

FORENSIC HYPNOSIS

Revised First Edition

FORENSIC HYPNOSIS

The Practical Application of Hypnosis
in Criminal Investigations

By

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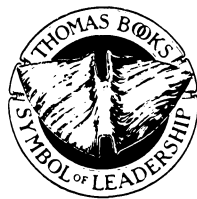
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*to all our students and subjects
who taught us much*

PREFACE TO THE REVISED EDITION

Since the publication of *Forensic Hypnosis: The Practical Application of Hypnosis in Criminal Investigations* in 1981, a great deal has happened in the field, enough to warrant the publication of a revised edition. This edition reflects a survey of the professional activity in the field and a comprehensive review of the relevant case law that has been generated from 1981 to 1995. Chapter 6, **Case Law Analysis of Hypnotically-Related Evidence**, will prove especially valuable as it has been entirely updated with a comprehensive new section on the admissibility of hypnotically-influenced testimony. As such, it will prove invaluable to all investigators who already use or are considering the use of hypnosis as an investigative aid, and to any legal counsel that must defend that use in a court of law.

A nationwide review of the current status of forensic hypnosis has revealed that it is still a growing and maturing field. Although some court rulings have made it more difficult for the admissibility of hypnotically-enhanced testimony, other rulings have done just the opposite. Overall, there seems to be a resurgence of interest in the technique, and it is broadening to include more civil applications. In some quarters, practitioners in the field have differentiated between “investigative” and “forensic” hypnosis with the former being specific to the investigative phase and the latter being specific to the legal phase and testifying in court. In this edition, we generally use the term “forensic” as all inclusive. Training in forensic hypnosis is still available in various state law enforcement academies and there are several good courses taught by private consultants, most of whom are retired law enforcement personnel with extensive experience in hypno-investigation. In some states, there is virtually no activity in forensic hypnosis (e.g., Montana), whereas in other states (e.g., Texas) there is a great deal of organized activity in the field. For instance, in 1980 the **Texas Department of Public Safety/Texas Rangers** developed a comprehensive in-house hypnosis training program which trained veteran law enforcement officers in investigative and forensic hypnosis. Between July 1, 1980 and January 1, 1993 the **Texas Department of Public Safety** conducted 1341 hypnosis interviews in which additional information was obtained in 74 percent—a very admirable record. Texas is also the first state to enact legislation permitting the use of hypnosis in criminal investigations and requiring certification of law enforcement officers conducting hypnosis interviews. There is also an active state association in Texas, the **Texas Association for Investigative Hypnosis**. Other law enforcement agencies around the country interested in developing a hypnosis program should contact the **Texas Commission of Law Enforcement Officers Standards and Education** in Austin and the **International Society for Investigative and Forensic Hypnosis** currently in Reno, Nevada.

The authors are indebted to the many people who have been active in promoting the field of investigative and forensic hypnosis and to those who provided current information that helped us bring *Forensic Hypnosis* up-to-date: Dr. Martin Reiser, Paul Kincade, George Baranowski, Marx Howell, Phil Dunnigan, Jerry Brooks, Kathleen Burke, Harold Cottle, Dr. David Cheek and, Dr. George Mount.

W.S.H.
R.W.W.

PREFACE

THE SPECIFIC PURPOSE of this book is to fill the need that has long existed for a definitive and authoritative textbook on the use of hypnosis in criminal and civil investigations. It is a comprehensive technical manual on the principles, techniques, application, procedures, management, and legal aspects of forensic hypnosis. It also clearly defines the parameters of this new science and encourages the use of better techniques in its application and management than are generally taught and used. It is based on extensive research and experience in the field and is written by professional hypno-investigators for investigators, whether law enforcement officer, prosecutor, defense attorney, private or legal investigator, or consulting doctor.

In writing this book, it was the senior author's purpose to bring together a unique blend of expertise in the technical, practical, and legal areas of hypnosis and forensic hypnosis that would complement his own post-graduate training in clinical hypnosis and extensive experience with law enforcement and criminal justice. To this end, he utilized the technical assistance and consultation of an experienced hypnotist and hypno-investigator, Ray Worrying; a contribution from one of the most experienced hypno-investigators in the country and original member of the L.A.P.D.'s pilot hypnosis project, Dick King; and a contribution from an experienced prosecutor knowledgeable in hypnosis, Dan Falcon.

