

# Spontaneous hypnosis in the forensic context

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"Hypnosis" denotes either specific phenomena (altered volition, perception, cognition, and recall) or interpersonal transactions that often elicit them. Basic research leads to paradox: hypnosis is validated, and shown to be dissociative in essence, at the same time that neither its phenomena nor transactions can be separated from those of everyday living without logical absurdity. This paradox can be resolved by assuming that consciousness and volition are complex, occurring simultaneously at many levels in the same waking individual.

Hypnotic-like phenomena and transactions occur spontaneously, in either covert or overt forms. The former are pervasive, whereas the latter are often associated with psychological trauma. Forensic implications are twofold: for criminal responsibility, and the reliability of eyewitness testimony. Hypnotic-like states and transactions are rarely affirmed as an insanity defense because at some level these subjects are aware of what they are doing and why. Diminished capacity and mitigation of sentence are more appropriate defense strategies. Several conflicted traditions of case law have evolved to protect eyewitness testimony from hypnotic-like distortions in cognition, perception, and memory that can occur either during or outside of formal hypnotic procedures. These include the admissibility of posthypnotic testimony, due process safeguards at eyewitness identification procedures, and the admissibility of expert testimony on the findings of eyewitness research. These areas are inseparable from one another and demand a systematic coordinated approach.

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