

TEXAS STATE POLICE

Model Policy

Policies, Procedures, and Guidelines

For the Forensic - Investigative Application of Hypnosis with Victims and Witnesses to Crime

Texas Department of Public Safety- State Police

Policies

Investigative Hypnosis

25.05.00 General

The use of hypnosis as an investigative tool for law enforcement is a fairly recent development. Although it was used for this purpose at various times, there was no concentrated effort to develop it as a practicable working tool until about 1970 when the use of hypnosis in several major cases by the Los Angeles Police Department caused a number of other police agencies to examine the possibility of such use. Currently many major police agencies are using hypnosis to some degree in criminal cases.

05.01

The Department recognizes that many myths and misconceptions have developed about hypnosis and that a number of people regard hypnosis with skepticism; however, it also recognizes the need to utilize new investigative tools when available. Some facts to counteract misconceptions are:

1. Hypnosis is not sleep (whatever sleep is). The subject is very aware of what is going on around and within their physical environment.
2. Hypnosis is not an unconscious state. It is a heightened state of consciousness and may be related to subconscious processes.
3. Hypnosis is not a mind-controlled state. The subject will not do anything against his/her will while in a state of hypnosis or after.
4. Hypnosis, although often intense, is not strenuous and the subject will not experience any adverse physiological or psychological aftereffects. Hypnosis is a very relaxing and comfortable experience.
5. The subject will not be asked any personal or

embarrassing questions with the exception of those questions related directly to the investigation. The subject will not be asked to behave in an inappropriate or unusual manner.

6. There is no danger of a hypnotized person being unable to return to their waking state. The subject will not stay in a state of hypnosis following the hypnotic session. Even if the hypnotist were to leave the room, the subject would come back to a normal state in a short period of time, or would enter a refreshing natural sleep.

7. Investigative hypnosis is not a substitute for proper investigation. It is only one of the many diagnostic tools available to officers to assist in the investigation of criminal cases.

05.02

These guidelines are designed to outline the criteria to be used in the selection and training of DPS personnel to use hypnosis and the use of hypnosis by Department personnel.

25.10.00 COMMITTEE

A hypnosis oversight and training committee is established to monitor the Department hypnosis program, review laws and court decisions relating to the use of hypnosis, recommend appropriate policies, develop necessary training programs, make appropriate recommendations regarding individual hypnotists, and perform other functions relating to hypnosis as desired by the Director.

The committee membership shall be appointed each two (2) years and will consist of a representative of Inspection and Planning, a representative of Legal Services, a representative of the Training Bureau, and at least three (3) active field investigative hypnotists.

25.15.00 TRAINING

15.01

Selection of the proper personnel to be trained in the use of hypnosis is fundamental to the success of the entire program. Requests for training in investigative hypnosis may be considered from personnel in investigative, legal, or training categories. Each such request should be evaluated by in-line supervisors as to the applicant's investigative background and expertise, attitude, performance, interest in and motivation for training, good interpersonal skills, and a liking for and consideration of other people. Personal competence should be the primary consideration with geographical locations also considered. Final approval of personnel to be trained will be made by the Director's Office with input from the Hypnosis Oversight and Training Committee.

15.02

Personnel selected for training in investigative hypnosis will attend a basic course of training approved by the Department and by the Texas Commission on Law Enforcement

Officer Standards and Education. Periodic in-service and advanced training will be scheduled. Department hypnotists will be encouraged to join state and/or national forensic hypnosis associations and to attend their training seminars. Future departmental training and use will comply with any state or national standards established.

25.20.00 AUTHORIZATION

20.01

Upon successful completion of an approved basic course of training and/or certification as an investigative hypnotist by the Texas Commission on Law Enforcement Officer Standards and Education, the Director may authorize the employee as an investigative hypnotist.

20.02

Department investigative hypnotists must be fully prepared to testify as expert witnesses if necessary. For this reason, they will be prepared to provide credentials whenever required. To maintain credentials and to enhance credibility, each investigative hypnotist shall:

1. Conduct a minimum of six (6) investigative or practice sessions or a combination thereof each year to maintain proficiency.
2. Attend either an in-service or approved advanced hypnosis course at least once each two (2) years.

20.03

The immediate supervisor of each Department investigative hypnotist shall annually review, evaluate, and recommend whether continued authorization should be maintained or denied. The evaluation should consider whether the investigative hypnotist has maintained an interest in hypnosis, sessions reported, continued training, and research.

In-line supervisors through the service commander will add their comments and recommendations to those of the immediate supervisor. The service commander will forward the evaluation and recommendations to the Hypnosis Oversight and Training Committee for review no later than February 1. Recommendations to the Director for denial will be forwarded by the committee.

20.04

The Director may withdraw authorization from any Department investigative hypnotist as a result of the evaluation and review process or at any time continued authorization of an investigative hypnotist would adversely affect the Department.

25.25.00 USE

25.01

The purpose of using investigative hypnosis is to provide additional information or clues

that can be substantiated. Evidence gathered by hypnosis will be viewed as contributory evidence and shall be corroborated as fully as possible by other means of investigation.

25.02

No employee of this Department shall use any hypnotic interview technique unless authorized by the Director as an investigative hypnotist. (See Annex #5)

25.03

Hypnosis may be used by members of this Department in felony or misdemeanor cases when requested by a Department investigator or other law enforcement agency. Department investigative hypnotists should exercise discretion to assure that their services are not being requested as a substitute for proper investigation or for cases in which hypnosis would be of minimal value.

