

Do No Harm!
**Good Intentions Do Not Automatically
Produce Good Results**

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Main Concerns When Proposing New Policy

- Perception and politics
 - Do we (public) believe something is broken?
 - Will new policy appear to fix it?
- Monetary and manpower savings and costs
- Legal issues raised by some recommendations
- Actual outcomes
 - Will new policies actually improve the accuracy of eyewitness identification?
 - How will we know without pilot research and agreed upon measures of success?
 - Depends on whether predictions from current state of science are correct
 - Is initial causal analysis of problem correct
 - Can we generalize “laboratory” results to field settings
 - Will new policy actually change processes for the “good”

Predicting Effects of Policy Changes

- Is current theoretical understanding sufficient to predict effects of new policies?
- Are existing data consistent enough?
 - Soon to be released pilot research in Illinois may be inconsistent with some of the main recommendations being considered here
- Do we have relevant data?
 - In most cases, no
 - Don't have results showing that false eyewitness ID is the primary cause of wrongful convictions
- Have we fully considered costs as well as benefits?
- How bad is the “problem”?
 - We have no research telling us the rate of false identifications of innocent suspects in the California criminal justice system.
 - If false identifications rare, costs of detecting and eliminating rare events can be very high
 - Unanticipated consequences (e.g., \$, delay, more guilty go free, new legal challenges)

Actual Outcomes

- Concept of culprit present and culprit absent/innocent suspect present lineups

Lineup Type	Position in Lineup			
	1	2	3	4
Guilty Culprit Present	Filler	Guilty	Filler	Filler
Innocent Suspect Present	Filler	Inn/Sus	Filler	Filler

Types of Outcomes

- **Guilty-Culprit-Present Lineups**

- Guilty culprit picked, charges probably filed against guilty culprit
- Filler (known innocent) picked, filler not charged & guilty culprit remains free
- No one picked, guilty culprit remains free

- **Innocent-Suspect-Present Lineups**

- Witness picks innocent suspect, **charges probably filed against innocent suspect** & guilty remains free
- Witness picks filler (known innocent), filler not charged & guilty culprit remains free
- No one picked, guilty culprit remains free

Proportion of Different Lineup Types Is Critical

- To determine how many good and bad outcomes witnesses are producing, it is essential to know the proportion of guilty-culprit-present and innocent-suspect-present lineups investigators tend to construct
 - How often are innocent v guilty suspects placed in lineups?
 - Does this rate vary for different types of crimes? Jurisdictions? Agency conducting lineup?
- The greater the proportion of guilty-culprit-lineups, the lower the rate of wrongful IDs

Reasons Witnesses Choose Wrong Person

- Witness has poor memory and is just guessing.
- Witness memory is poor and filler and/or innocent suspect matches poor memory.
- Filler and/or innocent suspect actually looks like the culprit in some way.
- Picture of (or live) suspect and/or culprit presented in lineup does not look like the culprit when crime committed.

Reasons Witness Does Not Pick Anyone

- No one looks like culprit
- Witness memory of culprit is poor
- Witness sets very high “memory match” standard or criterion
 - Concern about false ID
 - Fear
 - Non involvement

Other Critical Factors

- More fillers means more opportunities for witnesses to choose known innocents
 - True both for guilty-culprit-present and innocent-suspect-present lineups
 - Impact of additional fillers depends on similarity of fillers to culprit

Recommendations

- Consider each one separately
- But you might be tempted to implement all at once
 - Combination of effects may produce unexpected outcomes, e.g., overall reduction in conviction rates.
 - For example, juries too skeptical after instructions because other changes already fixed problem

Sequential Lineups

- Different competing theories
 - Relative judgment v. absolute
 - Differential discrimination (Gronlund, 2004)
 - Differential criterion placement (Ebbesen & Flowe, 2003; Meissner, et al., 2005)
 - Multiple differential criterion placement (Clark and colleagues)

Independent Lines of Research

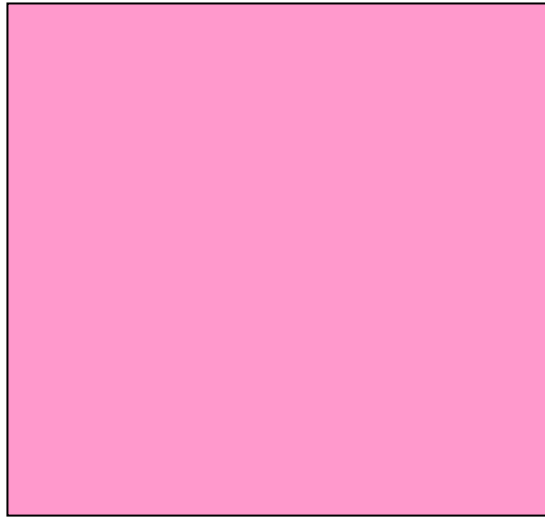
- Five independent lines of research suggesting sequential lineups are not the prophylactic some suggest
 - Recognition memory with words (Benjamin, 2005)
 - Clark and Davey (2005): culprit IDs go down if similar fillers appear before culprit. (Removal effects similar for sequential and simultaneous lineups)
 - Meissner, et al. (2005) support for differential criterion and rather than relative judgment
 - Flowe and Ebbesen (2005) similarity effects criterion
 - Pilot Project in Illinois comparing eyewitness outcomes from randomly assigned simultaneous and sequential lineups

