HYPNOSIS AND EVIDENCE: HELP OR HINDRANCE?

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INTRODUCTION

During the past 50 years, there has been a gradual, but definite, emergence of the use of hypnosis in the field of medicine. With this there has been much controversy and, at the same time, an appreciable increase in our knowledge about the phenomenon. More recently, there has been an interest in the uses of hypnosis in the field of forensic medicine. Here the controversies are even more heated, complicated by the intrusion of this controversial subject into legal procedures. Much of the controversy is aggravated and compounded by serious misconceptions about hypnosis itself. In order to minimize the areas of unnecessary friction, it would be well to begin by dealing with the most common misconceptions and clarifying them.

MISCONCEPTIONS

The most common misconception is that hypnosis is sleep. Hypnosis is not only not sleep, but is the very opposite of sleep. It is a state of alert, attentive, receptive, integrated concentration characterized by a parallel awareness. That is, the subject in trance can, on the one hand, be aware of a relationship to another person and, at the same time, be intensely involved in another facet of his own life experience. This sensitive capacity to maintain a ribbon of parallel concentration is an indication of extreme alertness, the opposite of sleep. Since the word hypnosis derives from a Greek root meaning sleep, it is an unfortunate term to apply to this phenomenon, but we are historically and traditionally bound to this label.

Another serious misconception is that the hypnotist projects the hypnotic spell onto the subject. This is utter nonsense. The hypnotist projects nothing at all. Instead, he simply taps the natural trance capacity that is inherent in the subject. Trance capacity is a talent that is either genetically determined or learned in an imprint-like manner during early developmental years, or both. The degree of intensity of trance capacity can be measured clinically within 5 to 10 minutes on a 0-5 scale. This measured capability remains stable during adult years except when impaired by some forms of mental illness or by drugs that impair ability to concentrate.

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slight reduction of previous capacity can occur with aging, especially by the seventh decade. In everyday life, when a person is highly motivated or highly charged for a specific goal, he is prone to spontaneously shift into his own trance level to facilitate the achievement of a task. What the hypnotist does in formal hypnosis is to simply tap this capacity with the subject's cooperation and compliance.

A third misconception is that only mentally weak or sick people are hypnotizable. This is precisely wrong. It is the mentally healthy population that is usually hypnotizable. For example, psychopaths, persons with character disorders, schizophrenics, the mentally retarded, depressed persons, and persons with neurological deficits that interfere with concentration all have great difficulty concentrating enough in this disciplined way to allow the trance to occur.

Another misunderstanding is that hypnosis occurs only when a hypnotist hypnotizes a subject. We know, of course, that it can occur if the subject cooperates when the hypnotist gives him the signal to go into trance. But more often, hypnosis occurs spontaneously in the person's life, especially under duress or under highly motivating, challenging situations. This fact is especially germane to our topic, which we shall return to later.

A fifth misconception is that hypnosis is dangerous. We now know that hypnosis itself is not dangerous but that the trance state can be used mischievously. One of the features of the trance is that the person goes into such a state of intense concentration that peripheral awareness decreases, customary guardedness decreases, and an assumption of trust—even naïve trust—occurs, which makes the subject more vulnerable to deception, exploitation, coercion, or trickery. Such violation of trust by the hypnotist can indeed be dangerous and harmful, but it is not the hypnosis itself that is harmful.

Another misunderstanding about hypnosis is that the hypnotist himself must be some kind of a charismatic, unusual, or weird person in order to evoke a trance state. This is not true. Of course, if the subject perceives the hypnotist as charismatic, that indeed adds to the impact of the interaction; but by and large, any person relating to another person can, if the atmosphere is appropriate, signal a subject to shift into a trance state. Trance induction is simple. It is teachable and learnable; and in a very short time, a novice can be as effective in inducing trance as an experienced hypnotist.

