

INVESTIGATIVE ASPECTS OF
FORENSIC HYPNOSIS*

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It appears that each time a new and innovative technique is introduced to do a job more easily or quickly, it becomes somewhat of a fad. So it seems with hypnosis in law enforcement. The infectious appeal this technique has achieved seems reminiscent of many other promising "panaceas" in the investigative field. Unfortunately, all too often the anticipation with which new techniques are popularized exceeds their actual realization - and as a result, the technique raises question as to its own reliability and validity.

As described earlier in this chapter, hypnosis is fraught with potential forensic difficulties arising from its very nature. In hypnosis, suggestion can easily taint the perceptions of an interviewee, and the filling in of memories, or confabulations, can easily occur where an interviewee's need for closure or an eagerness to please inquirers overcomes actual memory. Worse yet, because of the compelling genuineness with which hypnotic statements are offered those naive to these serious limitations would be confident that information derived from trance was accurate (Margolin, 1981). Other discussion has focused on interviewees' confusion over what is recalled and that which is imagined; suggesting that persons who have been hypnotically interviewed may not be suitable witnesses at all (Diamond, 1980). Despite these issues, employment of hypnosis as an enhancement to memory has certainly been well intended.

While hypnosis has been used as an investigative aid for at least a quarter century (Arons, 1967; Block, 1976), the proliferation has occurred largely to a reawakening of the technique in law enforcement by Dr. Martin Reiser of the Los Angeles Police Department (Reiser, 1980). In establishing hypnosis as an available technique for law-enforcement personnel, Reiser trained a select group of police lieutenants. These officers, in turn, were dispatched to use hypnosis in the course of investigations. Due to the hundreds of officers around the country who have since been trained, and who strongly advocate hypnosis as an investigative tool, the concept has become well known in the police community.

It is important to realize that police face a formidable task in conducting investigations. Officers deal with physical evidence that is frequently minute, fragile or perishable, and have to develop other details from the observations of persons who were unexpectedly confronted with often dramatically traumatic experiences. In these memories may lie the most critical information, and hypnosis often holds promise in enhancing descriptions that might not otherwise be available. Yet, there is a clear need for investigators to be certain that hypnotically obtained information is correct. Herein lies the controversy of forensic hypnosis and the caution to all who would use hypnosis for investigative purposes. In fact, concern regarding the accuracy of hypnotic recall prompted a unified effort within the Federal investigative community.

In early 1978, an ad hoc forum was convened to assure the development of uniform guidance within the Federal community. The record in the civil arena was clear; the many and varied private and departmental uses of

hypnosis often led to applications which could not meet their test in court. The result has been a myriad of court decisions which sporadically endorse or reject hypnosis due to often ill-conceived applications. Therefore Federal investigative agencies coordinated to devise a uniform model which addressed the issues.

The premise upon which the Federal use of forensic hypnosis is based is that hypnosis is a technique for memory refreshment, not memory verification. The basis of this position is that if hypnotically derived information is to be of investigative value, it must be independently corroborated. Therefore, the purpose of hypnosis is to derive investigative leads, and not to evoke testimony. Simply, the potential difficulties inherent in the use of forensic hypnosis are nullified when independent corroboration becomes the criteria for evaluating hypnotically obtained information. (Hibler, 1979, 1980; Teten, 1979)

Within the "Federal Model", a "team approach" was developed to use the best qualified personnel to conduct interviews. This pragmatic compromise utilizes the expertise of mental-health professionals as hypnotists and trained investigators as interviewers. Doctors simply are not familiar with investigative procedures, nor are they prepared to handle many forensic requirements, such as making an advisement of rights or securing materials as evidence. Likewise, investigators are not suitable hypnotists. They lack the professional experience and skill required to fully employ hypnosis, tend to the needs of victims of often traumatic crimes, and are less credible expert witnesses than doctors in attesting to the use of hypnosis. The result is that the Federal

Government's "team approach" to forensic hypnosis provides a comprehensive capacity for dealing with the needs of both the investigation and the interviewee. (Ault, 1979, 1980; Hibler, 1980)

As this chapter continues, the Federal Model is further explained in three major areas of discussion: Procedures for case review, interview preparation and conduct, and investigative continuation.

Procedures for Case Review: When to Use Hypnosis.

Forensic hypnosis is not a panacea. The instances in which hypnosis is suited for application tend to be well defined, and occur with only modest frequency. To assure that hypnosis is employed in appropriate situations, requests for forensic hypnosis in Federal investigations receive multiple levels of review; the purpose of which is to determine if hypnosis is the only, or even the best procedure for the investigation.

Although each government agency is autonomous and functions independently, each employs similar safeguards in their screening procedures. For example, in the Air Force Office of Special Investigations, field requests for hypnotic interviews are forwarded to Headquarters, where supervisory

personnel review the status of the case and where indicated, offer suggestions for alternatives to hypnosis. Sometimes, this results in simple advice which was not previously considered. One such example was an instance in which an investigator, eager to request hypnosis, had not fully interviewed witnesses of a crime. His impatience was reflected in his

initial contact with the neighbor of the suspect (who was thought to have murdered her husband). The investigator needed to ascertain the time at which the suspect arrived home after shopping as she had reportedly arrived to find that her husband had been shot to death. Questions had to be raised, however, because of well-known tensions between the suspect and her husband, and due to various inconsistencies in her prior statements. Unfortunately, the neighbor said she was unable to help - after she was told by an investigator that she needed to be absolutely certain as to the time she witnessed the suspect drive into her garage. In fact, he added: "would you be willing to testify to this in court?" Case reviewers of the investigation suggested that the potential witness be re-interviewed by an agent not familiar with the case. This second investigator apologized to the witness for her having to repeat her recollections, and simply asked her if she could indicate what time the suspect arrived home. Much to his surprise, the neighbor now provided a precise time, adding that she noticed the suspect arrived home while she had gotten up from her chair during a television commercial. The precise time was further confirmed by the witness's husband, who was quite able to recall his wife getting him something from the kitchen during a break in one of their favorite TV programs.

In another example, a telephone call was received from a field office requesting a hypnotic interview of a service station attendant who was the victim of an armed robbery. The purpose of the hypnotic interview was to ascertain whether a tattoo on the gunman's right forearm was a rearing stallion or a unicorn. Other details developed in the case included an excellent description of the gunman, a "get away" driver, and the vehicle

used in the crime. When the Special Agent requesting the interview was told that he would need to use formal channels for the request, and that he would need to respond to a number of administrative requirements, he exclaimed: "Hell, it will take a month to do that-we'll have it solved by then!" It only took three weeks.

Requests for consultation by the forensic science staff may also be indicated. These forensic specialists have graduate degrees in forensic pathology, physical science, and laboratory techniques; they consider the special processing of physical evidence which might preclude the need for the use of hypnosis. Whenever possible, consideration of forensic hypnosis is withheld until laboratory procedures are completed and the importance of that data is known. It is because of the many issues which make application of hypnosis in an investigation a complex task that only major felony offenses are considered suitable for the expenditure of the time and effort that this technique requires. Hypnosis is typically employed only as a last resort in the hope that other investigative procedures will be successful and then alleviate the need for hypnotic intervention. Even then, some serious crimes that have been considered with the utmost care and have been afforded extensive investigative effort may still not be suitable. In the Air Force's experience, about one third of the cases in which hypnosis is requested are solved without hypnosis. About one third more of these requests are considered ill-suited for the procedure at all; the majority of instances do not need, nor benefit from the technique.

Indiscretions or errors in investigative procedure - although not violations of the law, may nonetheless severely restrict or even prohibit

the use of hypnosis. For example, presentation of a suspect for identification to a witness, in other than a well-considered actual or photographic lineup, may lead a witness or victim to believe that the suspect is involved regardless of their initial opinion. For this reason cases in which no suspect has been developed are better for hypnosis; there is a clear preference for investigations in which the Subject or Subjects are unknown. Simply, if there are no indications as to who might be responsible for the crime, there is significantly less likelihood that inadvertent suggestions will play a role in implanting ideas in the mind of an interviewee.