Problems

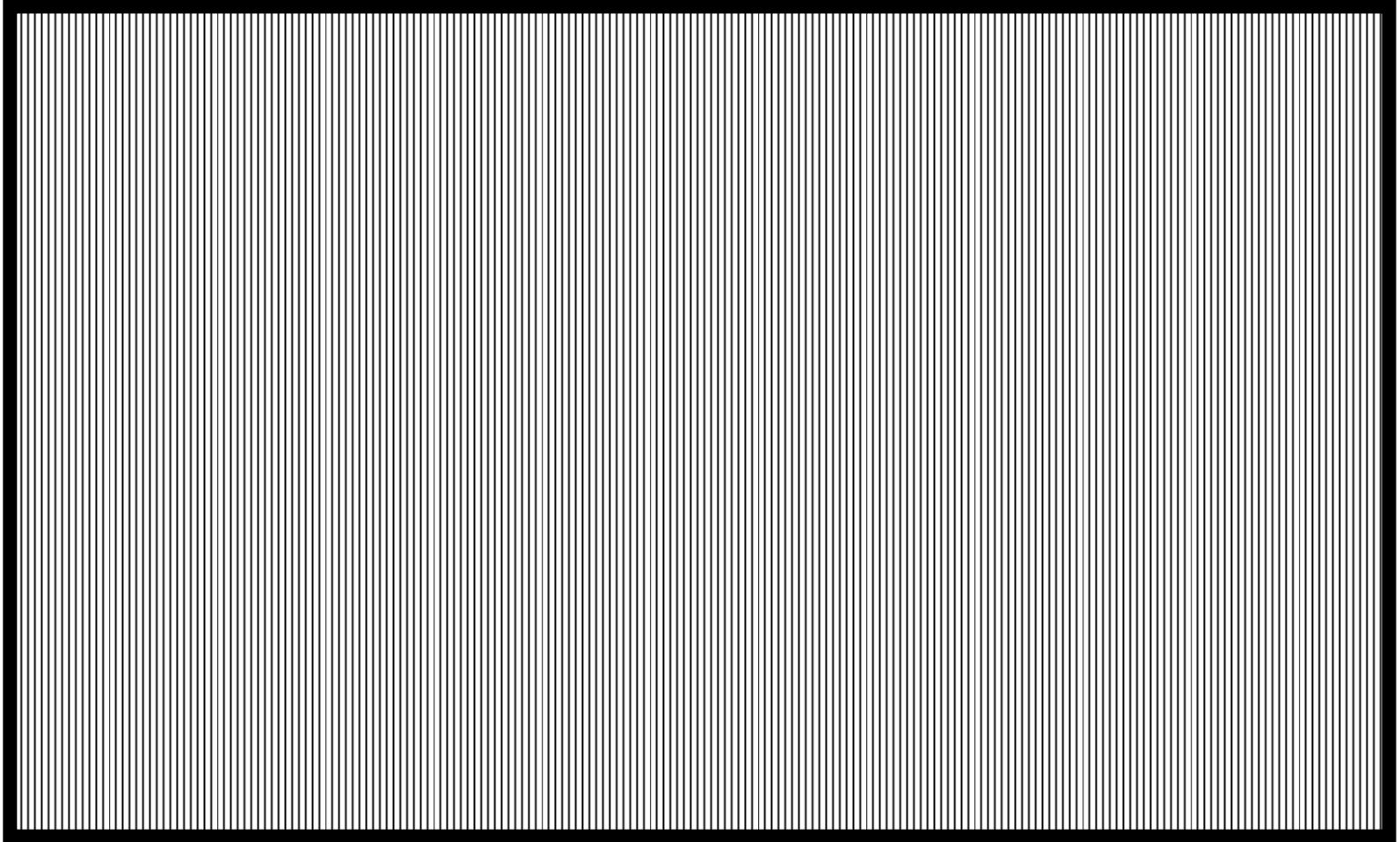
- Results with sequential lineups depend on similarity structure of lineups
- Position
 - Position of suspect
 - Position of most similar fillers
- Empirically unresolved issues (we do not know enough about effects of these on relative rates of different errors)
 - Second viewings
 - Set asides, see earlier one again
 - Instructions re stop after pick
 - Number of items witness expects to see
 - Changes of mind if witness shown all items

Demonstration

Remember This Color

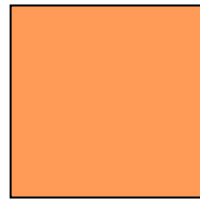
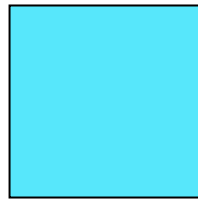
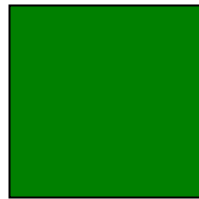
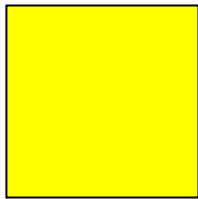
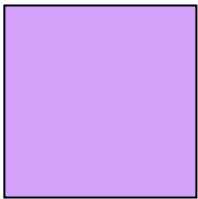


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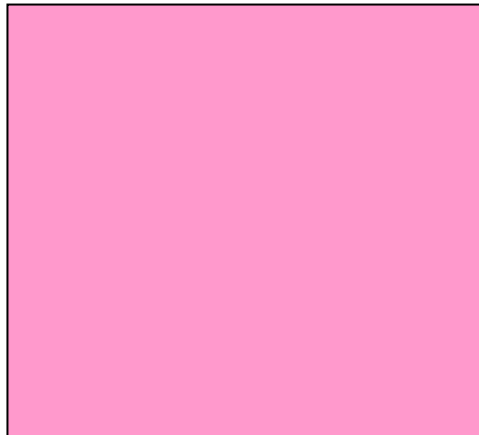
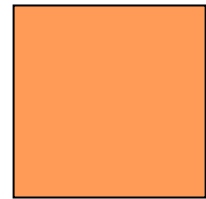
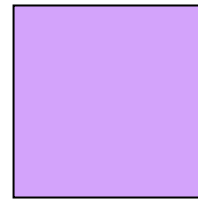
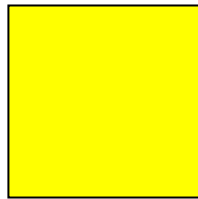
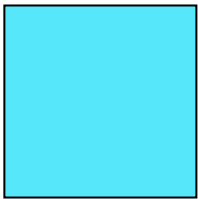


Simultaneous Lineup 1

Do You See Identical Color You Saw Before?