25.04

No person shall be placed under hypnosis in any case in which that person might be a defendant or suspect, nor shall any person be placed under hypnosis when the investigative hypnotist has reason to believe that the examination is intended to circumvent or defy the law.

25.05

DPS investigative hypnotists will not use hypnosis for therapeutic or public entertainment purposes. Although there is a considerable difference of opinion as to what constitutes therapeutic use of hypnosis, DPS policy includes weight reduction, stopping smoking, and similar applications of hypnosis as prohibited activities.

Added: (Comply with all TCLEOSE and statutory requirements.)

25.06

Prior to conducting any investigative session, the investigative hypnotist shall obtain approval from his/her immediate supervisor. The supervisor will be advised if the subject is under the care or treatment of a physician, psychiatrist, or psychologist and the reason for such care or treatment prior to the hypnosis induction. In such cases, the supervisor should carefully evaluate the request before granting approval for the session.

1. If a proposed subject is under treatment for a heart condition, epilepsy, diabetes, or other serious physical condition or is taking stimulants or sedatives, consent of the attending physician must be obtained prior to hypnosis induction.

2. If a proposed subject is under the care or treatment of a psychiatrist or psychologist, consent of the attending psychiatrist or psychologist must be obtained prior to hypnosis induction.

25.07

Every hypnotic session conducted by a DPS investigative hypnotist will be recorded on audio or video tapes.

25.08

All recordings of any hypnotic session shall be retained by the Department the same as any other evidence in a criminal case for so long as the case for which it pertains has not resulted in an acquittal, a final conviction, or dismissal. In any case in which no charges are ever brought, the evidence shall be retained until the statute of limitation for the particular offense has run.

25.09

When the investigative hypnotist is a polygraph operator, these additional restrictions will be imposed to separate the function of polygraph operator from that of the investigative hypnotist.

1. A polygraph examiner will never administer a polygraph examination to any individual that he has hypnotized.
2. A polygraph examiner will never administer a polygraph examination and conduct a hypnosis session on the same case or issue.
3. While using hypnosis, the polygraph examiner should refrain from implying or stating that he is a polygraph examiner unless specifically asked by the subject.
4. While conducting a polygraph examination, the polygraph examiner should refrain from implying or stating that He is a hypnotist unless specifically asked by the subject.
5. If the polygraph examination room is to be utilized in a hypnosis session, the polygraph instrument and its attachments shall be removed.

25.30.0 CONDUCTING THE INTERVIEW

30.01 Preliminary Activity

1. The investigative hypnotist should never hypnotize subjects connected with a case in which he/she is the principal investigator as the investigative hypnotist must remain unbiased.
2. Get background information and check on any physical or emotional problems of the subject. Also determine any hearing or speech problems.
3. Arrange for a time and location for the hypnosis session. This may be at a police facility, subject's home, or other place where environment is as relaxing as possible.

4. Arrange for consultant, interpreter, or another investigative hypnotist to be present, if desirable, as backup or for communication. Investigative hypnosis will be conducted with a witness present.
5. Arrange to have only necessary personnel at the session. For eyewitness identifications, the hypnotist should try to have an artist on hand who is experienced in police identification work. If assisting another agency, have someone from the agency present.
6. Make a brief outline of the areas of information sought: vehicle, conversations, descriptions of suspects, weapons, etc.
7. If subject is a juvenile, obtain written parental consent.

30.02 Hypnosis Session

1. Have tape recording equipment on from first contact with the subject so that the entire contact between the hypnotist and the subject will be recorded. The equipment should be in plain sight and the need for it explained to subject. Record date and location of the hypnosis session on tape. Video tape should be used if available.
2. Introduce those present and explain the role of each person - artist, investigator, etc.
3. Exclude family members or friends unless the subject insists they stay.
4. Check on physical comfort: lights, temperature, etc. Complete checklist, form HQ-124 (Annex #1), to determine any reason why session should not be continued.
5. The investigative hypnotist will explain hypnosis to the subject and answer any questions. After the explanation and before inducing hypnosis, the investigative hypnotist will obtain written consent, form HQ-125 (Annex #2), from the witness/victim authorizing the session and will also obtain verbal authorization on tape. For juveniles, the written consent of the parent is also required.
6. The investigative hypnotist should use his/her own judgment as to a practice session, type of induction techniques, and conduct of the interview.
7. Upon the conclusion of the interview, remove all temporary suggestions. Leave only those suggestions intended to remain in effect post-hypnotically. Bring the subject out of the hypnotic state feeling relaxed and refreshed.

8. Answer subject's questions and make arrangements for repeat session if needed.

30.03 Follow-up

1. Review the tapes with the investigator. Try to determine if subject was confabulating; review information obtained with previous evidence gathered. Make sure that investigator is aware of all new evidence uncovered so that it may be corroborated. Maintain proper chain of evidence as in any criminal case.

2. Complete and forward required reports.

FORMS TO BE USED WHEN CONDUCTING A FORENSIC HYPNOSIS INTERVIEW

CAN BE VIEWED BY GOING TO PROFILE OF A HYPNOSIS INTERVIEW ON THIS WEBPAGE.

FORM HQ-123

FORM HQ-124

FORM HQ-125