If a suspect has been developed, hypnosis might be used to carefully develop information which is likely to be corroborable, but is not tainted by the prior identification of a suspect. For example, in cases in which subjects are identified, the use of a police artist or other composite technique would be in question if the suspect was known to the hypnotic interviewee. However, under some circumstances it may be worthwhile to consider a hypnotic interview to develop the details which are identifiable with the suspect (for example, description of an automobile, weapon, etc.), but which are known to the interviewee only through the criminal act in which he or she was a witness or victim. One case which illustrates this logic involved the brutal rape of an office clerk. Days after reporting the incident she happened to notice someone who "looked like" the rapist. It is, of course, quite common in the aftermath of rape for victims to believe they have again encountered their attackers. This is a natural form of vigilance that occurs as the victim adjusts to her intense sense of vulnerability. Yet to be sure that the features of an innocent individual

were superimposed in her hypnotic memory, only the automobile used in her abduction was pursued hypnotically.

A similar issue deals with the potential interviewees' sense of pressure either to increase the credibility of their earlier statements, or to please authorities. Therefore, information about the case which has been shared with the victim or witness becomes quite important, as it could possibly be confused with their own memories of the incident. Further, if some logical conclusion has been inadvertently suggested, there may well be tainting of the interviewees' recollection, particularly if there has been pressure to produce results.

Another consideration in case review is to estimate the likelihood that recall may be enhanced by hypnosis. The intent here is to consider the extent to which an individual may actually have additional memories for enhancement. Failure to specifically consider aspects of the incident that are critical to the case, and their likelihood for enhanced recall, only tends to increase the interviewees' pressure to perform. To assure that goals are clearly evident, hypnosis is not used as a "fishing expedition". Rather, in each case, there is a careful examination of the details of a potential interviewee's non-hypnotic statement that might developed. Then an assessment is made of the relative investigative value of information which might be expected from a hypnotic interview. To accomplish this, it is sometimes necessary to reenact the event.

In the careful retracing of the incident it may be possible to clarify what the witness or victim might have seen or heard. This is the best way to

explore the potential acuity of these perceptions. For instance, the effects of lighting, distances between witnesses and subject, and other factors can be more clearly understood. Hypnosis can only allow for a detailed review of an experience. Hypnosis does not provide telescopic vision, the ability to hear whispers at great distances or any other magical effects. Sometimes, scrutiny of existing statements or reenactments also reveals inconsistencies that question an individual's credibility.

There is no issue more central to the investigative use of hypnosis than the validity of information derived through the process. As all of the controversies surrounding hypnosis appear to stem from whether or not hypnotic recall is accurate, it has been the position of the Federal investigative community that hypnotically derived information is considered to be of prosecutive value only if it is independently corroborated. This precaution has served well to avoid the controversies which would otherwise rely on hypnosis as the trier of fact. Further, much investigative effort can be wasted in attempts to confirm intentionally misleading hypnotic statements. To further assure the appropriate use of hypnosis, a polygraph examination is requested whenever an investigation contains concerns about the credibility of statements from a potential hypnotic interviewee. While the polygraph itself is not a conclusive procedure, nor is it without its own controversies, the motivation of personnel to undergo the polygraph and its generally acceptable results have been an important means with which to further define the intent and cooperation of potential interviewees. In fact, when a polygraph examination is considered necessary, it must be

successfully passed prior to further consideration of hypnosis.

Who ought to be hypnotized? Certainly victims of and witnesses to crimes are the likely candidates for memory enhancement. Yet the use of forensic hypnosis with suspects presents a particularly strong debate. This is because of the potential for hypnosis to confuse a suspect's memory, and therefore possibly alter his capacity to stand in his own defense. For this reason, the Federal investigative community, with the exception of the Air Force, does not allow the hypnotic interview of suspects. The Air Force, however, has adopted the position that if the defense is intent upon using hypnosis, they may well do so on their own. Therefore, as the government has the capacity to provide trained doctors, investigators, and recording equipment, it is only fair that this investigative procedure be available to the prosecution as the defense as well. Interview requests by a defense counsel receive the same careful, critical case review and evaluative considerations as would any other case. Yet the type of situation in which a suspect interview would be appropriate would seem limited. For instance, one possible suspect interview scenario could include a situation where the accused professes innocence of an act, but has had difficulty in accounting for his whereabouts at the time of the crime. Here hypnosis might be helpful in developing a defense by producing leads which, upon confirmation, would establish a creditable alibi.

There is, one other group which may benefit from the enhanced recall afforded by hypnosis. Operational personnel (undercover agents and informants) are sometimes exposed to critical events which cannot be reported in sufficient detail because of the quantity of things happening,

their intensity, or the delay in time between the event and subsequent debriefing. As with all other applications of this technique, case review needs to address the possibility of pre-hypnotic suggestion, credibility, and interviewee motivation.

Preparation to Request Forensic Hypnosis

In preparation for using forensic hypnosis, it must be confirmed that the hypnotic interviewee is clearly a volunteer for the procedure. This is not only an ethical prerequisite, but an important safeguard to prevent actual or implied coercion which would further complicate the course and results of the interview. Also, the prosecuting attorney needs to be aware of the intended interview. Coordination with prosecutors should underscore the concerns hypnosis may raise, which could have a strong effect on the preparation of the case for trial. Further, there is a strong ethical concern for the well-being of the interviewee, and his/her capacity to undergo the recall of events which may have been intensely traumatic. For this reason, a potential interviewee's medical records are reviewed with particular attention to psychiatric history. Where current mental health issues are revealed, the attending practitioner is approached to ascertain his or her opinion as to the appropriateness of such an interview. Where records are not available, interviewees are asked whether they have received psychological assistance, and further, these points are explored and clarified by the hypnotherapist at the time of the interview.

Interview Approval, Preparation, and Procedure

Cases which meet all of the forensic, investigative, and hypnotic prerequisites are presented for approval consideration to a senior official within the headquarters of the investigative agency. This requirement sets forth yet another level of review, which is importantly separate from the intensity of the case at the level at which it is being investigated, and the possible pressures which might otherwise force a less well-considered judgement. If the request for hypnotic interview is approved, the case is then referred to a hypnosis coordinator who arranges for the actual session.

Hypnosis coordinators are well experienced Special Agents who have been trained to assist hypnotherapists by conducting numerous forensic and administrative details before, during, and after the interview. The annual training these investigators receive maintains their proficiency, updates their knowledge, and critically reviews their work.

Preparing for the Interview.

The hypnosis coordinator contacts the case investigator and the hypnotherapist, and initiates planning for an interview location and date. Preferable locations would include space in a hospital or doctor's office. The room to be used needs to be private, to assure there will be no interruptions and further, this space needs to be well illuminated as well quiet, so there will not be any interference with the recording of the session. Also, the space needs to be large enough so that television equipment and participants may be positioned, to include the use of a reclining chair for the interviewee. Figure 29-1 depicts the layout of an interview setting.

Insert Figure 29-1 here

On the actual date of the interview, the session needs to be carefully scheduled so that all parties are free of other obligations which might distract them from the task at hand. The session ought to begin early enough in the day so that interference by the need for meals or the end-of-day does not interfere; sessions typically take two to three hours, or longer. Further, the hypnotic coordinator has copies of appropriate consent forms on hand; a clipboard (for automatic writing), and incidental items, such as a box of kleenex. He makes sure that the television equipment is functioning, that there is a sufficient supply of recording tape and, if a female is to be interviewed, that a chaperone is present. Additionally, if facial composites are expected either a police artist should be made available or a Smith and Wesson Identi-kit needs to be obtained.

