Empirical article

Memory Errors in Police Interviews: The Bait Question as a Source of Misinformation

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Bait questions—where an investigator questions a suspect about the existence of hypothetical evidence—are a widely employed interviewing tactic. We examined whether these bait questions are a vehicle for misinformation to enter a criminal case, leading mock jurors to misremember the evidence. Adapting the misinformation effect paradigm, participants read a police report describing several pieces of evidence, then watched a police interview including bait questions that provided misleading information about the collected evidence. In Studies 1 and 2, participants' memory for evidence they were misled about was significantly less accurate than control evidence. Indeed, participants came to believe the hypothetical evidence proposed in the bait questions actually existed. In Studies 3 and 4, participants read warnings—varying in their specificity—about the misleading bait questions. These warnings were ineffective at mitigating the misinformation effect. Bait questions may, therefore, be a source of error in juror's decision-making, leading to wrongful convictions.

General Audience Summary
Police sometimes ask suspects to explain incriminating evidence that may or may not exist. For instance, an interrogator might ask, "Is there some reason we would find your fingerprints on the gun used in this robbery?" This type of question – called a "bait question" – assumes a lying suspect will change their story, and an honest suspect will reject the evidence as impossible. It is not clear whether bait questions actually work in this way, but we were not concerned about their effectiveness as a lie detection tool. Instead, we wondered if hearing these bait questions lead jurors to believe the evidence actually existed. We asked people to read a police report that contained all the facts and evidence in a case. They then watched an interrogation film that contained misleading bait questions, and we tested their memory for the case facts. We found that the bait questions distorted people's memory for the evidence, and people came to believe that the misleading, hypothetical, evidence actually existed, even when we warned people that the bait questions were misleading. These results are troubling and suggest that police should re-evaluate their use of bait questions. Given their negative effect on memory, bait questions could be a contributing factor in wrongful convictions.

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Officer:	Okay, Matt, Detective Brady informed you that we're investigating a liquor store robbery, correct?
Suspect:	Yes, he did.
Officer:	Right. So I want to ask you some questions about the incident. First, can you account for your whereabouts on the night of October 9th?
Suspect:	Sure. . .yeah, I was at a bar a few blocks from my house.
Officer:	So is there any reason a security camera would show you putting on a ski mask and entering the store right before it was robbed?

The Officer's final question is known as a bait question: an interrogation question, posed as a hypothetical, where the incriminating evidence may or may not exist. These bait questions are a component of the Reid Technique (Inbau, Reid, Buckley, & Jayne, 2013), one of the most internationally influential interviewing and interrogation techniques (see Kassin et al., 2010). Inbau et al. suggest the bait question is a valuable tool to help detect whether a suspect is lying. They claim innocent suspects will reject the possibility of any incriminating hypothetical evidence out-of-hand, whereas guilty suspects will offer a possible *non-culpable* explanation for the existence of such evidence and display nonverbal symptoms of deception (see also Senese, 2008). Thus, the question itself is not incriminating and is not an accusation; it merely references hypothetical incriminating evidence. Although there are few reliable cues to deception (DePaulo et al., 2003; Hartwig & Bond, 2011), we do know that guilty suspects offer non-culpable explanations when confronted with evidence implying their guilt (see Hartwig, Granhag, & Luke, 2014). However, to the best of our knowledge, only one methodologically sound study has directly tested whether bait questions improve deception detection: Vrij, Mann, and Fisher (2006) found that, in response to a bait question, liars expressed less confidence that they would be exonerated, compared to truth-tellers.[1] We are not concerned with whether bait questions are the key to effective deception detection. Instead, we investigate how bait questions affect potential jurors' memory for the evidence in a case.

As the recording of interviews and interrogations becomes more common (e.g., Department of Justice, 2014; Williamson, Milne, & Savage, 2013), jurors are increasingly likely to view the interrogation as evidence at trial. Importantly, a survey of American law enforcement interrogators found that 92% of the 631 respondents reported using techniques that imply the existence of incriminating evidence, like the bait question (Kassin et al., 2007). Could exposure to the fictitious evidence implied by a bait question result in a *misinformation effect* (ME), causing errors in jurors' memory for the evidence? That is the question we address here.

In a typical ME study, people witness an event (e.g., a repairman stealing from a house; Takarangi, Parker, & Garry, 2006) and are later provided with misleading *post-event information* (PEI), in the form of questions or a written narrative (e.g., "Eric

drank a can of Coke from the fridge," when the beverage was a can of Pepsi). Then, they complete a forced-choice test where they must choose between the detail they saw (can of Pepsi) and what was suggested (can of Coke). Decades of research shows that people will often report the misleading information regardless of whether the details are mundane (e.g., the title of a textbook, Loftus, 1991) or significant (e.g., whether a thief had a weapon; Zaragoza & Mitchell, 1996). Indeed, recently Morgan, Southwick, Steffian, Hazlett, and Loftus (2013) demonstrated that when soldiers undergoing intensive survival training were exposed to misinformation about their interrogator's appearance, they subsequently identified the wrong person 91% of the time (compared to 53% in control participants). Thus, there is evidence (e.g., Lindsay & Johnson, 1989) that these errors are a kind of source monitoring error, in which people fail to correctly attribute remembered details to their actual origins (Johnson, Hashtroudi, & Lindsay, 1993; Lindsay, 2008)

The bait question could be one vehicle for misinformation to enter a case. Despite Inbau et al.'s (2013) claim that the hypothetical nature of the question makes it safe (compared to directly stating false evidence was found, which can lead to false confessions; Perillo & Kassin, 2011), jurors who witness an interrogation film could hear those hypothetical bait questions and later only remember that the evidence was presented. The error could occur at encoding: people may not interpret the evidence as hypothetical. Thus, they would not encode the hypothetical context in which the evidence was discussed. Or the error could occur at retrieval: jurors could attribute the evidence to a different source during the trial, such as an attorney or police officer explaining real evidence. Indeed, we know that source and content similarity increase susceptibility to source monitoring errors (Lindsay, 2008; Lindsay, Johnson, & Kwon, 1991). Police investigators will ask questions about both real and hypothetical evidence in a case—making the source of the evidence the same—and if the real and hypothetical evidence are sufficiently similar, a juror could confuse one for the other. Likewise, the police investigator is likely to be perceived as a credible source, which we also know increases source monitoring errors (Vornik, Sharman, & Garry, 2003).

Alternatively, the trial context in which a bait question is presented may render it resistant to source misattribution. Jurors in a trial know the ultimate goal is to make a decision regarding guilt. Therefore, they may pay closer attention to each piece of evidence against a defendant and pay more attention to any discrepancies between the prosecution and defense evidence. Put differently, they may engage in more systematic source monitoring for each piece of evidence, which we know reduces source monitoring errors (Heath & Erickson, 1998; Lindsay, 2008; Tousignant, Hall, & Loftus, 1986).

To assess the possibility that bait questions could be a source of misinformation in a criminal case, we adapted the three-phase ME paradigm by including bait questions in a filmed interrogation as our post-event information. In Studies 1 and 2 we examined the magnitude of the ME effect. In Studies 3 and 4, we attempted to ameliorate the effect of the misleading bait questions by warning participants they may be receiving misleading information.

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[1] Horvath et al. (1994) conducted a study on the Behavior Analysis Interview, of which bait questions are a part. However, this study has substantial methodological limitations (see Vrij and Granhag, 2012).