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INVESTIGATIVE AND FORENSIC

HYPNOSIS

By CW2 Gary L. Griffiths

Probably very few of us in the law enforcement field have not heard details of this Nation's largest mass kidnapping, when in July 1976, 26 school children and their bus driver were driven to an underground pit and held captive. The victims later managed to escape, but were unable to provide police or FBI with more than a sketchy description of their abductors.

For a while, the case seemed bogged down, and dropped out of the news. A short time later, the case again made headlines when the FBI announced they had arrested one of the kidnapers, and later took a second individual into custody. Both were convicted of kidnapping and harming the victims and were sentenced to life in prison.

Few are aware, however, that the case was not solved by FBI agents or by police, but by a Los Angeles doctor named William S. Kroger who, at the request of the FBI placed the bus driver under hypnosis, and using the techniques of revivification (act of recalling or restoring from death or apparent death) and time distortion assisted the driver in remembering all but one of the numbers of the license plate on the van used by the kidnapers. Without this vital information, the case may never have been solved.

All investigators learn to obtain detailed and accurate information from victims and witnesses. They should also know how to obtain vital information that may have been forgotten or never consciously recognized. It is the most frustrating feeling in the world to have to write an unsolved case on a serious crime, especially when the perpetrator is manifestly dangerous, because the victim or a witness is unable to recall a nametag or license number. The proper use of investigative hypnosis may help solve that otherwise baffling case.

Brain Psychodynamics

Before an understanding of investigative hypnosis can be obtained, we must first understand how the human mind works. The human mind is divided into three recognizable areas or functions: the conscious, the preconscious, and the subconscious (or unconscious). It faithfully records every bit of information from our five senses every second. Its capacity is virtually unlimited.

According to latest psychological theories, it is capable of storing 10 quadrillion bits of information. This number is so vast as to be meaningless, but perhaps it would

be clearer if one stopped to think there have been about 62 billion seconds since the time of Christ. If a human being could live that long--roughly 1,980 years--he could store 160,000 bits of information per second for that entire time and still have room for more. It is obvious that we use only the tiniest fraction of our mind for focusing our conscious attention (see fig. 1, the conscious mind).

The conscious mind is what our attention is focused on at any given time. It records input from whatever sense or combination of senses out attention is focused on. Right now, your attention should be focused on this article, and your conscious mind receiving input from your visual nerve centers (see fig. 2, the censor).

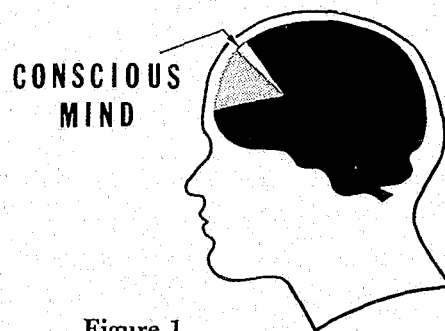


Figure 1.

The conscious mind also contains a censor through which all stimuli must pass to enter the preconscious

Art by Tom McClellan
Graphics arts, Fort McClellan, Ala.

(memory center). This censor changes or removes stimuli which it perceives as being harmful to the ego of the individual. These memories are said to be "repressed" and are transferred directly to the subconscious without being retained in the preconscious as a memory that may be recalled. Thus, a person who subconsciously fears a second confrontation with a criminal, even when the criminal is in police custody, may "forget" the license number of the vehicle he saw (see fig. 3, the preconscious).

The preconscious mind stores things that were formerly the subject of the conscious attention of the individual, and keeps them available for recall at the proper stimulus. It is much larger than the conscious mind, and receives only "safe" memories. The preconscious automatically categorizes and cross-references information, which is the biggest cause of incorrect information from eyewitnesses. Each memory is instantly compared and stored with similar data. Thus, when a witness describes a bank robbery, the information recalled and given to the investigator may be contaminated with memories of a movie or television show about a similar incident that the person may have seen.