The television equipment that is utilized should incorporate separate microphones for the hypnoterapist, interviewee, and hypnotic coordinator. As may be seen in Figure 29-2, the hypnoterapist, interviewee and hypnotic coordinator sit together so that they may be on camera. Preferably, voice recordings are controlled by use of a sound mixer, rather than by using dynamic, or self-regulating microphones, which tend to record distracting

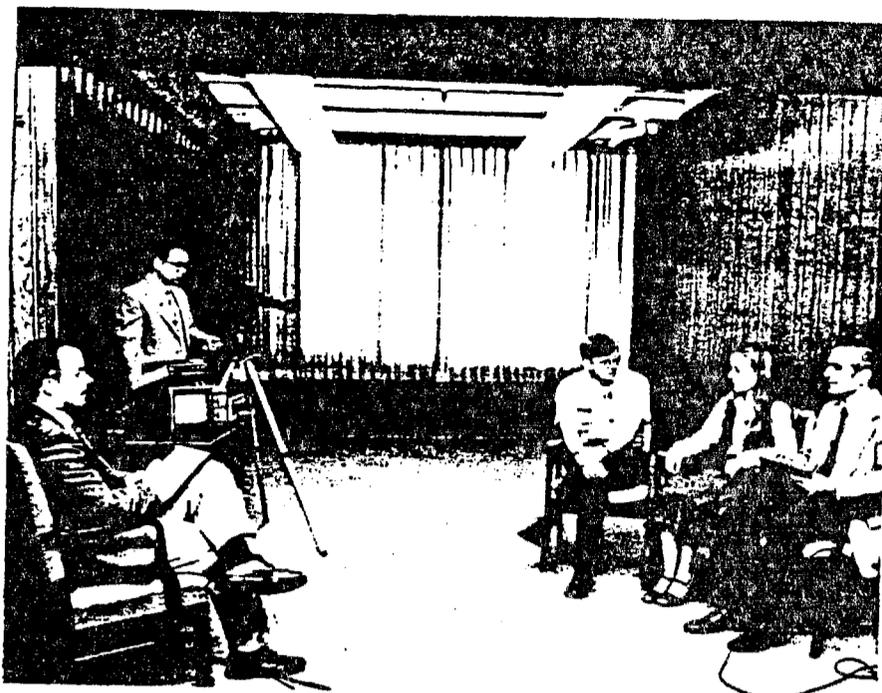


Figure 29-1 Positions of Personnel and Equipment.



Figure 29-2
Mental Health Professional, Interviewee and Hypnosis Coordinator

extraneous noise. A date-time generator should also be provided to imprint the date, hour, and elapsed minutes and seconds on the video image, so that each moment of the interview may be followed. The camera operator adjusts all equipment during the interview, and as depicted in Figure 29-3, is positioned to videotape the session.

Insert Figures 29-2 and 29-3 here

In addition, the camera operator is instructed to give a nonverbal signal to the hypnotherapist 10 minutes before he must put a fresh cassette into the recorder. The camera operator also needs to assure that the recording equipment functions appropriately, and should focus the camera on any activity during the session which may be of particular importance. For example, ideomotor signaling and automatic writing may require close-up shots. The case investigator is also present, sitting near the hypnotic coordinator (but is not on camera). The case investigator's role is to notify the hypnotic coordinator of information that is developed during the course of the interview that is of particular importance, either because it is new information or contrary to that which was previously stated. This is done by having the case investigator write down comments such as; "Develop more detail about the automobile". Then he passes this note to

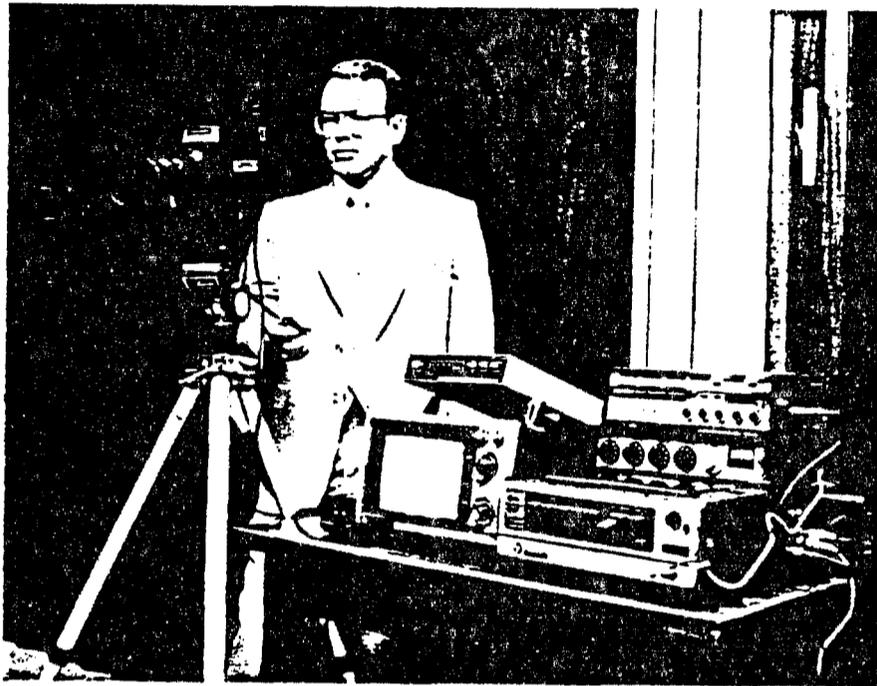


Figure 29-3
Audiovisual recording apparatus.

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the hypnotic coordinator. Upon receipt of such a note, the hypnotic coordinator initials the note and writes the time at which it was transmitted. As appropriate to the course of the session, the hypnotic coordinator will ask non-leading questions which address the concern raised by the case agent. This precaution is taken to assure that suggestive or leading questions do not occur, while at the same time being sure that details of investigative importance are pursued. By design, the hypnotherapist and hypnosis coordinator know very little about the case. This is to preclude any a priori conclusions that might otherwise be reached, as well as to further minimize the potential for cueing, which would suggest information known to investigators. Prior to the interview, the coordinator also provides the hypnotherapist with a detailed overview of the procedures to be followed, emphasizes precautions regarding leading questions, and clearly establishes that the interview is considered a forensic medicine procedure which is under the practitioner's charge. This is an important safeguard for the well-being of the interviewee, as the hypnotherapist may terminate the interview at any time if it is necessary in the best interests of the interviewee.

To assure that an interviewee is participating with fully-informed consent and voluntariness, a standardized informed consent form is used. The format for this form is depicted at Appendix 1, and in Appendix 2 is a modified form to be used if the interview is being monitored by others. Additionally, a prepared statement is used to obtain permission to use the recordings for training purposes, should the session seem to have value as an educational aid (Permission To Release form, Appendix 3). This Form, however, is not presented until after the interview has been concluded.

The doctor needs to be allowed the opportunity to be certain that the interviewee is well suited to experience hypnosis and the recall of potentially traumatic events. To accomplish this, the doctor may have a private clinical interview with the interviewee if it is felt to be necessary. This interview addresses the mental status of the interviewee, and does not include any discussion of the case. Other than this possible inter-action, however, all proceedings are tape-recorded.

On occasion, interviewees state that they would feel more comfortable having a friend present during the interview. Any such additional persons, to include a chaperone if one is utilized, should sit far in the rear of the room, and while present, they usually cannot hear any of the dialogue. Consequently, these persons do not respond to the contents of the interview, and as a final precaution, all persons who are to witness the interview are cautioned not to make any responses which would influence the proceedings. An alternate and superior way of assuring the interview is free of interference is to have interested parties monitor the session by means of a remote television monitor which is located in another room.

The form and flow of the interview follows a predetermined script. The script structures the interview so that it includes all necessary precautionary considerations while providing a structure with which to enhance the familiarity of roles and development of information. A copy of

*Names of persons and places in this investigation have been changed to protect identities, and this transcript has been edited and condensed from the original four hour session.

the script which is employed throughout the interview is appended to this chapter as Appendix 4. Its use is demonstrated in a transcript of a forensic hypnosis session which is included in the following case discussion.

Case Example and Transcript of Interview.*

Miss L. reported to authorities that she had been raped by a motorist who had offered her a ride to work. She stated that she would not have ordinarily have accepted a ride, but she had recently fractured her ankle, and was wearing a partial cast which made her brief walk to work quite cumbersome. Miss L. told investigators that at approximately 6:30 in the morning she was hailed by a motorist who she recognized as an individual she had met while at a nightclub some two weeks earlier. She reluctantly entered the car and the two engaged in small talk until the driver turned in the wrong direction. She protested, but was told that he "wanted to show her something". The auto was driven to a deserted area where the driver produced a gun and demanded that she undress. She hesitated, and a pistol was put to her head with the threats that he would have his way whether she was dead or alive. She then followed his instructions, which subjected her to sexual intercourse. She was allowed to dress, and

*Names of persons and places in this investigation have been changed to protect identities, and this transcript has been edited and condensed from the original four-hour session.

eventually was driven to her residence where she reported that he threatened to kill her if she went to the police. She went directly to her room, bathed, and then reported the assault to authorities.