The author wishes to express his appreciation and gratitude to Chief Jack Anderson of the Great Falls, Montana, Police Department and Sheriff Glenn Osborne of the Cascade County, Montana, Sheriff's Office for inviting myself and Ray Worrying into their respective departments and for prompting us to design and teach a course on hypnosis in criminal investigation. I am also indebted to Scott G. Hibbard, Robert Rechlin, and FBI Special Agent Al Murphy (ret.) for their editorial comments and advice on the manuscript. Special thanks is given to Sergeant William Raynes, G.F.P.D., for the idea for the book and for his technical advice on the hypno-investigation room. Special thanks is also given to Doctor John G. Watkins of the Graduate School of Clinical Psychology, University of Montana, and to Helen Huth Watkins, Counseling Psychologist at the Center for Student Development, University of Montana, for training me in clinical hypnosis.

W.S.H.

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DISCLAIMER

Forensic Hypnosis is designed to provide information on the practical application of hypnosis in criminal and civil investigations. Its intention is educational. Its purpose is not to render legal or other professional advice. If such services are necessary, consult a competent professional in the desired field.

Every effort has been made to make this text as complete and accurate as possible. The information contained herein is believed to be accurate; however, each investigator must make individual decisions and assume responsibility for his/her own behavior.

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FORENSIC HYPNOSIS

Chapter 1

INTRODUCTION TO FORENSIC HYPNOSIS

What Is Forensic Hypnosis?

Forensic hypnosis is the application and management of the science of hypnosis in criminal and civil investigations. The primary objective of forensic hypnosis is to enhance the recall of volunteer victims and witnesses to crimes and civil actions. Forensic hypnosis will be used interchangeably with *investigative hypnosis* and *hypno-investigation*.

What Is a Hypno-Investigator?

A legal professional, whether a law enforcement officer, prosecutor, private attorney, or private or legal investigator, who is trained in and utilizes hypnosis as an investigative tool to gather facts pertaining to an event that is likely to be subject to prosecution or litigation is commonly referred to as a hypno-investigator. *Hypno-investigator* is often used interchangeably with *hypnotechnician*, however, the latter term, as popularized since 1955 by the Association to Advance Ethical Hypnosis, generally refers to one who is trained in hypnosis techniques as a paramedical assistant. Hypno-investigator will be used interchangeably with *operator*, and *hypnotist*.

Why a Book on Forensic Hypnosis?

Forensic hypnosis is a new and blossoming field, as evidenced by numerous articles and a variety of courses on the subject now offered throughout the country for criminal justice personnel, but a comprehensive operator's manual does not exist. Anyone embarking on the study of investigative or forensic

hypnosis will immediately become painfully aware that there is a tremendous lack of concise and centrally located information regarding its use and what does exist is scattered throughout a variety of texts, articles, case precedent, and within the minds of those experienced in the area. Furthermore, most hypnosis texts are written by doctors for doctors, which means that their central aim is therapeutic and that the terminology used is usually beyond that of the ordinary layman. It is rare that one of these texts will address the area of forensic hypnosis. Those that do usually do so only in passing, and the authors have usually had little or no experience and involvement with the criminal justice system. Due to the ever changing case law and legal status of hypnosis, what has been written is now largely out-of-date. Therefore, with the growing interest in and use of investigative hypnosis, the need for a comprehensive book on its principles, techniques, application, management, and legal aspects is evident.

Who Is This Book Meant For?

This book is designed and will have practical application for any professional who is involved in the legal establishment as an investigator, lawyer, or consulting doctor who is interested in hypnosis as it may apply to his work. Specifically, it is written primarily for law enforcement officers who are interested in adding a valuable investigative tool to their armamentarium and to the prosecutors who must ultimately defend its use in court. The book will, however, be of equal benefit to those

professionals in the private sector who also are confronted with the poor memories of victims and witnesses, whether they be private civil or defense attorneys, legal or private investigators, or psychologists and psychiatrists doing criminal or civil case consulting. This book will also be valuable for those students of hypnosis who are interested in learning or teaching a comprehensive system of hypnotic induction techniques, but who are uninterested in forensic hypnosis itself.

What Is The Purpose of This Book?

