. 2d 825 (2nd Cir. 1969)
4th Circuit Ct.	McQueen v. Garrison, 814 F. 2d 951, 968 (4th Cir. 1987)
5th Circuit Ct.	U.S. v. Valdez, 722 F. 2d 1196 (5th Cir. 1984)
	Wicker v. O.L. McCotter, 783 E. 2d 487 (5th Cir. 1986)
6th Circuit Ct.	Beck v. Norris, CA6, N.85-6043 6043 (6th Cir. 9/19/86)
8th Circuit Ct.	Spryncynatiyk v. General Motors Nos. 84-1566 and 84-1611 (8th Cir. 8/16/85)
9th Circuit Ct.	U. S. v. Awkward, 597 F. 2d 667 (9th Cir. 1979)

#### STATE COURTS

Alabama	Prewitt v. State, 460 So. 2d 296 (Ala. Cr. App. 1984)
Alaska	State v. Contreras, 647 P. 2d 792 (Alaska App. 1983)
Arizona	State exrel. Collins v. Sup. Court, 644 P. 2d 1266 (1982)
Arkansas	Rock v. State of Arkansas, 708 S.W. 2d 78 (Ark. 1986)

California	People v. Shirley, 641 p. 2d 775 (1982) People v. Thompson, 176 Cal. App. 3d 554 (1986)
Colorado	People v. Romero, 746 P 2d. 543 (1987)
Connecticut	State v. Atwood, 479 A. 2d 258 (Conn. Super. 1986)
Delaware	Elliotte v. State, 515 A 2d 677 (Del. Supr. 1986)
D. C.	None
Florida	Bundy v. State, 471 So 2d 9 (1985)
Georgia	Walraven v. State, 336 S.E. 2d 798 (GA 1985)  Felker v. State, 314 S.E. 2d 621 (GA 1984)
Hawaii	State v. Moreno, 709 P. 2d. 103 (Hawaii 1985)
Idaho	State v. Iwakiri, 682 P. 2d. 571 (1984)
Illinois	State v. Gilbson, 4 App. 81 CF 243 (1983)
Indiana	Pearson v. Wilson, 506 N.E. 2d 468 (1982)  Strong v. State, 435, N.E. 2d 969 (1982)  Peterson v. State, 448 N.E.2d 673 (1983)
Iowa	State v. Seager, 341, N.W. 2d 420 (1983)
Kansas	State v. Haislip, 701 P. 2d 909 (Kan. 1985)

Louisiana	State v. Wren, 425 So. 2d 756 (1983)
	State v. Goutro, 444 So. 2d 615 (1984)
Maine	None
Maryland	State v. Collins, 464 A. 2d 1028 (md. App 1983)
Massachusetts	Commonwealth v. Kater, 447 N.E. 2d 1190 (1983)
Michigan	People v. Nixon, 346 N.W. 2d 743 (1985)
Minnesota	State v. Ture, 353 N.W. 2d 502 (Minn. App. 1984)
	State v. Blanchard, 315 N.W. 2d. 427 (1982)
Mississippi	House v. State, 445, So. 2d 815 (1985)
Missouri	Alsbach v. Bader, 700 S.W. 2d. 823 (Mo. 1985)
Montana	None
Nebraska	State v. Patterson, 331 N.W. 2d. 500 (1983)
	Tate v. Palmer, 313 N.W. 2d. 648 (1981)
Nevada	None
New Hampshire	None
New Jersey	State v. Hurd, 432 A. 2d 86 (1981)
New Mexico	State v. Beechum, 643, P. 2d 246 (N.M. App. 1982)
New York	People v. Hughs, 435 N.E. 2d 484 (N.Y. App. 1983)

North Carolina	State v. Payne, 325 S.E. 2d. 205 (N.C. 1985)
	State v. Peoples, 319 S.E. 2d 177 (N.C. 1984)
North Dakota	State v. Brown, 337 N.W. 2d 138 (1983)
Ohio	State v. Weston, 475 N.W. 2d. 138 (1983)
Oklahoma	Robinson v. State, 677 P. 2d. 1090 (Okla. Cr. App. 1984)
Oregon	State v. Jorgensen, 492 P. 2d 312 (Or. App. 1971)
Pennsylvania	Commonwealth v. Smoyer, 476 A 2d. 1304 (Pa. 1984)
	Commonwealth v. Taylor, 439 A 2d 805 (Pa. Super. 1982)
Rhode Island	None
South Carolina	State v. Pierce, 208 S.E. 2d 414 (1984)
South Dakota	None
Tennessee	State v. Glebock, 616 S.W. 2d 897 (Tenn. Cr. App. 1981)
Texas	Walters v. State, 680 S.W. 2d 60 (Tex App. 1984)
	Zani v. State, 679 S.W. 2d 144 (Tex. App. 1984)
	Vester v. State, 713 S.W. 2d 920 (Tex. App. 1986)
Utah	None
Vermont	None
Virginia	Hopkins v. Commonwealth, 337 S.E. 2d. 264 (Va. 1985)