This is also the reason the investigator should not ask "How many men did you see in the green car?" The witness may have observed a blue car, but will later faithfully describe a green car—to the detriment of his credibility in court (see fig. 4, the subconscious mind).

The subconscious mind consists of about seven-eighths of our brain.

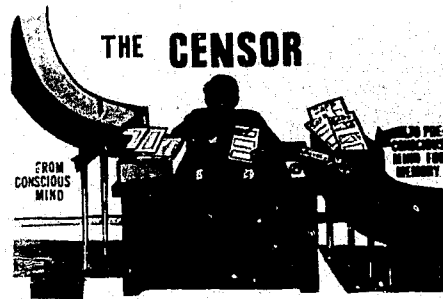


Figure 2.

It receives and stores "unsafe" memories directly from the censor. It also receives old, unused memories from the preconscious--things one has "forgotten." In addition, it records and stores directly every stimulus from each of the five senses at all times, not just what the conscious attention is focused on, and no matter what the conscious condition of the individual. Even though intoxicated by liquor or drugs, or unconscious due to physical trauma, the subconscious mind continues to function.

In one recent case, the Los Angeles Police Department was able to solve a homicide by hypnotizing a witness who was too intoxicated on drugs and alcohol to remember

what took place. Under hypnosis, she gave an excellent description of the perpetrator, and the details of an argument that took place just before the shooting. In another unusual case, police arrested two robbers based on details of a conversation that took place between the perpetrators after knocking the victim unconscious. The victim's auditory nerve center continued to function, and he repeated the conversation while under hypnosis, even though he never consciously heard it (see fig. 5, the Hypno-Gator).

Several hundred law enforcement officers from all over the United States have received specialized training in the induction and use of hypnosis for investigative purposes. These hypno-investigators or "hypno-gators" fully understand the methods of obtaining information through hypnosis and what types of information may be elicited. It is essential, also, for the street investigators to understand these techniques enough to be able to determine whether hypnosis would be of value to any given investigative problem.

In many law enforcement agencies, hypnosis is only

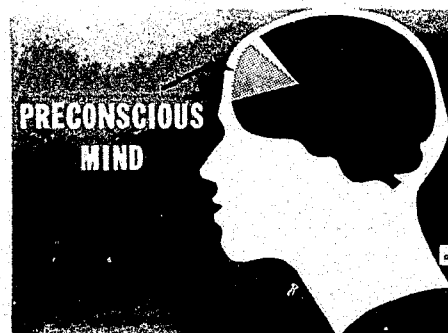


Figure 3.



Figure 4.

conducted by a mental health professional, such as a psychiatrist, clinical psychologist, or psychiatric social worker, with specialized training in hypnosis, clinical experience in the use of hypnotic techniques, and who has full membership in and is certified by either the American Society of Clinical Hypnosis or the Society for Clinical and Experimental Hypnosis. The mental health professional retains overall control of the interview, to include any decision to continue or terminate the interview.

HYPNO-GATOR

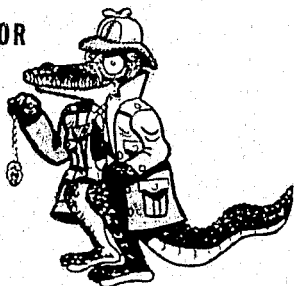


Figure 5.

How Investigative Hypnosis Aids Recall

Typically a witness to a crime of violence or exciting event perceives only a small portion of the entire scene at the conscious level. Thus, the witness records only the main theme of the occurrence (see fig. 6, bank robbery as seen by witness). Even if the person has the presence of mind to look for a license plate or distinguishing feature, because this information may be consciously or subconsciously viewed as threatening, it can be confused or forgotten. Once the victim has been hypnotized, he can be asked to go back to the time of



Figure 6.

the incident and scan through the incident several times, with the hypnotist suggesting each time that the witness will remember the details of the incident more vividly, clearly, and accurately than before (see fig. 7, bank robbery scene frozen).