Hypnosis is presently and rapidly becoming a practical and valued investigative tool. Until very recently, however, hypnosis was carefully controlled by select professions and was seldom used in law enforcement. The norm has usually been for law enforcement to seek the aid of a clinical hypnotist as a last resort on major cases. The results were often mixed, however, due to an unsympathetic hypnotist, or even good intentioned ones who had little or no understanding of law enforcement, crime-related interviewing procedures, rules of evidence, or information needed to solve cases. After a close working association with law enforcement over the past several years, it is the authors' purpose to make hypnosis much more accessible to law enforcement. By this we mean that carefully selected law enforcement officers, as they have been throughout the country, should be trained as hypnotists to function as hypno-investigators within their departments. Hypnosis has demonstrated its validity and effectiveness as an investigative tool to the point that it should be made a collateral and supportive service either within or available to every law enforcement agency in this country.

Forensic hypnosis is a special discipline and should be made a separate branch of the science of hypnosis, for

reasons to be explained later. It is hoped that in some small way this book will aid in this development.

What Is The Scope of This Book?

Briefly, this book covers the history, theory, principles, practice, management, and legal aspects of hypnosis in criminal investigations. Although the emphasis is primarily on criminal investigation, the basic procedures for the application and management of hypnosis, as well as the case law regulating its use, hold equally for civil cases.

More specifically, the book is designed to function as:

1. A student's technical manual for learning investigative hypnosis techniques.
2. An instructor's manual for teaching investigative hypnosis techniques.
3. A technical manual on how to develop a hypno-investigation program within a law enforcement agency.
4. A technical manual on how to manage and regulate the use of investigative hypnosis.
5. A technical manual on how to lay the proper foundation in criminal cases so it will stand the test in court.
6. A comprehensive review of the legal standing of hypnosis.
7. An analytical survey of special topics and problems in forensic hypnosis.

What Is The Plan and Format of This Book?

The book is designed primarily for self-teaching. It is a *how-to-do-it* book in very readable form. Keeping in mind the audience the book addresses and recognizing the fact that most hypnosis literature is written in difficult psychological terms, the authors will make a conscious effort to avoid obscuring the material presented by utilizing abstruse and arcane words. Wherever possible,

therefore, the authors will use simple, definitive terms. Necessarily difficult words and hypnosis terminology will be defined within the body of the text as they first appear.

Forensic Hypnosis is also designed to function as an instructor's manual and text, text, as well as a reference manual for hypno-investigators, prosecutors, and other attorneys who need a concise and consolidated reference on hypnosis and the law.

Where possible and appropriate, the authors will cite specific references for further inquiry for the interested student. Furthermore, in certain complex areas or topics, the authors will include more detailed and specific information in appendices so as not to detract from the simplicity and straightforwardness of the main text.

There are four basic stages and objectives in this book: (1) to orient the reader to the history, theory, and principles of hypnosis and forensic hypnosis, (2) to teach a comprehensive system of hypnosis techniques, (3) to thoroughly address the practical aspects of when and how to apply and manage investigative hypnosis,

and (4) to thoroughly review the legal status of hypnosis.

The ultimate question, however, is if a law enforcement officer can become a good hypno-investigator just by reading and following the instructions in this book. *Forensic Hypnosis* was written in an attempt to answer this question in the affirmative.

What This Book Is Not

This book is not a collection of war stories and anecdotes. References to case histories will only be included to elucidate specific points.

This book is not meant to solve the controversies that continue to rage concerning hypnosis or to teach therapeutic techniques. It is meant to promote the science of forensic hypnosis and to persuade the investigator that the careful and discriminate use of hypnosis can enlarge his investigative effectiveness. The widespread use of hypnosis in criminal justice by laymen is inevitable, and it is the authors' concern that it be employed in a professional and judicious manner so that law enforcement will always have it as an investigative tool.

HOW TO USE THIS BOOK

This book can be used in several ways to fulfill several different purposes. It can be used by an interested criminal justice department or agency head, training officer, or individual to familiarize himself with the potential and practical aspects of investigative hypnosis. From this point, the interested party may choose not to use hypnosis, to utilize the services of an outside medical or psychological consultant experienced in forensic hypnosis, or to have himself and/or other individual investigators trained as hypnotists. If the latter is his choice, there are several ways to proceed, which are listed here in order of preference:

1. Obtain the services of a local sympathetic psychologist or psychiatrist trained in hypnosis and preferably experienced in forensic hypnosis to use the book as a teacher's manual and text for instructing departmental investigators.