The investigation included a thorough, medical rape protocol examination. Further, locations where she was picked up and dropped off were canvassed in the hope of identifying witnesses. Also interviews were conducted of personnel at the nightclub where she had met the suspect on an earlier occasion. Miss L. attempted to generate a facial composite of her suspect, but was unable to. In the following two months, she encountered one brief, chance contact with her alleged assailant, at which time he again threatened her life. Following that, she relocated to another geographic area, out of concern for her safety.

A review of other sexual assault cases within the the military community and neighboring towns, failed to reveal any similar crimes. One local police department did report apprehending a speeder following a high-speed chase. While these two incidents had no obvious relationship, the color of the speeding automobile, and his general physical description (age, height, and weight), were in keeping with that of the rape subject. A photographic lineup, which included a photo of the speeder, was constructed and presented to the rape victim. She reported however, that she had never seen any of those individuals before. Finally, after some two months without any investigative developments, the case was considered for final review prior to closure. As a result of this review, a request was made for a hypnotic interview as a possible means with which to enhance the victim's recall of the Subject, the handgun used in the assault, and the subject's vehicle. Headquarters' review of this investigation

generated a request that the victim be reinterviewed to clarify numerous details of her earlier statements. Upon reinterview she repeated what she stated previously, with the exception that in this subsequent contact, she was emphatic that the suspect held the gun to her head during intercourse. Due to a variety of subtle concerns regarding her motivation to assist investigators, it was then recommended that the victim be polygraphed regarding the major elements of her statements. She consented to polygraph and, after some initial uneasiness she was cooperative, advising that she had altered several aspects of her statements so that she would appear to be more clearly the victim of a violent act, and in so doing protect her own pride and dignity. Coordination for the request to use hypnosis then commenced.

The Victim willingly volunteered for a hypnotic interview, and added that she had never received treatment from a mental-health professional. Next, the prosecutor for the case was contacted for coordination. Approval for the use of forensic hypnosis was granted by the headquarters of the federal investigative agency, with the understanding that details of the suspect's vehicle would be of particularly important. Also important would be details of the meetings in which the victim and the subject talked prior to the rape, and on the chance encounter some days after the rape (in a hope to identify other witnesses). The following is a summarized transcript of Miss L's forensic hypnosis interview.

Hypnosis Coordinator:

This interview is being conducted at Miller Air Force Base, New York. It is the 2nd of March 1981. The time is now 8:30 in the morning. Persons present are: myself, Special Agent John Smith, Air Force

Office of Special Investigations. To my right is Miss L., and to her right is Dr. Neil S. Hibler; off-camera are Special Agent William Jones and Special Agent Richard Scott, Air Force Office of Special Investigations, and Mrs. Wendy Appleton.

Miss L., it is clear that we're using television equipment to videotape what occurs this morning, is that alright with you?

Interviewee:

Yes.

Hypnosis Coordinator:

The purpose of this interview is to discuss the circumstances of a sexual assault that Miss L. has reported to have occurred on December 14th, 1981, at Miller AFB. I would like to now turn your attention, Miss L., to Dr. Hibler who is going to speak with you about hypnosis and the procedures which are used in hypnotic interviews.

Mental Health Professional:

Miss L., may I call you by your first name?

Interviewee:

(She nods Yes). My name is Elizabeth, but I like to be called "Betty".

Mental Health professional:

Okay, Betty, I'd like to explain some things to you about hypnosis, and how we would like to use it as an aid in working in this

investigation. First, perhaps you could let me know if you've encountered hypnosis before?

Interviewee:

No, I've never been hypnotized. I only know what they say on TV and the movies.

Mental Health professional:

Okay, perhaps then I might explain some of what I feel is important to know about hypnosis. I define hypnosis as an altered state of consciousness. Let me say that another way; It's a very natural way of being relaxed. There are a number of qualities that also might be used to explain this "altered state". One I have already alluded to, for in its natural form it's quite relaxing. About the other qualities, hypnosis is a state in which each of us has the potential to alter our perceptions. Altering perceptions can be useful in medical and dental applications of hypnosis to relieve pain, and sometimes control bleeding. It's also a potent way to control anxiety, and therefore has many applications for emotional adjustment, such as in psychotherapy. One psychotherapeutic application is something that doctors call an age, or time regression, which allows individuals to re-experience critical events in their lives. This is the application which is used to aid investigations. What may be helpful here is for you to re-experience that morning on that day in December, and in so doing, provide myself and Mr. Smith an understanding what happened to you.

Let me talk, a little bit more, about trance itself. If you would like to proceed with the interview today, I will help you to experience hypnosis, and we'll talk about that, what that feels like. Then, when I feel you're ready, and you feel it's okay, we'll use time regression to go back to the day in which the incident occurred. I've mentioned that, in its natural state, hypnosis is most comfortable, and explained this is why hypnosis is so helpful in dealing with anxiety. Unfortunately, there are often misconceptions about hypnosis; perhaps I might address a few of these.

In hypnosis, you will be in control of your thoughts and actions, just as you always are. For example, if a fire alarm were to sound or, even while you were deep in trance, you would be able to get out of the chair and exit the building just the same as you always would. Further, you won't do anything in hypnosis that you don't want to do. For example, if there is some area that a question asks about that you're uncomfortable with, you need not answer, just please let me know. I'd like to know if you are uncomfortable because a question deals with something that's private, or if it's something else that you're anxious about. For, if it's okay with you, I believe I will be able to help you deal with something, for example, that you're anxious about. We will not pursue any area that you do not want us to. Also, I'd like to add that most people can be hypnotized, if they want to be. Incidentally, there are different capacities to experience hypnosis among people, and trance itself has varying depths or degrees. While you're experiencing hypnosis, we can talk about how

trance feels, and its depth, and so on. Please feel free at any time to ask any question that you may have.

Now let me tell you how we conduct an interview. In using hypnosis in forensic applications, we use a standardized format. One of the details is my talking to you and explaining hypnosis, and answering any questions that you may have, just as we're doing now. After we're through with our conversation, Mr. Smith will go over an informed-consent certificate with you, which he'll ask you to read and, if you concur, to sign. After that, we'll be talking about the incident in question - without any hypnosis at all. You see, Mr. Smith and I know almost nothing about your investigation; we would rather hear about it from you. After we've discussed what you recall of the event now, in detail, I'll let you experience trance so that you can become familiar with that. Trance induction, or the way in which you enter trance, can be very varied, and I'll use several ways today so that you can tell me which ones you prefer. I'll also be doing some deepening with you, so that you can access different levels of trance. Earlier, I mentioned age, or time regression; this is a form of time distortion, which will enable you to re-experience that incident of weeks ago. As you re-experience that incident, you may well feel the emotions now that you felt then. That's why I'm here; if you were to have any difficulty with that, just let me know, I can help you. We'll also be using some inquiry techniques. Sometimes we call these television techniques, because they're like the production effects used in televised sports events. For example, if you've watched a professional football game or baseball game, you've seen stop action,

instant replay, focussing in, and so on. Mr. Smith will assist in asking questions of you and speaking with you in trance. Finally, I would add that often we use something we call post-hypnotic suggestion, which is a way of allowing your recall to continue after trance, because sometimes the memory that you have refreshed with hypnosis comes back with yet additional details after trance. Do you have any questions, any questions at all?

Interviewee:

No, I'll ask if anything comes to mind.

Mental Health Professional:

Fine then. Mr. Smith now has the informed consent form for you to review.

Hypnosis Coordinator:

Miss L., may I call you "Betty" too?

Interviewee:

That'll be fine.

Hypnosis Coordinator:

Please read this informed consent certificate carefully and feel free to ask any questions that you may have. If you concur, I will ask you to sign the form, and Dr. Hibler to sign advising that he has counseled you and then I'll sign as a witness. Here, (gives form to interviewee) take your time; read this carefully.

Interviewee:

(Reads form, nods in agreement, and signs)

(Hypnosis Coordinator and Mental Health professional also sign.)

Hypnosis Coordinator:

Fine. Now, would you tell Dr. Hibler and me about the incident that occurred on the 14th of December.