Still another misconception is that women are more hypnotizable than men. Repeatedly, scientific studies have shown that when tested appropriately, there is no difference in distribution of hypnotizability between the adult male and female populations. About 70% of the population is capable of some degree of hypnosis. Roughly, about 15% go into a light trance, which is the peak capacity for that group. Another 15% are capable of very intense trance states, and the remaining are somewhere in the midrange. It is generally observed that whatever capacity a person has can be slightly enhanced by stress or high motivation. With this consideration, it is not an exaggeration to say that well over half of the population is capable
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of some degree of appreciable trance experience, especially under stress conditions.

**ENHANCED MEMORY RECALL WITH HYPNOSIS**

The least controversial use of hypnosis is to enhance memory enough to recall simple, circumscribed data that are subject to further corroboration. For example, a witness sees a car or a truck long enough to scan the license number but, on first effort, is unable to remember the numbers. With the enhanced concentration that occurs in the trance state, it is possible to retrieve the memory of the license plate which at first recall was blurred. In a way, this is simply an extension of an everyday experience where on first effort, thinking about some event in the past is somewhat hazy, but with more effort and determination and collateral associations with the event, a clarifying memory emerges. This often occurs spontaneously, but it can also occur in a more structured way with formal hypnotic trance.

A more dramatic use of hypnosis is the uncovering of amnesic periods. For example, often after a head injury, there is an amnesic phase for the victim. Of course, if the trauma leads to unconsciousness, the events that occur during the unconscious phase are called "amnesia"; but in fact, because of the unconsciousness, the events never were perceived by the victim in the first place. After consciousness returns, there is first a patch, then continuous recall of life experience. With head trauma, another kind of amnesia often occurs, that is, a "retrograde" amnesia. This means that even though the patient was conscious up to the point of the impact that led to the unconsciousness, when he recovers his consciousness, he is amnesic for a time frame of seconds to minutes prior to the point of impact. This retrograde amnesia is usually of a psychological nature and is very often recoverable. Here is an example of how hypnosis can facilitate this recovery. A 16-year-old young man was in an automobile accident with his father. The father was driving and was killed by the impact of a truck hitting the car from their right. The young man was also struck with a head injury and became unconscious. He recovered consciousness about an hour later in the hospital. Technically, since the boy's father was dead and the boy himself was amnesic to the entire episode, there was no witness to this accident except the driver of the truck. The driver's account went unchallenged. Some time later, it was discovered that the young man was capable of hypnosis; on a 0-5 scale, he scored a 4. Thus, when instructed to go into trance and regress, he was able to recall certain details of how he and his father had dropped off his aunt and had traveled along a certain road up to a certain point. He could then recall the truck coming down from the right and his father saying he was sure the truck would stop because there was a stop sign at the intersection. It was at this point that everything went blank. He came out of the trance with a sense of disappointment, thinking
that he had failed. Actually, what he had done was to uncover the retrograde part of the amnesia. These facts were later confirmed by other testimony, and it now meant that there were technically two witnesses to the accident instead of one. With this new situation, the insurance company agreed to settle the issues rather than go to court.

In another case, a woman in her thirties, divorced, and living with her children in a ground-floor apartment was attacked one night by an intruder who entered her bedroom through the window. He ravaged her with a knife in an apparent attempt to kill her. She was wounded, rushed to the hospital, and almost miraculously recovered. For months she had no memory of what she had seen prior to the knife's coming at her. Police investigations focused upon two suspects but with not enough hard information. To enhance her memory, she asked for help with hypnosis; and it was discovered that she was capable of a midrange trance. While in a trance state and with a great deal of emotion, tears, shouting, and reexperiencing of the event in the present tense, she gave enough descriptive information about the features of the intruder to identify her ex-husband as the person. Although in the trance state she gave specific details that identified him, it was only with great reluctance that she acknowledged that it was, in fact, her ex-husband. When she was brought out of the trance state and asked to review what she had recalled, she expressed dismay at the information and hinted that somehow she had known this but had not wanted to admit it to herself. Perhaps, with time and the practical need to pursue the investigation, she allowed this to surface. But it is also possible that this was a self-serving fantasy. Whether or not the assailant actually was her husband must be verified by other data.