Target Color Comparison



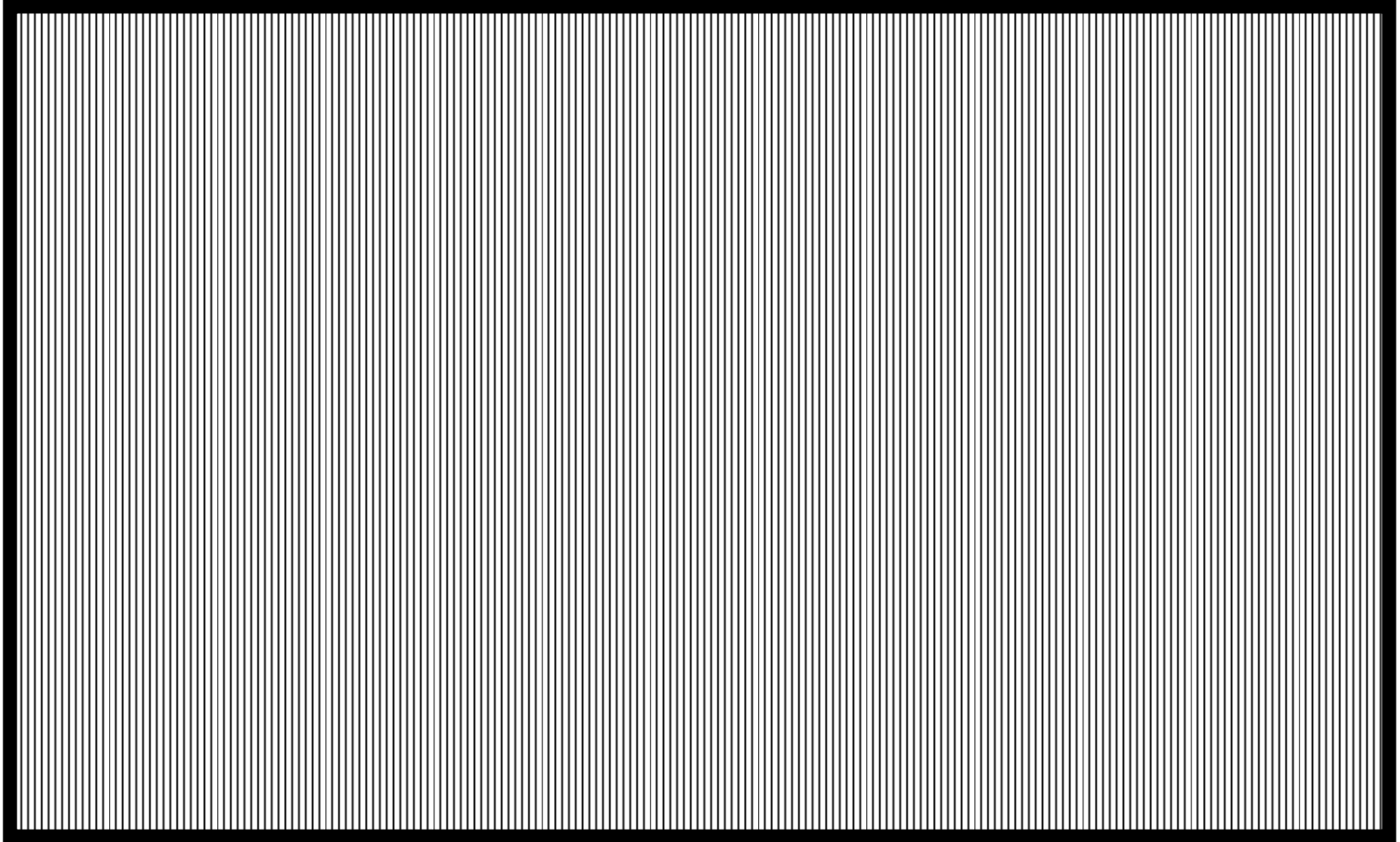
Relative Judgment

- Relative judgment argues that you should have compared each of the alternatives to each other and then should have selected the one that was most like the target.
- If you did not pick one of the colors in the lineup, you had to have used an “absolute” standard
 - Standard establishes whether match to memory is “good enough” to pick it

Remember This Color

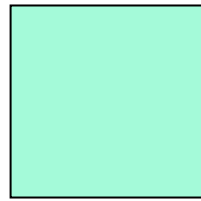
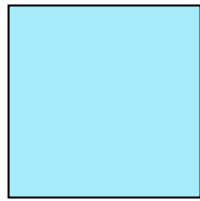
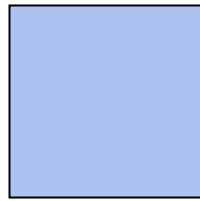
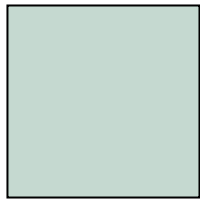
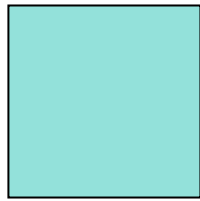
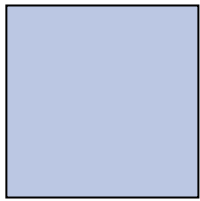