Interviewee:

Like I said, I had seen him before. The weekend before the incident, I was in the club and he came over, introduced himself, and offered me a ride home. I left with him, but decided to walk home, and I didn't see him again until that morning.

Hypnosis Coordinator:

Okay, tell us about that.

Interviewee:

Well, I had my leg in a cast, and was hobbling down the street when a car pulled up. At first I kind of hoped it wasn't stopping for me. You see, I didn't really know anybody here, and I wasn't sure why anyone would stop for me. I saw it was him though, and I did get in the car - he offered to drive me to work. But he didn't take me to work, he drove me to some secluded place and took advantage of me. Afterwards, he took me back to in front of my place, just dropped me off. That's all.

Hypnosis Coordinator:

Betty, let me ask if you would tell Dr. Hibler and me more about what has occurred. Would that be alright?

Interviewee: (nods in agreement.)

When I first saw him, I was at the club. He came over, asked me where I was from. We just talked for a few minutes. It was late, and I told him I had to leave. He walked me out, and said he would give me a ride in his car, but my place was just down the street. I walked the rest of the way by myself.

Hypnosis Coordinator:

I wonder if you could tell us more about when this occurred, or possibly if you were with others at the time?

Interviewee:

The club thing was about a week, maybe two weeks before that morning. I wish I was with someone then, but I was alone.

Hypnosis Coordinator:

Betty, you said that he walked you out, and offered you a ride. Did you see what he would have given you a ride in?

Interviewee:

His car was parked right outside, but I don't know anything about cars; I couldn't tell you anything about it.

Perhaps there was something that suggested whether it was new or old?

Interviewee:

Oh, it was new. It was bright, shiny. He seemed very proud of it.

Hypnosis Coordinator:

Betty, tell me more about "bright and shiny". What made it look that way?

Interviewee:

It was very clean. Dark in color, maybe, but I really didn't get a chance, maybe I didn't pay attention until that morning. Now, I'm just not sure.

Hypnosis Coordinator:

That's alright, Betty. I wonder if there is anything else that comes to mind?

Interviewee:

That morning, he was all dressed and everything. I wonder what he was doing up at that hour? Anyhow, he was wierd. He really got a kick out of scaring me. I just don't understand. He wanted to hurt me, he just didn't care.

Hypnosis Coordinator:

Betty, what else can you tell us about that morning of the incident?

Interviewee:

What do you mean? I've told you everything.

Hypnosis Coordinator:

I appreciate your going over this again, Betty. Perhaps there is something else that comes to mind as you think about his car.

Interviewee:

No, it was early, I just wasn't thinking about his car. I'm sorry.

Hypnosis Coordinator:

Not at all, Betty. You're doing just fine. I would like Dr. Hibler to now talk with you some more about hypnosis and how we use hypnosis in this kind of interview.

Mental Health Professional:

Betty, I wonder if you have any questions so far?

Interviewee:

No, not so far.

Mental Health Professional:

Okay, then I'd like to allow you to experience hypnosis so we can talk about that. And, when I feel you are ready, and when you say it is okay, we'll use hypnosis in re-experiencing whatever incidents are important. Will that be alright?

Interviewee:

Okay.

Mental Health Professional:

Fine. Betty, if you would, please go ahead and lean back; just allow yourself to get comfortable. You will notice that this is a recliner. Perhaps you would like to slide back a little and see how that feels. That's fine. Now, Betty, just let your eyes close naturally, and let the chair support more and more of your weight.

(A naturalistic induction was accomplished using progressive relaxation and deepening by simple count-down suggestions coupled with imagery of the descent of a spiral staircase. Limb catalepsy was demonstrated, and hypno-analgesia developed on the back of her right hand. Betty talked about what it felt like to be in trance during this initial hypnotic experience and non-verbal cues were practiced for deepening, by touching her right shoulder, and alerting, by touching her left shoulder. The transcript now continues. Betty is in trance).

Mental Health Professional:

Betty, you're certainly ready to go back in time now. Will that be alright?

Interviewee:

Yes.

Mental Health Professional:

For Betty, today is the 2nd of March, going all the way back, Betty, all the way back. Now it's the first of March. That's right, and the

28th of February, 27th, 26, 25, and the day before that, and the day before that, and the week before that, all the way back, .. all the way back, all the way back to sometime important to this incident. All the way back, That's right, that's right. As clear as it can be, now, you're there. Tell us, Betty, what is happening now?

Interviewee:

... Now it's the morning of the attack. I've walked out of my building...and I'm walking down the sidewalk (pause).

Mental Health Professional:

Okay, what is happening now?

Interviewee:

A car is passing me, ... slowing down. It stopped. It kind of startles me, and I look at the license plate - it's local. As I walk by, I see the driver motioning to me. It's... it's the guy I met at The Club. He is asking me if I want a ride. I say: "Well, Okay." It takes me a minute to get into the car, with my cast and all.

Mental Health Professional:

And now, what is happening?

Interviewee:

We're driving down the street. He's talking, but I'm not listening. What? He's turning ... the wrong way. Why are we going this way? This isn't right."

Mental Health Professional:

Um-hmmm.

Interviewee:

He's saying he wants to show me something. (Interviewee is getting visibly anxious. Her knuckles turn white as she grips the arms of the chair; her body becomes stiff, her voice quivers.) He's telling me that he wants to get it on. I try to get out of the car, but he stops me. Oh, my God, - a gun, he's got a gun. He's telling me to take my clothes off. I start, but he pushes, hits me. He says it's not fast enough. (Tears are now rolling down the victim's face, She is trembling.)

Mental Health Professional:

I understand, Betty, ... Go on.

Interviewee:

I'm trying. .. (Crying and shaking as she speaks) But I can't get my pants over my cast. He's pushing, hitting me, telling me "hurry up." (There is a long pause, silence in which she quietly sobs.) He's looking at me,..touching me, he takes advantage of me.

Mental Health Professional:

I hear you, Betty. I hear you.

Interviewee:

He's done. I get dressed, he drives me back to my apartment. I'm

getting out of the car, he says "Tell anyone and I'll kill you." He tells me he knows where I live, and that he'll kill me. I'm stunned, .. out of it.

Mental Health Professional:

Okay.

Interviewee:

I go to my room, undress and shower. I put my robe on, and one of the girls, my girlfriend, sees me, she sees something is wrong. I tell her that I have been raped. She hugs me. I call the police. ... That's all.

Mental Health Professional:

Okay, Betty. How do you feel now?

Interviewee:

Okay. I'm okay.

Mental Health Professional:

Alright, then, Betty, I'd like you then to rewind all of that memory, all the way back, all the way back to the very first time you see this individual,..all the way back. (Pause) There. How's that?

Interviewee:

Okay. I'm at the club.

Mental Health Professional:

This time, Betty, as you tell us what you're experiencing Mr. Smith and I may be asking you questions or focusing on something so we understand that better. Would that be okay?

Interviewee:

(Nods in agreement.)

Mental Health Professional:

Okay, Betty, go ahead then, what is happening now?

Interviewee:

I am at the club. I'm sitting by myself. The music is really fine. (Interviewee is sitting quietly, as if listening-tapping her foot rhythmically.) He's over there, I think he's going to come over and talk to me. He's looked this way a couple of times now.

Hypnosis Coordinator:

I wonder, Betty, who has been looking your way?

Interviewee:

He is. The guy who attacked me. He's coming over. He's standing with his hands on the back of the chair next to me. He says his name, then, "What's yours?". I tell him. It's noisy, I could just barely hear him. (There's a long pause where the victim appears to be intently listening, then she breaks out into a big smile.)

Mental Health Professional:

Betty, you're smiling?

Interviewee:

He's talking with some other guys now. I know one of the guys he's talking to.

Hypnosis Coordinator:

Who's talking to the other guys?

Interviewee:

Mark, the guy who raped me. Oh, ... that's his name. I remember, he said his name was Mark. Mark is his name. That's all he told me. He said his name was Mark.

Hypnosis Coordinator:

And, Betty, you say he's now talking to some other guys?

Interviewee:

Yes, he's talking to Animal, and some of the guys Animal hangs around with.

Hypnosis Coordinator: .

Animal? Tell me more.