In the Leyra case,\(^1\) hypnosis was used along with deception and coercion to elicit a confession. Leyra was apprehended and accused of killing his father and mother. After hours of interrogation at the police station, a doctor was sent to treat Leyra in his cell because he had complained of a headache. Along with other treatment, the doctor hypnotized Leyra and told him that he might as well admit to the murders and that he, the doctor, would see to it that the police would "go easy" with him. Leyra then confessed to the doctor. After this, he was taken to the front of the police station, and in the presence of his business partner, Leyra repeated the confession that he had given to the doctor. He was found guilty and sentenced to the electric chair. The appellate court ordered a new trial on learning that the confession had been coerced. On the basis of that confession alone, they could not sentence Leyra to death. At the second trial, he was again found guilty. This time the prosecution used the second confession, which he had made to his partner shortly after the first one. For the second confession, he had not been in a formal trance state. This case went all the way up to the United States Supreme Court; and on a split decision, a new trial was ordered. The majority opinion, written by Justice Black, held that the confession that was repeated a second time outside of the cell had to be regarded as part of a continuum and, therefore, had the same coerced quality of the first confession. At the third trial, the case against Leyra was built:
largely around fragmented circumstantial evidence, including some bloody clothes and the testimony of a girlfriend. He again was found guilty. On appeal, the court ruled that the evidence was too circumstantial and fragmented for the court to take Leyra's life, and they reversed the decision. Leyra was subsequently freed of all charges. In this instance, the deception used by the doctor to elicit the confession was perpetrated more easily because the victim was in a trance state, with a reduced level of critical judgment. The state of trust enabled the prisoner to feel freer to expose his inner thoughts and memories. It was this feature of coercion and deception that the court seized upon in reversing the lower court. Further, the Supreme Court recognized that the posthypnotic confession exhibited the same feature of coercion as did the original confession.

In the Miller case in Connecticut, the issue of hypnosis became critical because its use was not even mentioned during the first trial. Miller was found guilty of transferring a large amount of heroin from one car to another. He was sentenced to 12 years. The prosecution arguments and the jury decision of guilt were based almost entirely upon the testimony of a French-Canadian named Caron, who at first was vague, then somewhat certain, about identifying Miller. But after he returned from an interrogation in Texas dealing with another aspect of the same case, Caron was positive that Miller was the man he had seen and so testified. After Miller was sentenced, the defense—with the prosecutor's agreement—examined the witness Caron. Caron also agreed to be examined with hypnosis. When he appeared for the examination, Caron revealed that he had already been hypnotized before in Texas by a psychologist working with the prosecuting attorney. It was understood that Caron's own pending sentence as an illegal alien would be influenced by the extent of his cooperation with this prosecutor. It turned out that this prosecutor was innocently exploring some other aspects of the case and wanted to find out if Caron could remember a certain license number. While under hypnosis, the prosecution attorneys kept referring to Miller as the guilty man. Miller was a hairdresser, and they would shift from referring to "the hairdresser" and to Miller—and all during the interrogation, there were repeated inferences that Miller was assumed to be guilty. When Caron returned to Connecticut to participate in the trial there, he suddenly became aware that Miller was the man he had seen and so testified. On testifying, it turned out that Caron was capable of a moderate capacity for hypnosis; when the case reached the appellate court, Judge Friendly put his finger on this single issue. He asked the Connecticut prosecutor why he had not mentioned that Caron had been hypnotized in Texas regarding this same case. The prosecuting attorney stated that he had not thought it would be important. Judge Friendly asked the prosecutor if he did not think that the defense could have made quite an issue of this with the jury. The prosecutor assured that this was a possibility. Large around this point, the appellate court reversed the decision and ordered a new trial. In the second trial, the issue of possible contamination and fixation of memory with hypnosis was introduced. Miller was acquitted.

What is intriguing is that the district attorney in Texas and the
psychologist in Texas were in no way attempting to influence Caron. They only coincidentally referred to Miller as the guilty one, but by so doing, they in effect "brainwashed" an intimidated witness to clear his thinking and to posthypnotically assert in court that he was sure that Miller was the man he had seen, even though at no time prior to the Texas experience had he been so clear and positive about Miller.