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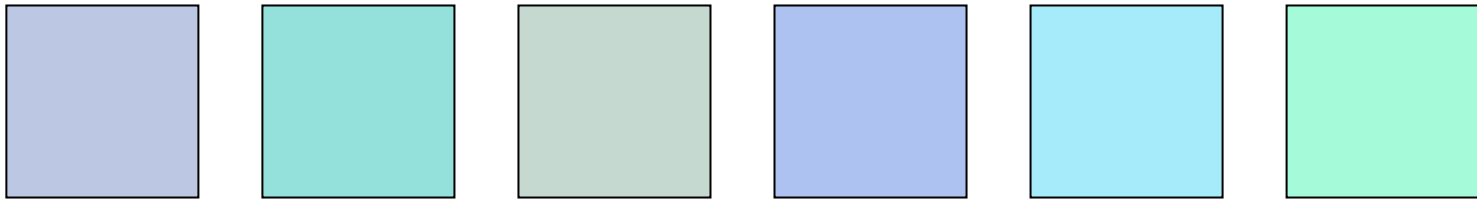


Simultaneous Lineup 2

Do You See Identical Color You
Saw Before?



Target Color Comparison



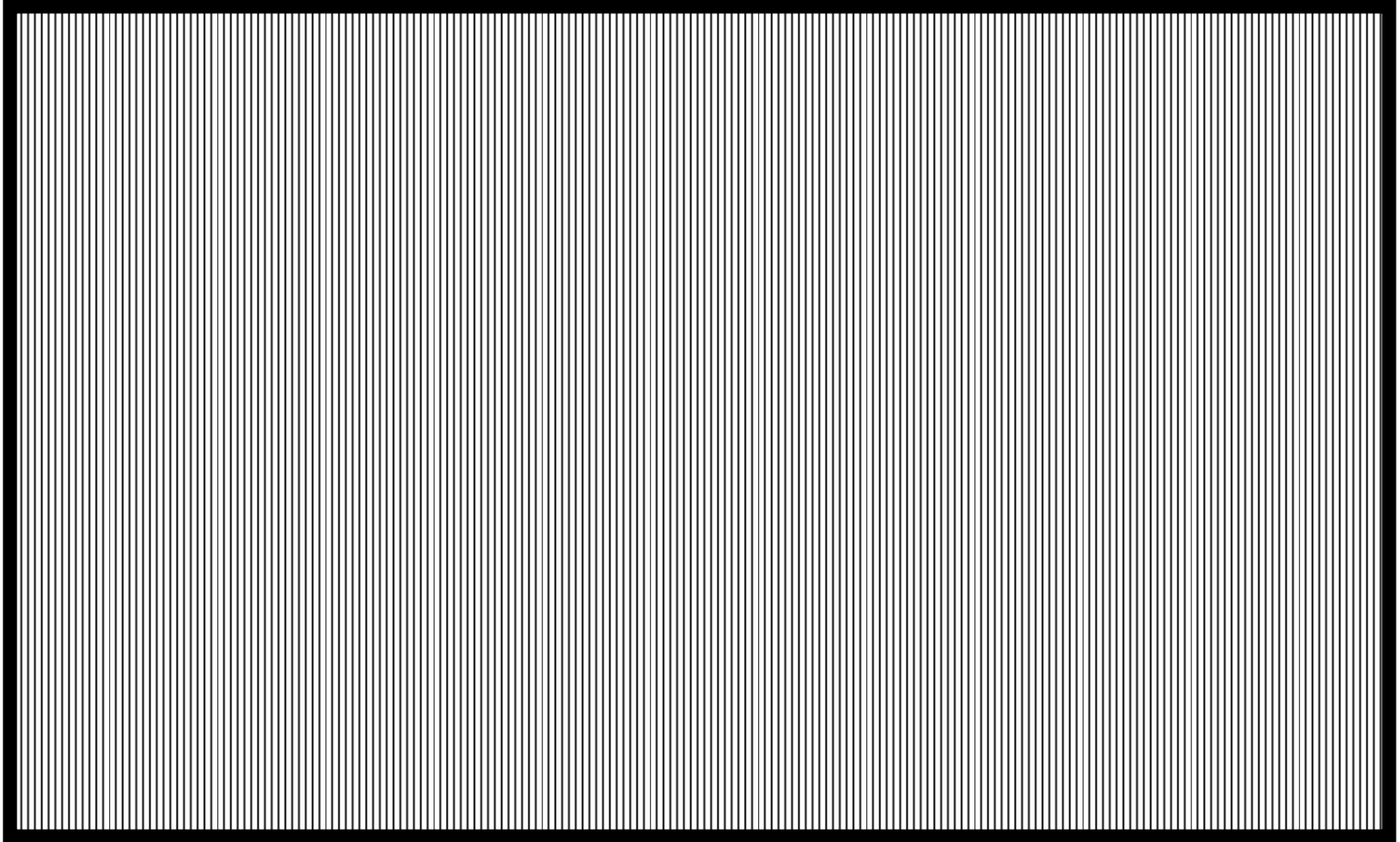
Memory Match Standard Depends on Similarity of Fillers

- If you experienced something like:
 - Whoa, this is harder than I thought, I had better be more careful.
- Then, you raised your memory match standard.
- Shows the effects of filler similarity on decision processes in simultaneous lineups