When sufficient detail is brought forward by repetitive scanning, the witness can be requested to scan the incident again, describing the incident just as though he was watching it happen all over again. The witness can then be requested to "stop action" at any given moment and view the scene just as though it were a color picture. The witness may then be requested to "zoom in" on the detail, such as the perpetrator's face, that needs to be clarified (see fig. 8, close-up of face).

This method works best with general information such as a perpetrator's description or a narration of the action, however, when the incident is brought to the conscious level in this manner, distorting factors from the preconscious may be reintroduced. To eliminate or minimize this distortion on obtaining details where the structure of the answer is

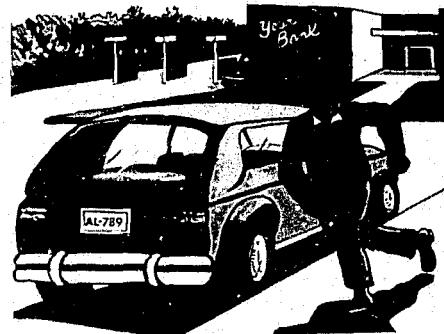


Figure 7.



Figure 8.

known, such as letters and numbers on a license plate or letters on a nametag, the hypnotist may use a technique called "ideomotor response." This is simply linking a muscular reaction, such as a finger signal, to the subconscious mind. Thus, the index finger may twitch for a "yes" answer and the little finger for a "no." These signals come directly from the subconscious and bypass conscious control. This is considered a more accurate method of gaining some types of information than scanning, but may only be used, obviously, with questions that can be answered "yes" or "no" (see fig. 9, close up of license plate).

Thus, if a license plate number is desired, the witness should be asked, "Was the first character on

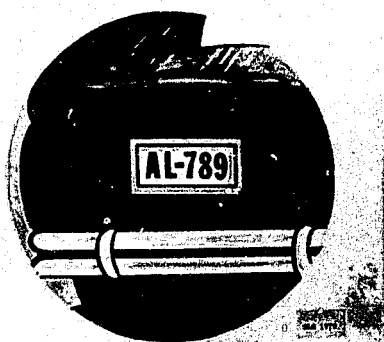


Figure 9.

the plate a letter? A number?" If a "yes" response is received to the letter, then ask, "Was the first letter 'A?' 'B?' 'C?' and so forth until the entire alphabet has been checked, then go for the second character. This is tedious and time consuming, but sometimes two responses may be received for any given character. If so, both characters may be checked, or the hypnotist may be able to determine which is correct by further questioning. Confusion in letters and numbers is not uncommon, but may mean, for example, that the witness also observed a post decal number and is confusing it with the license plate number (see fig. 10, robber as seen by victim).

The victim of a crime of violence may be much more traumatized than the witness. usually they don't remember anything about the perpetrator except the muzzle of the gun, which may be described as anywhere from the size of an 8-inch howitzer to the mouth of a railroad tunnel. For the traumatized victim who can only remember that cavernous gun muzzle, the hypnotist can remove most of the fear and trauma that blocks perception by having the victim visualize a television or movie

screen where he can watch a filmed documentary about the incident from the safety of his own chair and describe just what is happening (see fig 11, clear view of robber).

Once again, the victim may be requested to zoom in on details and provide a description of the



Figure 10.

perpetrator's facial features (see fig. 12, close up of fact).

The victim should also be asked if he has ever seen the perpetrator before, and if so, under what circumstances (see fig. 13, perpetrator at unit).

Remember, hypnosis can induce hypermnesia (total recall) and the witness or victim may have seen the perpetrator at some address, in some vehicle, or in association with some other person known to the interviewee.

Unfortunately, as we well know, when dealing with an eyewitness, we must take into consideration the fact that people see and remember things differently. Hypnotically obtained information is often more accurate than ordinary conscious level recall, but the information may still be jumbled. If, for example, a six-digit license number is obtained, the digits may all be correct, but mixed up in order. The

Division of Motor Vehicles computer should be used to check possible combinations if the given one doesn't pan out.

The way a person tries to remember something also may effect recall. In one case, the victim came up with the name "Walton"



Figure 11.



Figure 12.