Interviewee:

I know him from work, he is called Animal because he opens beer cans

with his teeth. He is big. (Pause) Mark is coming back now, He wants to know if I'm going to hang around. I'm telling him: "No, it's late, I have to go home." Now he's walking me to the door. He is asking me if I want a ride - I'm not sure. We walk to his car.

Hypnosis Coordinator:

Tell us more about the car, Betty.

Interviewee:

It's new. It's brand new. It's bright red.

Hypnosis Coordinator:

Go on, Betty, what else might you be able to tell us about that car?

Interviewee:

He's opening his door now, he's taking out something from under the seat. It's a baggie. It's almost half full with white powder. He says, "You want to snort some coke?" I tell him: "No, and I'd rather walk home." I'm walking home now, it's not far.

Hypnosis Coordinator:

I wonder, Betty, if you see him again?

Interviewee:

That morning, the day he raped me.

Mental Health Professional:

Okay, Betty, it's now that morning. (Pause) that's right, it's that morning. What is happening now?

Interviewee:

I see his car pulling up. I recognize him.

Hypnosis Coordinator:

Stop action here, Betty. What else can you tell us about that car?

Interviewee:

It's red, it's the same car. I see the side of it now.

Hypnosis Coordinator:

You may need to move the film, in your mind, backwards or forwards a little bit if you need to see the car even a little better.

Interviewee:

I see the back now. I don't see the front at all, just the back when he pulled to the curb.

Hypnosis Coordinator:

Okay, Betty. What about the back? Tell us more about that.

Interviewee:

It has a license plate, it's red on white.

Hypnosis Coordinator:

Okay, Betty, go on.

Interviewee:

I don't see it that well. It's not clear.

Mental Health Professional:

Betty, in just a moment, I'll like to place a clipboard in your lap. On the clipboard is a piece of blank paper. Are you right-handed or left-handed?

Interviewee:

Right-handed.

Mental Health Professional:

Okay, I would like to help you with something called automatic writing. I'm going to put a pencil in your right hand, and place your hand on the clipboard. After I do that, your hand will begin to move by itself, like a stylus. The pencil in your hand will move about the paper in a way that has special meaning for you. Later when you look at what you've drawn or written, it may make a great deal of sense to you. I'm putting the clipboard in your lap now, Betty. And now I'm placing your left hand on one end of it so that you may hold it still. Now I'm putting a pencil in your right-hand Betty. Now I'm putting your hand on the clipboard. Your right hand and arm now begin to move. Let that happen all on its own, that's right. Let me know when you are done.

Interviewee:

(The interviewee's hand begins to move about the paper. The pencil draws an image which becomes increasingly more clear.) I am done.

(The interviewee has drawn a rectangle which has rounded corners and a small rectangle within its bottom border. Within the smaller rectangle are the capital letters: JEFFERSON.)

Mental Health Professional:

Okay, Betty. In trance, opening your eyes won't disturb a thing. I want you to open your eyes now, and tell me about what you have drawn, - what it means to you.

Interviewee:

(Opens eyes, looks at what she has drawn) It's the license plate. It's red on white, Jefferson County.

Mental Health Professional:

Okay, Betty, let your eyes close, and now let yourself go even deeper. May I help you with that?

Interviewee:

Yes

Mental Health Professional:

You are on your way to work on that morning, and the car is pulled up to the curb, go on. Let me show you something we call ideomotor signaling. I am going to place your right hand here on the arm of the

chair so your fingers are stretched out comfortably. Each of your fingers, not your thumb, will be able to respond by rising, and in so doing, signaling: yes, no, I am not sure, and I don't care to say. Notice now, that as I gently stroke your index finger, it rises. This is your yes finger; each time it rises it says that the part of you which know you best, says yes. That's right; up, up, up, good. Let your yes finger return to the arm of the chair. (This is repeated for the middle, ring and little finger, to signal no, I am not sure, and I don't care to say). Now I wonder which finger will raise when I ask: May Mr. Smith and I ask some questions of your fingers?

Interviewee:

(Index finger - the "yes" finger, rises)

Mental Health Professional:

Okay, now let that finger return to the arm of the chair as Mr. Smith asks your fingers some questions.

Hypnosis Coordinator:

I wonder what finger will raise when I ask, did the car have a license plate?

Interviewee:

(Her "yes" finger rises, then returns to the arm of the chair)

Hypnosis Coordinator:

Now go where you see the license plate as best as you can. I wonder

what finger will rise as I ask, can you see it as best as you can?

Interviewee:

(Her "yes" finger rises and then returns to the arm of the chair)

Hypnosis Coordinator:

I wonder what finger will raise now, as I ask, does the word JEFFERSON, appear on the plate?

Interviewee:

(Her "yes" finger rises, and then returns to the arm of the chair)

Hypnosis Coordinator

I wonder what else might be on that license plate?

Interviewee

(Her "I am not sure" finger rises, and then returns to the arm of the chair) (Long Pause) I just didn't get a good look at the licence plate. I isn't clear to me at all.

Hypnosis Coordinator:

Will it be alright to come back to this later?

Interviewee:

(Her "yes" finger rises, and then returns to the arm of the chair)

Hypnosis Coordinator:

Okay, now Dr. Hibler and I will ask any questions that may be helpful

as you tell us more about your experience.

Interviewee:

He's telling me to get in, he'll give me a ride. I really don't want to, but it's hard walking with my cast on. I'm opening the door, swinging around to get in. I'm in the car now.

Hypnosis Coordinator:

Okay, stop action here, Betty. What else can you tell us about the car now?

Interviewee:

It has a red interior, same color as outside. It's a Chevrolet.

Hypnosis Coordinator:

What about it suggests that it is a Chevrolet?

Interviewee:

It says that on the dashboard. It says, in silver letters: Chevrolet.

Hypnosis Coordinator:

I wonder what else you might see on the inside of the car.

Interviewee:

That's all. We're driving now... he's turning the wrong way. I don't want to be raped, I don't want this to happen.

Mental Health Professional:

Stop the action right here, Betty. I'm going to help you feel more comfortable now. Take a nice deep breath, Betty, and hold it. That's right. Now let it go. And, as I touch your right shoulder, let yourself release that tension...Going even deeper, that's better. Let me know if you're ready to go on, Betty. And, as you go on, let me know if at any time you're uncomfortable, I am here to help you.

Interviewee:

Okay. We're driving along the shore road to the pine woods. He's parking there. I know something is wrong. He's telling me that he wants me. I say; "No. Take me home." He pushes me. He ... he's pulled out a gun. He's pushing the gun in my face.

Hypnosis Coordinator:

Stop action right here, Betty. What else might you tell us about the gun.

Interviewee:

It's a pistol, a six-shooter; it's big, black. He's pushing it in my face. He's saying: "Take your clothes off, hurry, damn it." He's cursing at me. I'm taking off my blouse. I don't want to do this. He keeps telling me to hurry. He's pushing,..hitting,.. that pistol!

Mental Health Professional:

I hear you, Betty. I hear you.

Interviewee:

I can't get my slacks over my cast. He's really angry. He wants me to hurry.

Mental Health Professional:

I understand, Betty. I understand.

Interviewee:

(The victim is tense, trembling, tears rolling down her cheeks, sobbing as she speaks.) He's looking at me, .. touching me, .. No, .. No.

Mental Health Professional:

Betty, I'm putting a kleenex in your hand. Stop here for a moment, wipe your tears; Part of you knows,.. that you will survive, part of you knows that you will be safe again. When you're ready, go on.

Interviewee:

He's getting on top of me. He's having intercourse with me.

Mental Health Professional:

I hear you.

Interviewee:

He's done. He's getting off me. No,.. my God..- I don't believe it. My God, my God, my God. There is blood everywhere. My God.

Mental Health Professional:

Stop action here, Betty. Take a deep breath, hold it. Let it go, letting go,... that's right, .. that's better. Tell me, Betty, what's happening now. I don't understand.

Interviewee: The pistol, he's using the pistol in me. My God, my God.

He's pulling that thing in the back of the pistol, and telling me if I move he'll shoot me that way, (shuddering) Oh my God.

Mental Health Professional:

Let's pause here for a moment, Betty. Catch your breath. That's better. I don't understand, Betty, you said, "Blood everywhere"?

Interviewee:

Yes, I'm on my period. He thinks it's funny. He's laughing.