THE HONEST LIAR SYNDROME

In 1968, in order to explore further this issue of the reliability of information given under hypnosis and its extension after hypnosis, the following experiment took place: A man in his forties—a successful businessman, not a psychiatric patient—volunteered to be the subject. On a 0-5 scale he scored 5, putting him in the top 15% of the highly hypnotizable population. He agreed to appear at the NBC television studios with Frank McGee and myself. The entire experiment was recorded with a movie camera. While he was in a Grade 5 trance, he was told that the communists were taking over the control of the television networks; that this was the real truth; and that no matter who tried to dissuade him of this belief, he would stick to it. In fact, he would even intensify his conviction if he were to be challenged. He was brought out of the formal trance state locked into this premise, i.e., that the communists were taking over the networks. For quite a period of time, Frank McGee challenged him about this. The more McGee pressed him, the firmer he held to the premise. In fact he went so far as to name names, spelling out details of a meeting that had taken place in a loft above a movie house off Sheridan Square where six people had gathered and talked about this plot. He even gave a specific name and described the physical features of the man who was the leader. After he was given the cutoff signal to come out of this trance blind, he had total amnesia for anything that took place. Five months later, he was shown the movie of this event. He was shocked and astonished at what he had said. He had no knowledge of any such person as he had described and had no memory of any meeting having taken place. He experienced the whole sequence as a blackout. He could not deny that he had said these things, because he saw himself doing so in a sound movie. He was baffled and could not understand where all this information was coming from, because he simply had no knowledge of any such event. What is frightening about this experience is that he was a man whose political orientation is somewhat left of center yet he was talking to Frank McGee as if he, the subject, were an ultraconservative. That is, his allegations and conduct were entirely foreign to his everyday political beliefs. This paradox is critically important to the theme of this paper. During the experiment, in response to the hypnotic signal, the subject created a totally false story to rationalize his compliance. He sincerely believed it to be true. Since he was locked into the hypnotic bind, he suspended his own critical judgment. He lied but did not actually know he was lying. At the time, he was in effect an honest liar.
This series of case illustrations was presented to emphasize the Janus-like quality of data obtained through hypnosis. Although it is possible with some people under some circumstances to elicit stunningly accurate information that is otherwise not available, conversely, it is quite possible to so contaminate the memory of the subject that he confuses the hypnotic implantations with his own knowledge. Then, by so fusing them, he cannot tell one from the other. Whether the subject does this for internal reasons of self-defense, because of benign external pressures, or because of blunt coercion to comply, the risk we take in using the hypnotic state to obtain information is that we may unwittingly or unwittingly contaminate the memory of the subject in such a way that we cannot be certain of its credibility.

Therefore, the following conclusion is inevitably clear. All data obtained under hypnosis are vulnerable to the counterclaim of memory contamination or coercion (innocent or designed), even though incredibly accurate information can at times emerge. It is thus imperative to document all prehypnosis data as separate and distinct from information obtained during and after hypnotic interrogation. If this is not done, the prehypnosis testimony also risks losing its credibility. The most one can legitimately expect from hypnotic interrogation is further data, which may serve as leads for more conventional evidence gathering. Data elicited through hypnosis by itself deserve low or no priority until they are supported by other data. Even confessions of guilt made under hypnosis are vulnerable to counterclaims of coercion and deception, especially in demonstrably highly hypnotizable persons. This certainly does not hold for persons who are not hypnotizable and probably does not apply to those who test low on hypnotizability assessment tests.