313 th. messkit....
...repair company

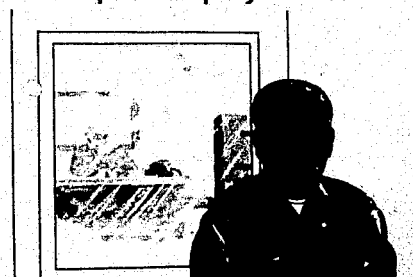


Figure 13.

as having been on the perpetrator's fatigue jacket. Her mother, who was watching the interview on closed-circuit television, exclaimed, "That's right, when she got home she said the name was just like that family on TV." Actually, the name was different, but was very similar in appearance to the name "Walton." The girl, in attempting to remember the name, had apparently associated it with the name she was more familiar with, and it was this associated name that came out while she was under hypnosis.

Hypnotically Obtained Information

The investigator should always remember that hypnotically obtained information is subject to the same discrepancies as any eyewitness testimony.

For this reason, all leads developed through hypnosis should be verified with supporting physical or testimonial evidence whenever possible, and investigative conclusions should not be based solely on hypnotically obtained information.

Another factor to be considered is that there is a close correlation between the meaning of an event and the ability of a witness to recall it. The more emotion involved, the better the recall. For example, a teller who witnesses a bank robbery would be able to remember much more at both the conscious and subconscious level than she would if she had merely cashed a check which later proved to be stolen. In such a check cashing case, if the amount of the check was large and

a good suspect has been developed, hopefully with some corroborating information, the procedure might be feasible, but the chances for success would be less than for a robbery.

The interviewer using hypnosis absolutely must refrain from asking suggestive or leading questions, which may produce confabulation—the tendency of a witness to fill in details of an event which he does not recall, with fantasy or speculation about the actual details.

Confabulation is always possible, both in hypnotic and nonhypnotic interviews, but is of special concern when using investigative hypnosis, in that the hypnotized interviewee may adopt these fantasies as being very real and be able to distinguish between them and actual memories. Most mental health professionals, even though very experienced in clinical hypnosis, have little expertise in this area.

Therefore, any questioning concerning the investigative details of an incident after the interviewee has been hypnotized should be conducted by a specially trained investigator, who will insure that no leading or suggestive questions are answered.

The interviewee will be encouraged to relate past experience in a narrative fashion, with questions being used only to focus the narrative, not to suggest specific details or answers.

Because of the extreme suggestibility of the witness under hypnosis, every word spoken from the time he enters the hypnotist's office until he is released after the posthypnotic interview should be

recorded. It is quite possible for an unscrupulous hypnotist or investigator to convince the witness that the main suspect (who may be a suspect through only the most heinous of circumstantial evidence) is, in fact, the perpetrator.

Importance of Recording Interview

If deliberately and skillfully done, the witness may emerge from the interview convinced that the suspect is the perpetrator and no amount of cross-examination will shake his testimony because he will remember seeing the suspect committing the crime. The only way to safeguard against charges that this was done is to record every word of each session.

Also, this recording will be available for perusal by expert psychiatrists for both prosecution and defense, who will be able to testify whether or not anything said during the interview might have inadvertently been suggestive or biased.

For these and other reasons, a complete record of each hypnotic interview, to include the identity of all persons present, is required. The investigator conducting the questioning will make a brief introductory statement on tape which identifies the purpose of the interview, the location, time, and date, and the identities and roles of all persons present during the interview.

If a videotape is being used, the investigator may require that each person appear on camera when identified. Video and audio

recordings should also be made of all hypnotic interviews. If the interviewee is distracted by the video equipment, a room with a one way mirror may be used.

All parties to the interview must be made aware that the interview is being recorded and must consent to being recorded. A clock or time display device should be visible during the interview to indicate start, elapsed time, and the end of the interview.

All video and/or audio tapes of hypnotic interviews should be handled as evidence, and no questions may be asked of the interviewee under hypnosis when the recording equipment is not operating (such as when tapes are being changed).

