

<b>SUBJECT:                      INVESTIGATIVE HYPNOSIS</b>
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**INVESTIGATIVE HYPNOSIS**

- A. Investigative hypnosis may be used in furtherance of a Bureau investigation only after all conventional methods of investigation have been exhausted.

EXCEPTION: An exception may be made if it is probable hypnosis would be instrumental in saving a life or in a similar emergency. Hypnosis may then be used as soon as the individual has related all he/she could remember while fully conscious.

- B. All requests for hypnotic assistance should be made in writing through the Special Agent in Charge to the appropriate Assistant Director. In emergency situations, the request may be made verbally and then appropriately documented.

- C. The requests should include the following information:

1. Name, race, age of individual;
2. Relation of subject to victim;
3. Type of crime, date, location;
4. Specific information desired from hypnosis;
5. Reason for believing subject has the information;
6. Possibility of subject being the perpetrator;
7. Proposed hypnotist and his/her credentials;
8. Willingness of subject to be hypnotized;
9. Statement about the individual regarding pregnancy, history of heart ailment, epilepsy, mental illness, current physical and mental health; and
10. Cost of session(s) and who will be responsible for the cost.

- D. The Special Agent in Charge should make a statement reflecting their opinion as

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to the potential value of hypnosis and his/her recommendation as to its use in the investigation.

- E. The Director or his/her designee must approve all hypnosis related to a Bureau investigation when a Bureau employee is in any manner connected with the scheduling or examining of a subject.
- F. Hypnosis will not be used in an attempt to determine the truthfulness of a subject.
- G. The actual hypnosis (induction) of an individual should be performed by a physician, psychiatrist, psychologist, or dentist trained and qualified as a hypnotist. A technician (non-medically trained hypnotist) may be used if the hypnosis is conducted under the supervision of a professional in one of the fields enumerated above.
- H. Hypnotic procedures may be witnessed by a member of the same sex as the subject, if the subject so desires.
- I. The entire procedure will be sound recorded. If possible, the procedure should be video-taped and the video should run prior to the subject entering the room and continue until his/her departure. All communications and contact between the hypnotist and the individual will be recorded.
- J. Hypnosis of a suspect may be approved only in exceptional situations. If permission is granted, the following safeguards will be taken:
  - 1. Permission must be received from all parties involved in the investigation, including the Defense Attorney, District Attorney, and investigating officers.
  - 2. The Defense Attorney and District Attorney should be present during all phases of hypnotic interrogation.
  - 3. The hypnotist must qualify in court as an expert in hypnotism. Qualification as a medical expert does not necessarily qualify an individual as an expert in hypnosis.
  - 4. A psychiatric report or psychological evaluation of the subject prior to hypnosis is advisable.

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- K.     Nothing in this section precludes the use of a hypnotist by the requesting agency provided that the Bureau is in no way involved in the process.
  
- L.     On August 29, 1984, the N.C. Supreme Court issued a written opinion in *State v. Peoples*, 311 N.C. 515 (1984), stating that testimony of a witness who has been interviewed under hypnosis is not admissible except statements which the witness has made prior to the hypnotic interview, and it is our burden to show that those statements were made prior to the hypnotic interview. Thus, statements made during the hypnotic interview and the "enhanced" recollection are not admissible at trial.

This change in the law does not mean that hypnotic interviews are no longer an important investigative technique. It does mean that:

1.     Case Agents must obtain a lengthy, detailed statement from the witness before the hypnotic interview and record it as accurately as possible (preferably taped) before the hypnotic interview.
  
2.     The hypnotic interviewer should also obtain a lengthy, detailed statement (similar to the one which would be done during the hypnotic interview) and record it.
  
3.     Only after steps 1 and 2 should the hypnotic interview be conducted to obtain investigative leads, and it should be recorded on video tape.