However, this is not so simple an issue. It is easy to identify information elicited under formal trance interrogation; but it is not so easy to identify posthypnotic influences in testimony after the hypnotic interrogation has occurred and determine to what extent perspectives and facts are contaminated by the interrogation. So far, one could argue that if trance interrogation can be so vulnerable to contamination, why not simply ban all uses of hypnosis in the forensic sphere. That could certainly be done by legislative and judicial fiat but would eliminate only the formal use of hypnosis. In no way would it solve the actual dilemma. Such arbitrary orders cannot eliminate the spontaneous trance experience that most persons are prone to, especially under the stress of legal or police interrogation. The Janus-like features described with formal hypnosis can become monstrous perversions of due process when the witness or the accused under duress enters a spontaneous trance state as a desperate way to cope with the intrusion. Fact and fiction can become intertwined and even more confounded when neither the victim nor the interrogator knows that the victim is in trance. Thus, instead of trying to order hypnosis out of existence, it becomes our responsibility to be more knowledgeable about and sensitive to its occurrence.
The best defense against the innocent or calculated abuse of hypnosis is for everyone engaged in the interrogation process to become sensitive to the subtle signs of emerging spontaneous trance in the subject being questioned. This requires some training and knowledge; but since trance occurs, is it not the obligation of the professional doing the interrogation to alert himself to it? Of course, the ideal would be for each person to know his own vulnerability to trance under duress and—with this foreknowledge—invoke appropriate safeguards for himself. The details of how this is done are not germane to the discussion here.

**Diagnostic Uses of Hypnosis in the Forensic Arena**

A new and unexpected use of hypnosis has emerged in recent years; that is, using the assessment of hypnotic capacity by means of the Hypnotic Induction Profile (HIP)—a 5- to 10-minute clinical test.' The HIP not only determines the hypnotic capacity of the individual, but the configuration of the score also offers a presumptive indication of relative mental health or illness as well as a presumptive indication of personality style. This, in turn, yields information about which pathological syndrome is most likely to occur in that particular person under duress.

Following are actual case illustrations to indicate how this works.

**The Reilly Case**

Peter Reilly, a Connecticut teenager, was found guilty of murdering his mother.** The prosecution relied heavily upon a confession that Peter had signed after hours of interrogation and exposure to a lie detector test. Although he had signed a confession, Peter had stated that he still had no memory of killing his mother. The police had explained to him that he had an "amnesia." Peter had accepted this explanation. Friends in the small community who knew him well could not accept the jury's judgment of guilt. Knowing him to be a responsible yet gullible youth, they were perturbed that no medical or psychological testimony had been introduced in the trial. Events snowballed, leading to a hearing for a new trial. Upon examination, the HIP revealed a pattern that indicated that Peter was not the type of person likely to develop amnesia. Careful questioning indicated that he had a clear recall of the entire time span during which the murder had occurred. He had been at a church youth center meeting and had driven home during this time frame. When he had arrived home, he had found his mother dead. He had telephoned for medical help. The HIP pattern was also consistent with a borderline immature personality and poorly developed sense of self with ego-diffusion. Peter's extreme modesty and uncertainty about himself along with his long-standing respect for police authority made him vulnerable to charges by the police that he had committed the crime. The polygraph situation was used to make him feel guilty enough to comply with
the charges and sign the confession. He accepted the absence of any
firsthand knowledge of the murder as due to "amnesia."

The new information about Peter's personality style and immaturity
indicated that his having no memory for the event was not due to amnesia
but rather was due to the fact that he had not actually been present and had
not, in fact, committed the murder. However, he was unable to withstand
the accusatory pressure of the police. This along with other points led to a
court decision by the same judge who had presided over the original trial
that an injustice had been done, and therefore, a new trial was ordered.

Following that decision, it was learned that exculpatory evidence, plac-
ing Peter Reilly five miles from the scene at the time the murder was com-
mitted, had been withheld by the prosecution during the first trial. Along
with other issues, this led to still another court decision by another judge
which dropped all charges against Peter; and he was free.

Because the HIP indicated that Peter was not hypnotizable and not
prone to amnesia, and because it further indicated that his confession was
due to his immature and uncertain sense of self, the defense had a potent
wedge to align with other issues, which led to vindication.

United States v. Thornton

Thornton was a military policeman charged with the kidnapping, rape,
and murder of three teenagers as well as the wounding of another. His
defense was not guilty by virtue of insanity. This was in essence documented
by a videotaped interview, which allegedly demonstrated that under hyp-
nosis, Thornton revealed a dual personality. The "bad" personality com-
mittted acts that the "good" personality was not responsible for.

The HIP revealed a pattern of a person barely able to sustain a trance
state. It is well established clinically that multiple personalities all have very
high capacities for sustained trance experience.