Hypnosis Coordinator:

Okay, Betty. When you're ready, .. what happens next?

Interviewee:

He just says: "Get dressed." I put my clothes on, and he drives me home. As he drops me off, he tells me that if I say anything to anything to anyone, he'll kill me. I am stunned. I walk to my room,.. blood everywhere. I shower,.. I feel dirty, so dirty. I put on a bathrobe. My girlfriend comes in. She sees something is terribly wrong. I tell her. We call the police.

Hypnosis Coordinator:

Okay, Betty, let's stop here. I wonder if there's any other time that you may have seen this individual?

Interviewee:

Yes, I was in the cafeteria about a week later, and I saw him on line ahead of me.

Mental Health Professional:

You're there now, Betty. (Pause) What is happening now?

Interviewee:

I see him, but I try to pretend that I don't, only he's seen me. I don't know what to do. He comes over and stands by me. He looks at me. He says: "Remember, you know what not to do to stay alive."

Hypnosis Coordinator:

You see him now, Betty. Tell me what you see?

Interviewee:

A blue short-sleeve shirt and open collar,.. he's in uniform.

Hypnosis Coordinator:

What else might you tell me about his uniform?

Interviewee:

He has four stripes, he's a Staff Sergeant.

Hypnosis Coordinator:

What else?

Interviewee:

(Squinting), I see his name tag. But, I can't read it, it just fades away.

Mental Health Professional:

Betty, I'm again going to put the clip board in your lap, and let you hold the pencil as you did before. Would that be okay?

Interviewee:

(She nods her head, Yes.)

Mental Health Professional:

I'm putting the clipboard in your lap now, your left-hand on the clipboard now, the pencil in your right-hand like this, and now your hand on the clip board, there. Just as before, Betty, let your hand work on its own. Let your hand make whatever mark it needs to to help you understand this better.

Interviewee:

(The victim's hand begins to move, spelling capital letters across the page) That's it, I'm done.

Mental Health Professional:

Okay, Betty, still deeply in trance, open your eyes, and tell me

what you see.

Interviewee:

It says: FULLER. Fuller, that is his name, Mark Fuller.

Mental Health Professional:

Okay, Betty, let your eyes close now. That's right. Letting you go even deeper than before. You are still in the cafeteria, what is happening now?

Interviewee:

That's all. I haven't seen him since.

Mental Health Professional:

Okay, Betty, we can stop here. (Pause) Mr. Smith would you like to ask some questions of Betty?

Hypnosis Coordinator

No, That's all for now

Mental Health Professional:

Anything you'd like to say or ask, while you're still in trance?

Interviewee:

No. I'm okay.

Mental Health Professional:

Very well. Betty, as we come back in time you may bring with you a full measure of memory of all that's happened, remembering perhaps even more details later, for sometimes even other things come to mind. Would that be okay?

Interviewee:

Yes.

Mental Health Professional:

Alright. Coming toward in time now, all the way to the the second of March, 1981. It's mid morning now. Awakening in a minute or two, but not longer, alert and feeling refreshed, and rested, and clear-headed, and perfectly fine. (Pause)

Interviewee:

(Arouses slowly, opens her eyes, look around the room)

Hypnosis Coordinator:

There. How do you feel now, Betty?

Interviewee:

Better. I feel good.

Hypnosis Coordinator:

Are you out of trance now?

Yes.

Hypnosis Coordinator:

Fine. We're going to take a break now. The time is (states the current time from the elapsed-time generator image on the TV monitor), and this will conclude the first tape and this series for this investigation. I must caution all personnel present that during the break, no one is to discuss anything regarding the investigation or what has been discussed this morning.

After a brief intermission, the session was reconvened with the hypnosis coordinator initiating the new tape by stating aloud the time indicated on the television screen, confirming that no one had discussed the investigation during the break, and stating that all that were present during the first tape were again present. The Mental Health Professional and Hypnosis Coordinator talked with Betty concerning her experience of hypnosis, what that felt like, and her memory of what occurred.

While out of trance, Betty was also presented with the current copy of the Auto Mug Book (Fetridge, 1980), and asked whether any of the autos contained within this book were similar to the one used in the assault. She carefully examined the photographs of the automobiles contained in this automobile recognition guide, and picked out a compact model Chevrolet and that of another General Motors manufacture. Betty was also presented with the 1980 Motor Vehicle License Plate Guide*, and asked to identify the

*U.S. Department of Transportation, Washington, DC, 1980.

colors, shapes, or other details of these sample license plates for the 50 United States, to determine which seemed most like the one she remembered on the suspect auto. She identified the New York license plate as being of the right color and form, noting that one other state was also quite similar. Finally, the hypnosis coordinator worked with Betty in developing a facial composite by use of a Smith and Wesson Identi-Kit II.

At the conclusion of this discussion, the session was ended by the hypnosis Coordinator giving a verbal statement as to the time the interview was ending.

After the interview, the doctor spoke for some minutes with Betty, exploring the potential for rape crisis counseling with an appropriate rape crisis center. The hypnosis coordinator received the two video cassettes of the session as evidence, appropriately tagged these items, and secured them in the local investigative agency's evidence room, so that these recordings would be protected. Further, he advised local investigators that if the tape needed to be reviewed, it should be carefully copied on to other cassettes, so that the original recordings did not experience any unnecessary use. Finally, the hypnosis coordinator advised the local investigative office that upon closing the case, either because of a lack of a successful conclusion or, following a trial proceeding and sentencing action, the tapes would be signed out of evidence, attached to the investigative case file as transcripts of the interview, and retained with the case file in headquarters office records (which is for a minimum of 20 years).

In addition to the various considerations that were a part of the review process in considering hypnosis in this investigation was a potential for self-incrimination on the part of the interviewee. For example, had she replied that she did in fact use drugs on the evening that she first met the suspect, she would have been required to have been advised of her rights. This would have been accomplished by the doctor terminating trance and the hypnosis coordinator administering a rights advisement, to include the right to counsel. Further, the interview would not have been permitted to proceed without coordination with the prosecuting attorney.

CONTINUING THE INVESTIGATION

The reason for using forensic hypnosis is to enhance memory so that investigative leads might be generated. Hypnosis is used as a conduit - a means with which to further identify elements of possible investigative importance. Just what value exists in hypnotically recalled information, however, must await confirmation by further investigation.

As in any continuing investigation, confidentiality must be maintained throughout the conduct of the case. This was an important safeguard to avoid contamination of witness' recall prior to hypnosis; the same safeguard needs to be maintained after the hypnotic interview. For these same reasons, therapeutic applications of hypnosis with crime victims needs to be carefully considered. On occasion, for example, a well-intended practitioner will employ hypnosis and systematic desensitization in dealing with the trauma of a crime. Yet, any use of hypnosis without tape recording

would potentially serve to only further question a victim's or witness' capacity to accurately remember. Consequently, it seems best to withhold any solely therapeutic application of hypnosis with crime victims or witnesses until the investigation is closed, or trial proceedings are concluded.

Interviews have the potential to produce a considerable amount of information that is either the same as that given prior to using hypnosis, information that is different (that is, in conflict with that which was said earlier), or information which is entirely new. In continuing the investigation, hypnotically derived details which are of possible significance are pursued. For example, in the interview transcript discussed earlier, the mutual acquaintance of the victim and the suspect was contacted to ascertain the identity of the suspect; military facility parking registration was reviewed for a match to the victim's descriptions of the suspect's automobile, and a review was made of all personnel in the facility who might be identified by the name she recalled in hypnosis. Note that while many details of her statements were unchanged by hypnosis, other details varied considerably. For instance, prior to trance, she had stated that she simply walked home from the club where she had met the suspect, but in trance spoke about his presentation of drugs. This was certainly a difference in her recall. Further, just before hypnosis she did not report any recollection of her final meeting with the suspect. Perhaps she suppressed this memory due to its threatening nature. Yet her recall of meeting her assailant in the cafeteria produced details, developed with hypnosis. The most basic question remains: what, among these details, is accurate? To be certain, the answer must await the

CONCLUSIONS

How effective is Investigative Hypnosis? And what reaction does forensic hypnosis receive in the courtroom? Certainly, these questions test the merit of this investigative tool; here lies its future as well.