2. Send an officer(s) to a recognized course in forensic hypnosis. The International Association for Forensic Hypnosis maintains a roster of trainers and training programs. The reader is cautioned against attending any forensic hypnosis course without first carefully examining the instructors, content and format of the course. Undoubtedly, other quality

courses will be developed and offered, but, unfortunately, many opportunists are cropping up who recognize the economic potential of offering such courses. Many of these lack the qualifications and greatly underestimate the amount of time and work that goes into learning hypnosis. For example, the authors are aware of a day-long forensic course that purports to teach hypnosis techniques for three hours in the morning and advanced hypnosis techniques in the afternoon, at which point the student is awarded a certificate of course completion. Other forensic hypnosis courses offer as little as twenty hours of instruction, yet make extravagant claims of superior course quality and effectiveness. Other courses teach as few as one induction technique.

The authors recommend that any officer trained in an established forensic hypnosis course attempt to enlist the aid of a local sympathetic clinician experienced in hypnosis for further training and supervision as in #1 above. Any short course in hypnosis is only the beginning.

3. Institute an interdepartmental self-training course using this book as a text. This can also be done in conjunction with #2 above.

This book is also designed to be used as a comprehensive reference manual on the legal aspects of hypno-investigation. Any legal professional who uses or intends to use hypnosis in his work or must defend the admissibility of hypnotically induced testimony and evidence in a court of law will find this book valuable.

Plan of Study for Beginning Hypno-Investigators

This book is designed to provide optimum training to the beginning hypno-investigator, either by self-teaching or as a text in an offered course. There are basically two steps in learning hypnosis:

(1) proper instruction and (2) practical experience. As mentioned previously, the ideal situation is to be trained and supervised by an experienced operator, but if this is not possible, do not hesitate to teach yourself. An historical survey would probably show that a sizeable percentage, if not the majority, of practicing hypnotists, whether lay or professional, were self-taught. If self-taught, however, the hypno-investigator should pick up certification as soon as possible by attending a formal course(s), as credentials are important for expert witness qualification.

Whichever approach is taken, there are some basic considerations to follow to maximize one's understanding and learning of hypnosis:

1. To be a successful practitioner, one must have a basic understanding of the principles of suggestion and hypnosis. In other words, you must know *how* it works before using it. Avoid the temptation, therefore, to begin directly with the induction techniques, but begin instead at page one so you obtain the proper foundation first.

2. Once each chapter has been digested up to Chapter 4—The Seven Stages of Hypnosis—the reader is ready to begin learning the actual induction techniques. The techniques included progress from the simplest to the most complex and the reader should feel comfortable with each in its turn before moving on. The goal is to be able to deliver each technique without hesitation, major mistakes, or uncertainty. For such proficiency in each technique, five basic steps should be followed:

a. *Memorizing.* Although word for word memorization is not necessary, the essential components, verbalizations (patter), and their sequence must be memorized. Begin by memorizing the first induction and the first two deepening techniques

(there are twice as many deepenings as inductions, which also progress from the simplest to most complex) as well as the waking procedure.

b. *Role-playing.* Once the induction technique (protocol) is memorized, act it out and see if it can be recited from memory. Do this by yourself either in front of a mirror while addressing an imaginary subject in a chair next to you, or by recording or videotaping your practice session which can then be reviewed. In this way you discover how you will appear and sound to a real subject. Periodically during the day, try to visualize yourself going through the whole protocol.

c. *Simulation with Classmates.* If more than one of you are learning at the same time, simulate the induction with each other, then critique each other's performance for technique, verbal and nonverbal communication, etc. This phase develops the smoothness, fluency, and proficiency necessary to be convincing to a subject. If your partner becomes hypnotized, don't panic, but continue normally through the protocol and awaken him.

d. *Practice with Subjects.* Now you are ready to actually induct a subject. Be sure that you have memorized, role-played, and simulated the awakening procedure so you can bring your subject out of hypnosis.

e. *Feedback.* If your subjects do not mind, tape record or videotape your practice sessions and listen to them immediately after doing a session. Critique your technique, pater, nonverbal behavior and verbal presentation. Try to observe and listen to yourself from your subject's point of view. You may even sit in his chair and role-play the induction as a subject as you listen to yourself. Have other classmates or experienced operators listen to or observe the tapes. All these methods of feedback

will give you a tremendous amount of insight into the subtleties of hypnotic induction, which will greatly improve your effectiveness.