The HIP was also consistent with the category of a sociopathic per-
sonality, capable of destructive acting-out, with guile and deceptive ploys to
defend itself. Further, a sociopath usually does not qualify as "lacking
substantial capacity" under the American Law Institute guidelines. The
jury found Thornton guilty as charged. The defense's psychiatrists did not,
at any time, assess Thornton's hypnotic capacity and were thus vulnerable
to the charge that the accused had simulated a dual personality to deceive
his doctors and the jury in his own desperate defense.

The HIP score was thus able to neutralize the drama of the videotaped
dual personality thesis and identified Thornton as an ordinary psychopathic
personality, responsible for his own acts.

United States v. Leonora Perez and Filipina Nacito

During the summer of 1973, an unusual number of postoperative pa-
tients in the Veteran’s Administration Hospital in Ann Arbor, Michigan, suffered respiratory arrests. Some died. Those who survived had patchy or hazy memory or no memory at all of what had occurred. Several of the patients had had memory or psychiatric deficits before their surgery. When respiratory arrest with cerebral anoxia episodes were imposed upon this, it was not surprising that accurate and reliable witnesses were difficult to find.

It was suspected that a curare-like substance (Pavulon) had been injected into the intravenous tubing to bring about the respiratory arrests. The FBI was authorized to explore for leads with hypnosis. By agreement and design, all testimony of witnesses was put on record and identified as data prior to the hypnotic interviews. It was clearly understood that data obtained with hypnosis were, at best, possible leads for further evidence but were certainly not to be used alone as direct testimony at trial. If they were to be used, they would certainly be vulnerable to charges of contamination. All interviews with hypnosis were recorded on videotape and time and date recorded simultaneously.

The HIP was administered, and several witnesses were eliminated because the test revealed that they were not hypnotizable. About 12 scored well enough to be interrogated further with hypnosis. New information in fact did emerge, which led to indictments of two nurses (Perez and Narciso). At the pretrial hearing, some of the videotaped material was shown. Arguments ensued. The judge ruled that, in principle, information obtained through the use of hypnosis could be presented to the jury. The government case was entirely circumstantial. The data from hypnosis interviews served only to aid the more customary evidence and testimony. The jury voted both nurses guilty.

Later, the judge denied a motion for judgments of acquittal but did grant the defendant’s motion for a new trial. The judge concluded that the misconduct of the government did reasonably affect the jury. However, the term “misconduct” did not refer to the manner in which the hypnosis had been used to elicit information. It dealt with other technical issues of conduct unrelated to the hypnosis. Later, with a new district attorney in office, the government decided to drop the case.

In this case, the HIP was used to scan and identify potential witnesses, who were then interviewed with hypnosis with the expectation that the information elicited would aid in discovering other evidence with which to build the case for presentation.

**The Torsney Case**

Torsney was a white New York City policeman charged with shooting and killing a young black boy. The police had answered an emergency call in a black neighborhood in Brooklyn where an altercation was allegedly occurring. After investigation, as the police had left the apartment, someone had warned them to “be careful since there was a man out there with a gun.” As the officers had walked toward their cars, a young boy had moved
forward and asked Torsney a question. Torsney had thought he saw a shining object on the boy, so the officer had quickly drawn his unlocked pistol and shot the young boy.  

Torsney's defense was not guilty by reason of psychosis due to epilepsy. He was tried in a Brooklyn courtroom with an all-white jury. The HIP indicated that he was quite hypnotizable, not psychotic, and prone to respond to stress with hysterical dissociation. In fact, when tested for his hypnotizability in the presence of the defense counsel and the district attorney, Torsney's trance response was so persistent and intense that extra cutoff signals were necessary to get him out of the dissociated trance state. He was obviously not the controlled, vigilant, secure combat officer that one would expect to see at such an assignment. Torsney conveyed a sense of a sad, not too competent man in the wrong job. His general demeanor usually elicited sympathy. During the trial, he sat staring at the table most of the time. Although his defense was largely based on the diagnosis of epilepsy and resulting psychosis, none of the many tests and examinations done by either side revealed any evidence of his ever having had epilepsy. Nor was evidence of psychosis ever elicited in the psychological tests performed by the psychologists for either side. The prosecution's position was that Torsney was simply a frightened, not very competent police officer, who, under stress, had panicked and shown poor judgment by using his gun in a clumsy effort to protect himself against an imagined threat. This is an act that might even be regarded as within normal range in the average person but is certainly not the response of a trained police officer, who has every reason to expect these emergencies in the course of his everyday work. The jury voted to acquit Torsney by reason of insanity.