Various agencies report mixed successes with the technique, owing largely to different criteria for success. Early analysis of hypnotic results within the Los Angeles Police Department reflected approximately a 7% case resolution due to hypnosis*. Yet, the criteria for selecting cases in, which the technique was employed, and the criterion for success, were largely undefined. The Federal Bureau of Investigation, which employed the Federal Model, has reported that in a sample of 65 hypnosis cases, 12 perpetrators were identified, three of whom were convicted**. The Air Force's use of the Federal Model has resulted in solving, to the case investigator's satisfaction, approximately 12% of the instances where it was employed. These may seem like small odds, but considering that the cases involved are essentially "dead" investigations, a trail gone cold, these odds are clearly better than no chance at all.

*Reiser, M.; Personal Communication, 1977

**Teten, H.; Personal Communication, 1981

The purpose of this chapter has been to alert those who would consult with law enforcement to responsibilities well beyond simply inducing trance. The actual hypnotic interview is perhaps at best but one third of the critical process. The interview is no more nor no less important than careful case review for suitability, or confirmation of information which is developed. To date, many unfortunate precedents have occurred in the courtroom. Well-intended doctors have applied their trade without realizing that hypnosis was ill-suited to the situation in the first place. Worse yet, the products of their efforts were considered on their face value and, consequently, unwarranted prosecutive actions occurred. As the well-known dictum advises: "Bad cases make bad laws." So it has been with forensic hypnosis (Margolin, 1981).

Until the nature of human memory and hypnosis are better known, all of the controversies will remain. Admidst such turmoil, it would appear that a conservative, criterion relevant plan for using forensic hypnosis is a surer route to justice. The Federal Model was developed because of the many controversies concerning forensic hypnosis, and while this plan does not resolve them, it avoids each by assuring that that hypnosis is neither a replacement for traditional means of law enforcement, nor a trier of fact. Instead, it is a cooperative effort, employing professional expertise from mental health and law enforcement to assure both the well-being of the individual interviewed and the likelihood of resolving crime. Forensic hypnosis is an important investigative tool which is used to enhance the memory of a victim or witness to develop investigative leads, but that is not enough. Hypnotically obtained information needs to be independently corroborated. Without this confirmation it isn't any

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Amer Bar Assn J, February, 1978

CONSENT FOR HYPNOSIS

I hereby agree, voluntarily and freely, to undergo hypnosis, and be interviewed under hypnosis in order to assist the (Insert Name of your Investigative Agency) with an investigation in progress. I understand that, unless I request otherwise, a special agent of the (Name of your Investigative Agency) may be present during the interview. I also understand that a transcript or other means of preservation may be made of the interview and that the transcript or other method of preservation may be used for any lawful purpose connected with the investigation or action based thereon. _____, a mental health professional, has explained the procedure(s) to be used and that, while recalling details of unpleasant events, I may experience some discomfort; but that apart from such discomfort there are no known risks or expected complications from the procedure to be used. The purpose of the interview under hypnosis is to assist my memory in recalling the following: _____

WITNESS

INTERVIEWEE

DATE & LOCATION

DATE & LOCATION

I have personally counselled the interviewee on the purpose of the interview and on the procedure to be performed.

MENTAL HEALTH PROFESSIONAL

DATE & LOCATION

Appendix 1

CONSENT FOR HYPNOSIS

I hereby agree, voluntarily and freely, to undergo hypnosis, and be interviewed under hypnosis in order to assist the (Insert Name of your Investigative Agency) with an investigation in progress. I understand that, unless I request otherwise, a special agent of the (Name of your Investigative Agency) may be present during the interview. I also understand that a transcript or other means of preservation may be made of the interview and that the transcript or other method of preservation may be used for any lawful purpose connected with the investigation or action based thereon. _____, a mental health professional, has explained the procedure(s) to be used and that, while recalling details of unpleasant events, I may experience some discomfort; but that apart from such discomfort there are no known risks or expected complications from the procedure to be used. The purpose of the interview under hypnosis is to assist my memory in recalling the following: _____

I have also been informed that the interview room is equipped with a one-way mirror and intervom system or remote television monitor and, unless I desire otherwise, other persons who will be fully identified to me will be watching and listening to the interview.

WITNESS

INTERVIEWEE

DATE AND LOCATION

DATE AND LOCATION

I have personally counselled the interviewee on the purpose of the interview and on the procedure to be performed.

MENTAL HEALTH PROFESSIONAL

DATE AND LOCATION

Appendix 2

RELEASE FOR USE OF VIDEO TRANSCRIPT

(DATE)

LOCATION

I, _____ participated in a hypnotic interview at _____, on _____. With my prior consent, the complete hypnotic interview session was recorded on video tape and I am identified in that tape. I understand that hypnotic interview was conducted as an aid in an official investigation conducted by (Insert the name of your Investigative Agency). I have been advised by Special Agent _____, of the (Name of your Investigative Agency), that the video transcript may be beneficial in the training of law enforcement personnel and individuals associated with forensic medicine. In consideration of the fact, I freely give the (Name of your Investigative Agency) my consent to use the video transcript for training purposes, to include making it available to other law-enforcement agencies and forensic medicine personnel.

SIGNATURE

WITNESS:

Appendix 3

FORENSIC HYPNOSIS SCRIPT

THE INTERVIEW (Everything is Recorded on Tape)

A. Hypnotic Coordinator: Open the interview.

Place:

Date:

Time:

Identify Persons Present (Also identify persons remotely monitoring the interview, if that is done.)

Request (and receive) permission from interviewee to record the entire proceedings on video tape.

State the Purpose of the Interview.

Turn attention to the Mental Health professional.

B. Mental Health Professional:

Appendix 4

- post-hypnotic suggestion

Return attention to Hypnosis Coordinator.

C. Hypnosis Coordinator:

Obtain informed consent

- Before interviewee signs form, ask: "Are you in hypnosis now?" (A negative reply is necessary.)

Ask interviewee to describe the event in question.

- This is a detailed recounting, allowing the interviewee to review the event as they please, (do not pump.)

Turn attention to Mental Health professional.

D. Mental Health Professional:

(Optional) may wish at this time to:

- conduct hypnotizability tests
- conduct practice trances

- Explain Hypnosis (which may include):

- asking the interviewee if they have been previously hypnotized
- asking what the interviewee knows or has heard about hypnosis
- defining hypnosis
- explaining misconceptions
- describing trance characteristics and experiential qualities.

- Explain procedures to be used (which may include):

- trance induction
- deepening
- time distortion
- mention potential "Risks", (e.g., re-experience of emotions connected with the event)
- inquiry techniques (e.g., T.V. techniques, etc.)
- mention that Hypnotic Coordinator will assist

Note: SELF-INCRIMINATING STATEMENTS: If the interviewee incriminates himself, have the mental-health professional terminate the trance; have the acknowledge (verbally) that he is out of trance; and the Hypnotic Coordinator will advise the interviewee of his rights. Finally, the Prosecuting Attorney will be contacted prior to any re-interview.

Return attention to the Mental Health Professional.

F. Mental Health Professional

Terminates trance.

G. Hypnosis Coordinator

- Ask interviewee to discuss what they said in trance; develop details.
- Where appropriate, obtain composite sketch, Identi-kit composite or conducts photographic lineup.
- Last thing to be done before termination of video taping is to ask the interviewee: "How do you feel?"
 - Be sure tape includes the interviewee giving a response that they are okay.

Conduct induction

Enact age (time) regression

- test trance depth by observing or enacting hypnotic phenomena.

Turn attention to Hypnosis Coordinator.

E. Hypnosis Coordinator:

Conduct inquiry (Use Present Tense).

- Let the interviewee describe the event spontaneously, or with minimal encouragement. After the entire event is mentioned the first time, then follow in a detailed description, assisted with T.V. techniques, etc.

The Mental Health Professional also...

- may deal with emotionality
- deepen trance (as needed)
- Near end of interview, use post-hypnotic suggestion for later recall in yet greater detail, etc.

- End Interview: Say aloud the time indicated on the date-time

generator, and announce that the interview is concluded.

Breaks

- Breaks will be needed to change tape, use the lavatory, or possibly allow for meals. Trance should be terminated before breaks, and (on tape) a precautionary statement made not to discuss the case.

- The mental-health professional will be asked to terminate and re-initiate trance as needed.