3. To maximize one's ability to empathize and be sensitive to a subject's experience, it is highly recommended that any trainee be hypnotized by the class instructor, if there is one. If not, attempt to seek out a professional hypnotist and undergo the experience, or at least practice with self-hypnosis.

4. It is important to emphasize at the outset that although hypnosis looks deceptively simple and easy to learn by the uninformed observer, its sophisticated and professional use actually involves the learning of an entire system of techniques as well as a sound theoretical understanding. Hypnosis is a science, a skill, and an art that demands a great deal of study, practice, and experience from those who wish to become proficient. With this in mind, anyone interested in learning hypnosis should take a close look at his motivation, his degree of commitment and seriousness, as well as the material to be covered. Some comments from trained hypno-investigators may help to elucidate this important point:

- "First he should look at his commitments. He should be totally committed. He must be committed to home study and commit a lot of time."
- "Probably the first thing I'd suggest to an officer is to try to get a good idea before you start of what you'd be looking at."
- "It's ten times more involved than it appears. It must be taken very seriously."
- "It's a labor of love. It's not easy. It's a lot of work and you're messing with other people's lives so you have to be ready for it."

5. It is highly recommended and well worth your while to keep going back over material learned previously. Each

time the beginner reviews, his understanding is increased in light of his experience, and he slowly becomes more of a professional. It takes hundreds of tests and years of study for a polygraph operator to become an expert, and hundreds of interrogations and much study to become a proficient interrogator. The same holds true for becoming an adept hypno-investigator.

Lesson Plan

In learning hypnosis, or any skill for that matter, it is essential that the student proceed in a step by step fashion to build the necessary foundation of basic knowledge upon which successive and more difficult material depends. This book is designed to first acquaint the student with the history, theory, principles, dynamics, and nature of hypnosis and suggestion before beginning to teach technique and practice with subjects. The techniques themselves progress from the simplest to the most complex and each should be learned in its turn.

The Contents page serves as an ideal outline for a course in forensic hypnosis. It is recommended that the course be taught using a format of one meeting per week of three-hours duration. In the authors' experience, this format is necessary to give the students adequate time between classes to read, study, and practice. Although the outline is specifically designed for a course being taught by an experienced hypnotist, it can be easily adapted for a self-teaching program.

The first session should begin with a comprehensive live demonstration of the hypnotic techniques to be taught. This will give the students an immediate and realistic impression and appreciation of the complexity of the material to be learned. Similarly, the course outline and objectives should be thoroughly reviewed, and the necessity for a sincere personal commitment by each student should be explained. The basic

purpose of the first session is to weed out those students who do not have a genuine interest and serious commitment.

During the second session, the material in Chapter 1 — Introduction to Forensic Hypnosis — can adequately be covered. Chapter 2 — Orientation to Hypnosis and Hypno-Investigation — and Chapter 3 — Principles and Dynamics of Hypnosis and Suggestion — will each require an additional two sessions apiece.

Having covered the fundamentals of hypnosis and suggestion, the students are ready to begin learning the techniques in Chapter 4 — The Seven Stages of Hypnosis. To give the student adequate time to learn and practice each technique, the following sequence should be utilized. The instructor reviews the protocol and demonstrates the first induction technique (eye fixation), the two simplest deepening techniques (silent period and breathing), and the awakening procedure. During the intervening week between classes, the students study and essentially memorize the protocols. During the first hour of the next class, they pair off and practice on each other in quiet rooms around the building. During the second hour, the practice subjects are brought in and one subject is assigned to each student pair. Each member of the pair then practices, in turn, the techniques on the subject. During the third hour, the instructor reviews the protocol and demonstrates the next induction technique (eye blink) and the next two deepening techniques (counting and rapid arm drop). During the intervening week the students continue to practice the first techniques while studying and memorizing the new ones. After the third or fourth week, the instructor can begin to review the protocols and demonstrate the tests and challenges the students will begin to use. This process will continue for approximately eight weeks until each