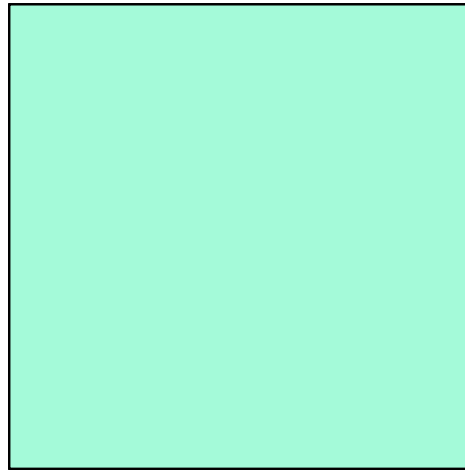
Remember This Color



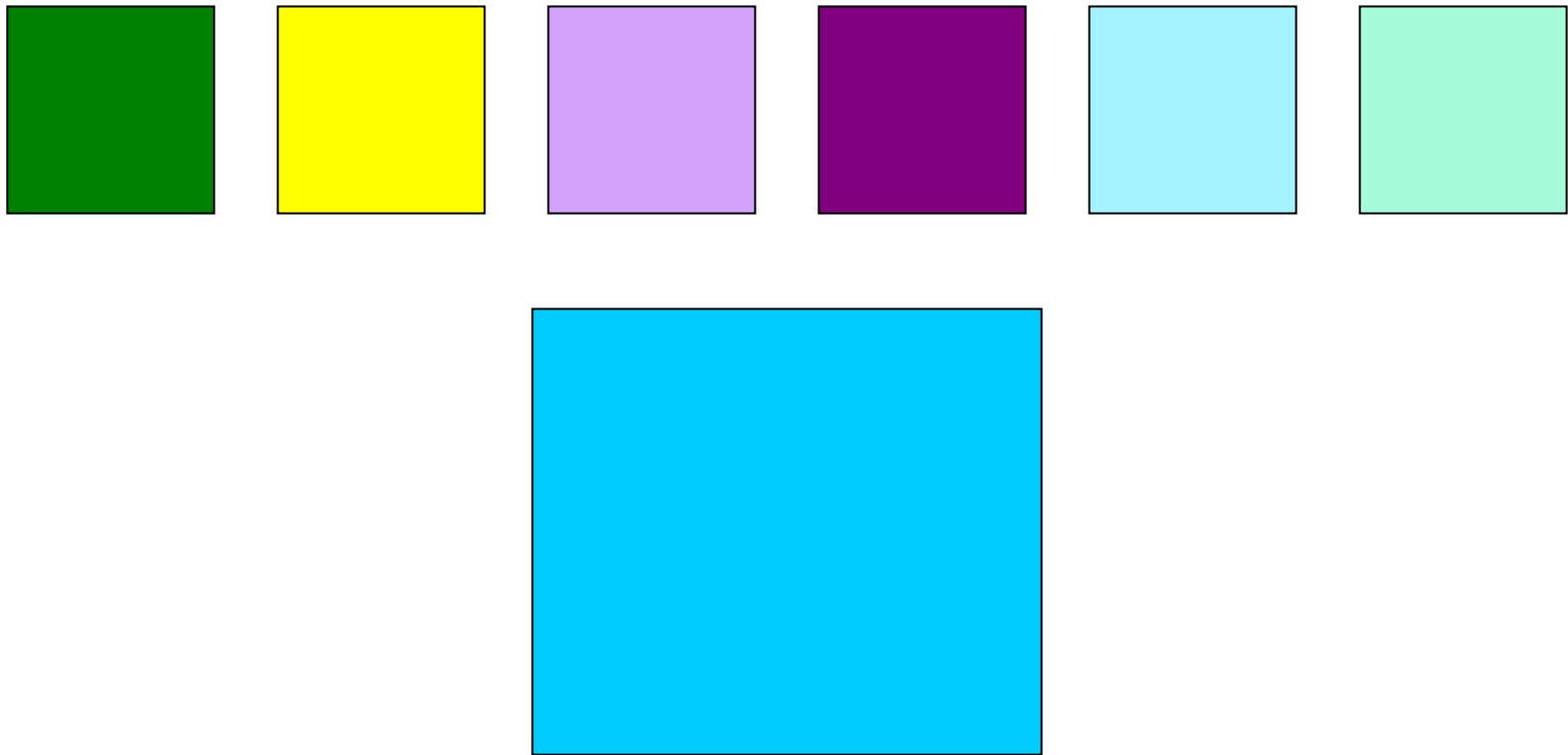
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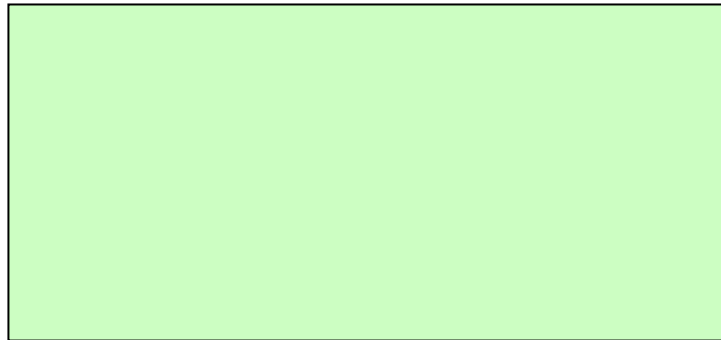
Sequential Lineup 1
Stop If You See Identical Color
You Saw Before