Washington	State v. Martin, 684 P.2d651 (1984)
	State v. Coe, 684 P.2d668 (1984)
W. Virginia	None
Wisconsin	State v. Armstrong, 329 N.W. 2d. 386 (1982)
Wyoming	Chapman v. State, 638 P.2d 1280 ( 1980)

#### **CANADIAN COURTS**

Regina v. Pitt, 3 C.C.C. 342,  
11 C.L.Q. 120, 68 DLR 2d 513,  
15 M.L.J. 189, 66 W.W.R. 400  
(B.C.S.C. 1968  
Regina v. Zubot (Unreported  
( 198 1 )

#### **STATELEGISLATION**

California	A B 2669 amended Chapter 7, Division 6, Section 795 of the California Evidence Code (1985)
Oregon	OR. Rev. Stat. Section 136 . 675 (1981)
Texas	S.B. 929, Jan. 1, 1988

## GLOSSARY

ANESTHESIA. Insensibility to feeling or pain.

ANCILLARY. Subordinate.

ARMAMENTARIUM. The equipment of instruments, drugs, therapeutic resources, etc., at the command of a physician.

BAQUET. French word for tub; a device used by Mesmer for use in the induction of convulsions.

BIOFEEDBACK. Controlling bodily functions such as heart rate, blood pressure and skin temperature.

CHARLATAN. One who pretends to have more knowledge or skill than he possesses, especially in medicine; A quack or imposter.

CONFUSION TECHNIQUE. Suggestions which are given to a subject, which are too complex and difficult for him to handle.

CORROBORATED. Indicates the likelihood of getting increased accurate details.

DEMARICATION. Defining the limits or boundaries.

ELICITING. To bring out by reasoning or discussion.

EYE FIXATION. While undergoing a hypnosis session, anything for the eye to stare at.

FALLACIES. Something deceptive, misleading, or false, especially a misleading or unsound argument.

FLEDGLING. An inexperienced person.

FUROR. A prevailing mania for or against something.

GROPING. To search blindly; to search out by feeling one's way.

HABEAS CORPUS. To bring the accused before a court or judge to decide the legality of his detention.

HASSOCK~. A footstool.

HYPNOS. Meaning sleep.

KINETIC. Referring to motion.

MALICE. Evil intent on the part of one who commits a wrongful act injurious to others.

NALINGERERS. To feign illness to avoid duty or work.

MANDAMUS. A command or writ issued by a superior court and directed to a person, corporation, or lower court, requiring them to do a specified act.

NETRONOME. An instrument operated mechanically or electrically for making exact time as used in music.

MISCONCEPTION. To receive a false notion or opinion.

MOUNTEBANK. A quack doctor or false pretender.

NEUROLOGICAL. The nervous system and its disease or disorders.

PHOBIAS. A morbid, exaggerated, unreasonable fear.

PROGRESSIVE RELAXATION. The state of profound relaxation.

PSYCHOPATH. A mentally unstable person.

PSYCHOSIS. A major mental disorder, characterized by a disintegration of personality and an inability to relate to others.

QUARRY. An open pit where stones are dug, cut, or dug cut or blasted from the earth.

RETROGRADE. To move or go backwards.

REVIVIFICATION. To give new life or vigor.

SCHIZOPHRENIC. One afflicted by emotional, intellectual, and behavioral reality, delusions, and progressive deterioration.

SPONTANEOUSLY. Arising from one's own tendencies or impulses, without forethought, constraint, or external effort.

SUSCEPTIBILITY. Capability of receiving impression; sensibility.

UNORTHODOX. Unconventional or unacceptable in doctrine procedure.

VOIR DIRE. An oath administered to a proposed witness to determine his competence: the examination itself.



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