Torsney was then committed to a state psychiatric facility for treatment and care. Over a year later, the hospital reported that they had at no time found evidence of epilepsy or psychosis and wanted to discharge him. At first, the trial court agreed. Then the appellate court refused, claiming that the hospital had not treated Torsney for the disabilities decided upon by the jury. By a 4–3 decision, the court of appeals reversed the appellate decision and released Torsney. This highlighted the absurdity of making clinical diagnosis for treatment by means of legal tactics in front of a jury. Further, with the jury decision, Torsney now made claim for medical disability from the Police Department.

However, the Police Department was not legally bound to automatically accept the diagnosis without making its own judicial investigation. Accordingly, another hearing was held, and essentially the same arguments were presented by both sides. The presiding officer was obliged to report a summary of the hearings with a recommendation to the police commissioner. Ultimately, the police commissioner ruled that Torsney was not psychotic and not epileptic; because his actions indicated impulsivity, Torus was discharged from the police force without any medical disability.

In many ways, the Torsney case exemplifies the recurrent weaknesses of our adjudicatory process in determining responsibility for an act. The compassionate concept of not punishing authentically mentally ill persons
for actions beyond their control was stretched so far in this case that in a
perverted way, the state was using a hospital to "punish" a man for com-
mitting a crime. Then the state berated the doctors for not playing the
punishment game to comply with the jury decision. The doctors balked by
discovering, on their own, that Torney was not psychotic, not epileptic,
and did not belong in a hospital. Clever courtroom tactics had convinced
the jury, but the state hospital and eventually the Police Department itself
viewed the evidence otherwise. The HIP, a 10-minute clinical test, identified
the theme of an inept police officer who panicked under stress. This was
ultimately concurred with by the hospital and Police Department.

CONCLUSION

Back to the question posed by this paper, Is hypnosis a help or hind-
rance in coping with the complex issues of evidence? Clearly, the answer
is:
1. Used knowledgeably with appreciation of their limits, hypnosis
techniques can be helpful.
2. Knowledge about hypnosis enables us to identify its misuse and
abuse.
3. Since hypnosis occurs spontaneously with so many people daily, ig-
nonce about the phenomenon obfuscates the judicious discovery and use
of evidence. Therefore, I disagree with my medical, psychiatric, and
psychology colleagues who would like to preempt this field and deny its use
to other professions. Everyday phenomena like spontaneous hypnosis occur
regardless of the territorial claims of various guilds or power groups. I
strongly advocate that all professionals dealing with interrogation—this in-
cludes qualified police officers, prosecuting and defense attorneys—alert
themselves, inform themselves, and become even more knowledgeable
about this intriguing phenomenon in order to cope with it more expertly.

SUMMARY

Clarifying misconceptions about hypnosis can reduce confusion about
the place of hypnosis in forensic medicine. Hypnosis identifies a person's
capacity for attentive, receptive concentration with parallel awareness.
While in trance concentration, memory recall under interrogation should
not only be subject to all the usual investigative safeguards with checks and
balances, but even more so because the leverage effect of hypnotically
enhanced memory is achieved at the risk of contamination by external
and/or internal cues. This Janus-like feature enables incredibly accurate
revivification and recall of perceived events but can also evoke false
memories, false confessions, and the "honest liar syndrome." The internal
and external factors that account for these contradictory possibilities—and the appropriate safeguards—are considered with case illustrations.

In addition, a new use of trance capacity assessment contributes to clarifying diagnosis and the mental defect/disease issue.

Knowledge of the uses and limits of hypnosis by the interrogating professionals enhances the judicious process of eliciting information and evidence.

REFERENCES