The Status Of Forensic Hypnosis In Military Courts

Paragraph 142e, MCM, 1969 (rev.) states: "The conclusions based upon or graphically represented by a polygraph test and the conclusions based upon, and the statements of the person interviewed made during a drug-induced or hypnosis-induced interview are inadmissible in a trial by court-martial."

Investigative hypnosis should be used primarily as an investigative aid, just as the polygraph is now employed, however, to preserve the information previously obtained from a victim or witness from later being attacked in court, before the hypnotic interview, the individual must be thoroughly interviewed to insure all details known at that time are recorded in a signed, sworn statement.

Hypnosis is not a lie detection technique, and should never be used on a suspect, but only on victims and witnesses who consent to undergo hypnosis in writing.

A person can lie just as easily in hypnosis as in the waking state, and any evidence obtained from a suspect under hypnosis would be ruled inadmissible in a military court as being involuntary. If a hypnotized interviewee makes a self-incriminating statement, the interview must be terminated immediately, the person dehypnotized, and advised of the statement made under hypnosis and that it cannot be used as evidence against him. He should then be advised of his rights and interviewed as a suspect by the investigator using normal interview techniques.

Evidence gained indirectly through hypnosis is almost certain to be admissible in court. The court doesn't really care how the license number of a suspect's vehicle was obtained, as long as it was not obtained by illegal means. For example, the license number might have been obtained from an anonymous phone call. The credibility of the information is not an issue, only the subsequent identifications. An apprehension of a perpetrator who fits the description given by witnesses from a hypnotically obtained license number would be lawful, and any subsequent identification of the suspect or vehicle should be admissible, if the identification were conducted in a lawful manner.

A somewhat grey area in military law is the use of hypnosis to refresh memory. If, for example, a robbery

occurs where the suspect is apprehended later on circumstantial evidence, and the witness is unable to pick the suspect out of a lineup, the investigator may wish to have the witness scan through the incident several times under hypnosis to concentrate on the perpetrator's facial features.

Subsequently, if the witness picks the suspect out of the same lineup or a photograph of the former lineup, the results may or may not be admissible as long as no suggestions concerning the suspect's features were given and as long as the identification was made after the witness was brought out of hypnosis. There are presently military court cases that excluded such identification, and at least one that allowed hypnotically refreshed testimony.

Due to the confusion about hypnotically influenced testimony, especially with regard to "statements made during a hypnosis-induced interview," whenever obtaining descriptions, Identi-Kit composites, or presenting photographic lineups, the witness should be brought out of hypnosis after refreshing his memory, and an attempt should be made to obtain the desired information using normal interview techniques. If this procedure is not successful, the information may then be sought from the person while hypnotized, although it is doubtful that such information would be admissible in court.

Because of legal and mental health considerations, hypnosis should be used only as a "last resort" for criminal investigations when all other conventional

investigative procedures have been exhausted, although exceptions may be made in selected investigations when a witness or victim is the only person who can reasonably be expected to possess vital information and a successful conclusion to the investigation cannot be expected without obtaining that information.

Additionally, every reasonable effort will be made to determine if the person to be interviewed has a history of psychiatric illness. The individual should be asked if he or she has such a history. Where possible, the mental health professional inducing hypnosis will review the individual's medical records before the interview.

Of how much real value is investigative hypnosis to law

enforcement today? A recent study was done of the Los Angeles Special Investigation Unit by Dr. Martin Reiser, director of the Los Angeles Police Department behavioral sciences unit.

In over 300 cases studied where hypnosis was used, the hypnotically obtained information was corroborated by other evidence in more than 96 percent of the cases. Witnesses were able to provide new details in more than 91 percent of the cases, and this additional information was solely responsible for solving over 30 percent of the cases.

With a basic knowledge of the human mind and specialized knowledge of investigative hypnosis, the investigator should never again have to settle for "I

don't remember" or "I didn't get a good enough look at him." as answers to vital questions on important cases. These techniques, when used with the assistance of a qualified hypnotist may enable an investigator to solve that "unsolvable" case and perhaps save lives by removing a dangerous felon from society. ■

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