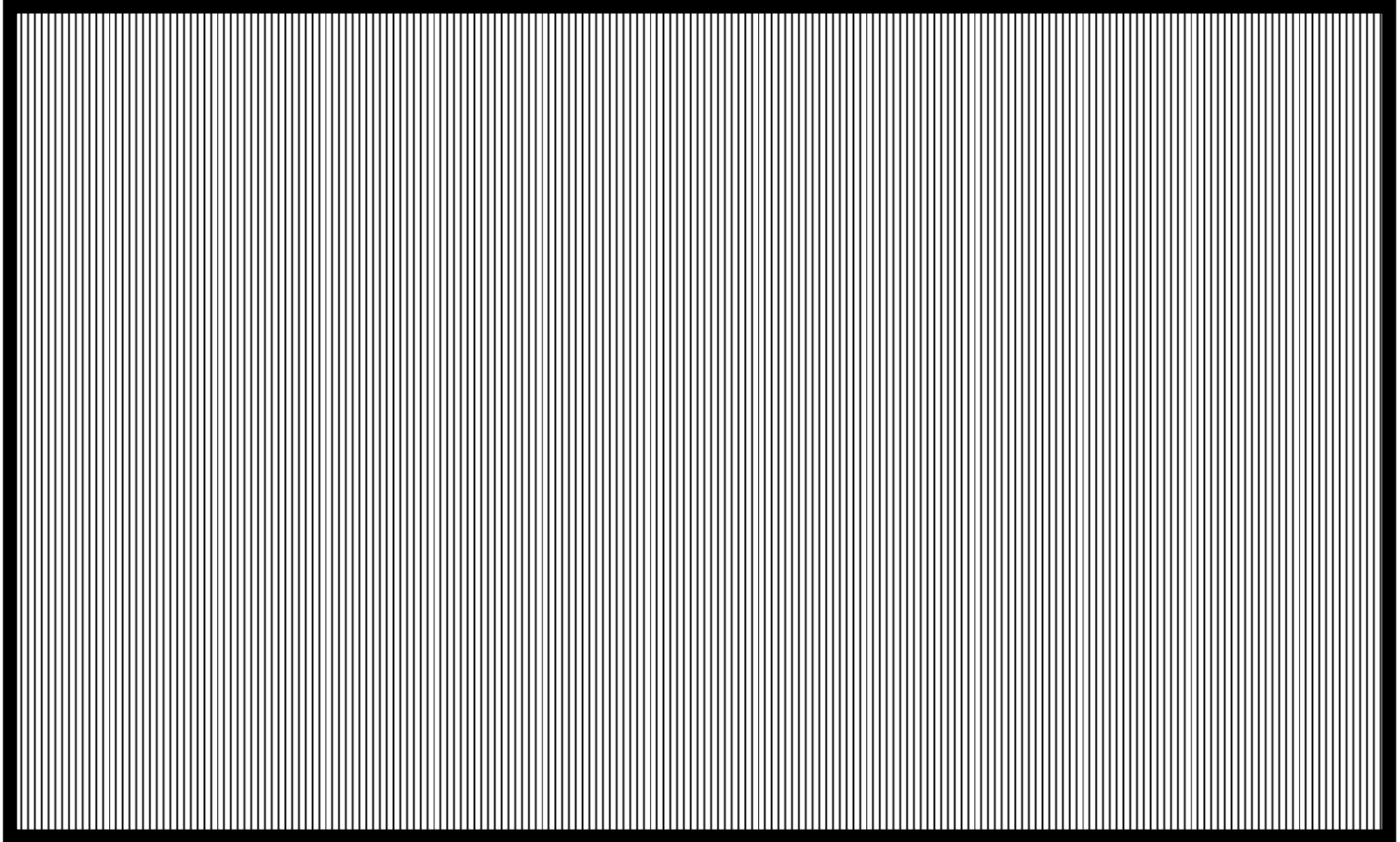
Target Color Comparison



Remember This Color

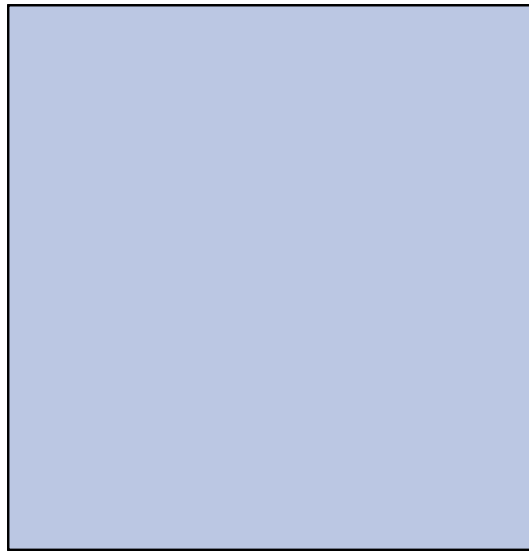


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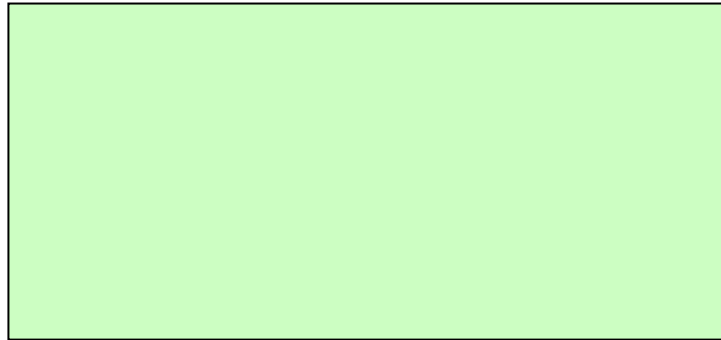
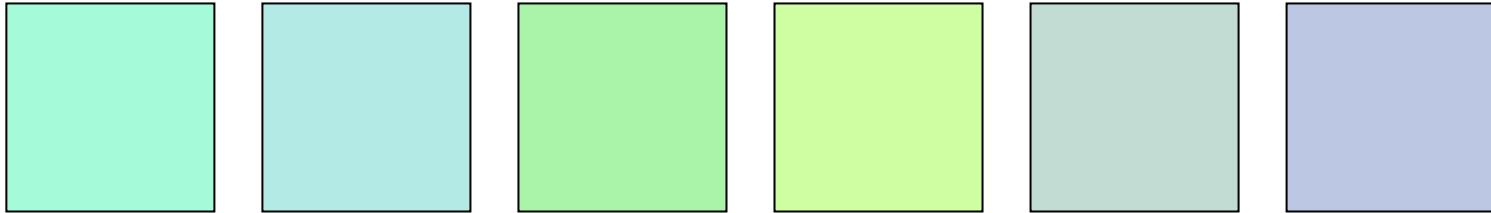


Sequential Lineup 2

Stop If You See Identical Color
You Saw Before



Target Color Comparison



Real-world v Laboratory Lineups

Key points:

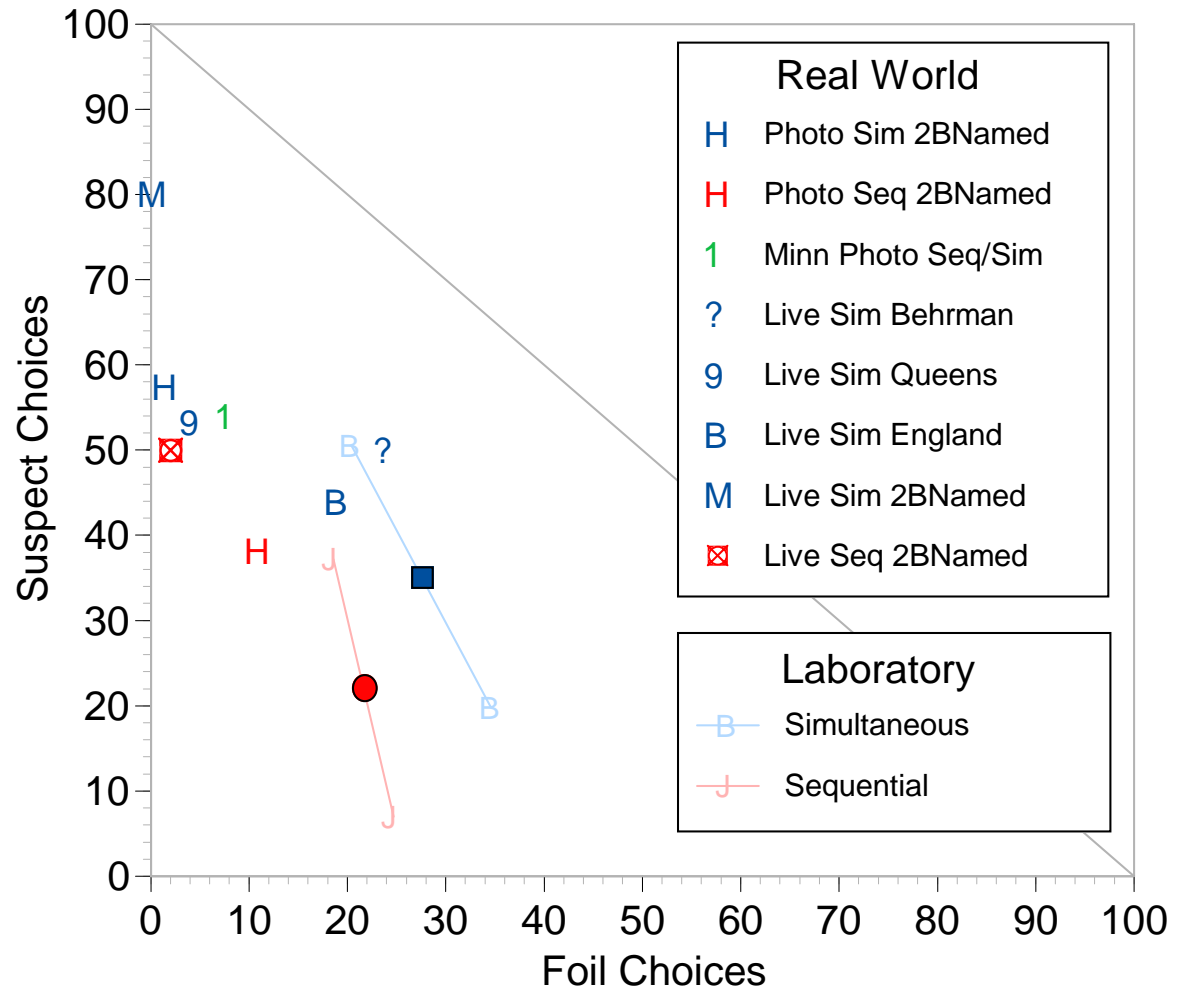
Target/suspect choice rates are much higher in real world than in laboratory studies

Most real-world higher than lab TP lineups

Foil choice rates vary but generally lower in real-world than lab

Simultaneous > Sequential

Live > Photo



Position Effect Problem

- Early fillers affect the odds that witnesses will get to see suspect/culprit
- Placing suspect early means lineup is smaller
- Problem of shifting “memory match” standard or criterion as witness progresses through the sequence
- Above varies with memory strength and location of standard at start of sequence

Legal Challenges to Sequential Lineup

- Different positions equivalent to different instructions
 - Early strict, later lower
 - As if witnesses viewing suspects in earlier positions received different instructions than witnesses viewing suspects in later positions
- Early positions not fair
 - Odds of being picked by chance higher at start than at end (smaller lineup)
- Greater opportunity for investigator influence if double blind not successful
 - Have to videotape double blind procedure?

