

FORENSIC HYPNOSIS

VERSUS

THERAPEUTIC HYPNOSIS

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While there are a number of similarities between the application of investigative and therapeutic hypnosis, there are distinct and important differences. This article will delineate the salient factors associated with both approaches.

Initial Interview

The initial interview, rapport building and evaluation of the witness/victim or client/patient are similar but an investigative session is more demanding regarding the keeping of records. In an investigative session, it is imperative that all contact between the witness/victim and the hypnotist be audio and/or video recorded. While most, if not all clinicians, keep a patient file and records of contact, there is no compelling reason, in most cases, to keep an audio and/or video record of all patient contacts.

Induction

The induction phase of the sessions could be the same in both therapeutic and investigative application. It is recommended that a standard induction, such as progressive relaxation be used in a forensic session and this is also commonly used in therapeutic sessions. Esoteric and “showy” rapid inductions are not recommended for investigative sessions. You need to remember that everything you say and do is being recorded and may be viewed by a jury. You may also be required to explain why you did what you did at any given time during the session. The same thing holds true regarding the use of deepening techniques. There is no reason that deepening techniques can not be used in a forensic session; however, if such techniques are employed, they should involve counting, silence or other common and straight forward approaches as opposed to pressure techniques, which may be subject to misinterpretation as wittingly or unwittingly cueing the witness/victim. This admonition is also true regarding the use of depth scales and challenges. As a general rule, permissive techniques are preferred over authoritarian ones in a forensic session.

Purpose of Session

The purpose of a forensic session is to refresh the subject’s memory. The purpose of a therapeutic session is to assist the patient/client in resolving conflicts and achieving therapeutic goals. In an investigative session it is

imperative that you use neutral non-leading questions and do not contaminate the subject's memory. Clinicians are typically not accustomed to this approach and thus may resort to using their clinical skills during the session. This is, of course, the right thing to do in a therapeutic session, but the wrong thing to do in a forensic session. This is the portion of the procedure that holds the most risk for the integrity of the hypnotic interview. If the proper procedural guidelines (See Zani for Texas) are not followed, the witness/victim post hypnosis recall may not be admissible in court regarding their recollections of the crime. This may vary depending upon the state in which you practice.

The de-hypnotizing (wake up/re-alerting) portion of the therapeutic and investigative sessions is similar, if not identical. Simply counting the subject up from 1 to 10 is a common technique in both approaches. It is also common to give suggestions for well being during this part of the session. This is permissible in both forensic and therapeutic settings. Again, acceptable techniques should always be employed.

Posthypnotic Differences

Finally, the posthypnotic portions of both the forensic and therapeutic sessions are similar but there are distinct and important differences. Clarification of questions is permissible during this part of the forensic session, just as it was during the pre-hypnotic interview. However, you need to be careful not to ask leading questions or be suggestive during this final part of the investigative session as was true during the information- eliciting phase. This is, of course, not an issue during a therapeutic session. Another important difference is typically associated with the closing of the session. In a therapeutic session, the clinician will usually answer the patient's questions, clarify and discuss clinical issues and finally make an appointment for the next visit. In a forensic session you will most likely only see the subject once. You should tell the subject that he/she should contact the case investigator in the event of recall of additional information or any questions regarding the case. In the event they do contact you, it is mandatory that a record of that contact be made.

The pictorial depiction (see Exhibit #1) of an investigative and therapeutic session may be helpful in clarifying the overall relationship between the two approaches. In an investigative session it is necessary that all contact between the subject and the hypnotist be recorded from hello to good-bye. Failure to follow the proper guidelines may result in information that has no legal status in that it is not admissible. As a forensic investigator, it is your goal to elicit and uncover memories that were not readily available before; however, it is also your goal to do this in a way that will not jeopardize the witness/victim's opportunity to testify about the crime. Proper training and knowledge of legal requirements will assure that the forensic hypnotist does not jeopardize the witness/victim's right to a day in court.

EXHIBIT # 1
INVESTIGATIVE VERSUS THERAPEUTIC HYPNOSIS