Instructions

- Instructions affect “memory match” standards of judgment.
- Changes in standards affect both the rate at which culprits will be picked and the rate at which innocent suspects will be picked.
- Determining the relative importance of these different outcomes is a political decision.
 - However, we do not yet fully understand how instructions, memory, lineup procedure, and similarity combine to determine changes in these different outcomes.
- Instructions affect different people differently
- Better strategy: detect those whose memory is poor and whose “memory match” standards are too low
 - For example, multiple blank (filler only) lineups

Double Blind

- No research showing that false IDs are the result of investigator “leakage”
 - There is no evidence showing that actual investigators suggest (consciously or unconsciously) who suspect is in simultaneous lineups
- Sequential lineups seem more prone to investigator bias than simultaneous lineups
- No research on envelope method of conducting lineups
- Problem of reluctant witness

Videotaping

- Videotaping and other record keeping functions are clearly a good thing for research purposes.
- Videotaping without pilot project study designs are not nearly as useful for research purposes.
- From a legal-system point of view videotaping is not a “perfect” record of events.
 - Lighting, field of view, point of view, time-line, context, and so on can affect conclusions of observers.
 - Subject to challenges of all sorts

No Feedback

- Early recording of confidence, and other expressions of “strength” of memory, e.g., speed of responding, is a good thing.
- Doesn't mean confidence collected later is bad thing, however, even when there is feedback.

Minimum Lineup Size

- We do not know the effects of lineup size for different combinations of memory strengths, similarity, procedural variations and so on.
 - For example, there is some evidence suggesting that lineups of size 1 produce higher accuracy rates than lineups with more than one person
- Even if we did know effects of lineup size in general, the results would not tell us the “correct” size of lineups.
- To determine the “correct” size, we would have to set goals that specified specific trade offs between correct culprit identifications and incorrect innocent suspect identifications. This has not been done and is a political decision, not a scientific one.

Fillers Fit Witness Descriptions

- Fit description could be a problem when witness memory is less than perfect and neither suspect nor fillers look a lot like culprit (but all tend to match some features of culprit)
- Fit description creates widely variable similarity structures across crimes
 - Not clear if this is a good thing
 - Depends on whether witness descriptions are correlated with witness memory and witnesses' "memory match" standards across crimes

Independent Witness Testing

- Seems reasonable.
- But, this doesn't mean that group testing is automatically worse.

Train Police in Procedures

- Depends on which procedures they are being trained to use.
- Especially important if we switch to sequential lineups because there are so many opportunities for mistakes, e.g.,
 - Repeat viewings
 - Set aside one until the rest are seen
 - Continue even after item chosen (allow changes of mind)
 - Expectations regarding lineup size (last one, problem)
 - Suspect position

Training of Others

- Cross-race
 - May well be less of a problem than some suggest
 - Shifting standards when fillers similar to suspect
- Relative judgment process
 - Clearly wrong
- Value of expert testimony dealing with eyewitness reliability

Standardized Jury Instructions

- Not at all clear what to tell them
- Jury concerned with absolute odds witness is correct but research concerned with differences in accuracy.
 - Size of differences and absolute accuracies are highly variable from study to study
 - No theory ties them all together to provide a representative estimate of odds in any particular case

Other suggestions

- Develop standardized measures of similarity structure
- Pilot research to determine rate of innocent suspects lineups that result in charges being filed
- Test relative effectiveness of other identification procedures
 - Some designed to detect witnesses with poor memory
 - Rehabilitate those whose decision criteria are too low

Some Other Eyewitness ID Procedures

- Multiple simultaneous lineups
 - Blank (all fillers) then suspect present
- Witness determined presentation
- Multiple view simultaneous lineups
 - Front, side, different hair styles, etc.
- Elimination procedure
- All possible pairs (triplets)
- Ratings rather than categorical decisions

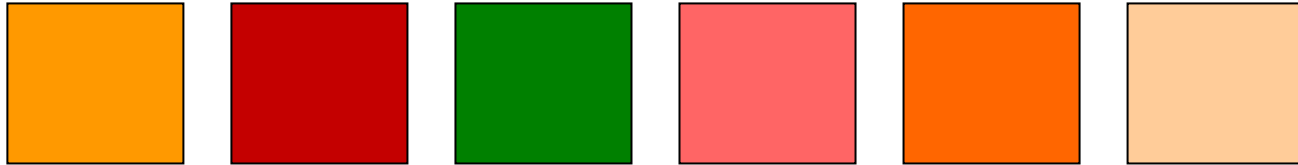
What Do We Need to Know?

- Four issues are critical
 - Similarity structure of lineup
 - “Degree of Match” required to say “that’s him”
 - “Strength” of memory for culprit’s looks
 - Probability that lineups contain innocent suspect v. guilty suspect

Similarity Structure of Lineup

- Similarity of suspect (picture) to culprit
 - Appearances change
 - Pictures do not represent live appearance
- Similarity of fillers to culprit
 - How similar should fillers (known innocents) be to the suspect
 - Similarity matching
 - Description matching (an unknown degree of similarity matching)
- Similarity of fillers to each other
 - How similar should fillers be each other
- Pop out

Pop Out



But, what does culprit look like?

