

**INDEPENDENT COMPETENCY EVALUATION  
SANTA CLARA COUNTY  
DEPARTMENT OF MENTAL HEALTH  
JUVENILE COMPETENCY RESTORATION PROGRAM**

**Post-Restoration Evaluation of Competency to Stand Trial**

<b>Name:</b>	Raul Torres	<b>Date of Report:</b>	December 11, 2012
<b>Date of Birth:</b>	9/5/95	<b>Date of Interview:</b>	December 3, 2012
<b>Age:</b>	17 years, 8 months	<b>Probation File #:</b>	10-011-012
<b>Sex:</b>	Male	<b>Court Petition #:</b>	321JV98765A
<b>Grade:</b>	12 <sup>th</sup>	<b>Examiner:</b>	Stewart Jones, Ph.D.
<b>Primary Language:</b>	English	<b>Judge:</b>	Hon. Susan Turner

Raul Torres has been charged with Theft of a Motor Vehicle, Reckless Driving while Fleeing a Peace Officer, and Rape, all felonies, and Providing False Information to a Peace Officer, a misdemeanor. He was previously found Incompetent to Stand Trial and has been receiving competency restoration counseling through the Santa Clara Mental Health Department. This evaluation was undertaken in response to a request for a post-restoration evaluation of trial competency from Robert Fuller, LCSW, Director of Competency Restoration Services, Santa Clara Mental Health Department.

**Sources of Information**

1. Records
  - a. Police, Court, and Probation Records
    - i. Arrest, Investigation Reports, Narratives, Supplemental Reports for the offenses
    - ii. Petitions
    - iii. Probation Department Court Memorandums, various dates
    - iv. Referral History and Risk Assessment
    - v. Probation Officer's Report, 7/4/11
    - vi. Probation Officer's Supplemental Report, 9/2/11
  - b. School Records
    - i. Psychoeducational Assessment Report, Franklin-McKinley School District, May 2008
    - ii. Speech and Language Evaluation Report, Franklin-McKinley School District, 5/5/10
    - iii. Individualized Educational Program (IEP), Santa Clara County Schools, 6/3/09
    - iv. Individualized Educational Program (IEP), Santa Clara County Schools, 9/1/10
    - v. Transcript, 10/2/12
    - vi. Writing and work samples from the Juvenile Hall school program
  - c. Mental Health Records
    - i. Aspiranet Family Focused Network Assessment & Support Plan, 3/8/11
  - d. Prior Forensic Evaluations

- i. Forensic Psychological Evaluation, George Ramos, Ph.D. 7/3/10
    - ii. Competency to Stand Trial Evaluation, Sally Grant, Ph.D., 7/4/11
    - iii. Competency to Stand Trial Evaluation, Francene Walker, Ph.D., 7/5/12
    - iv. Competency to Stand Trial Evaluation, Sally Grant, Ph.D., 8/4/12
  - e. Competency Restoration Records
    - i. Letters from Robert Fuller, LCSW to Judge Susan Turner, various dates
    - ii. Competency Restoration Service Plan, Lucas Jones, Jr., 2/10/12
    - iii. Admission Competency Evaluation, Edward Pike, LCSW, 1/11/12
    - iv. Juvenile Competency Restoration Status Reports, various dates
    - v. Juvenile Competency Restoration Progress Notes, 3/9/12-11/1/12
2. Interviews
- a. Morgan Blanchard, Juvenile Hall Teacher, 12/11/12
  - b. Sophie Summers, District Attorney, 12/12/12
  - c. Tim Diaz, Defense Attorney, 12/13/12
  - d. Robert Fuller, LCSW, Competency Restoration Supervisor, 12/14/12
  - e. Raul Torres, 12/15/12 (2 interviews totaling 5 hours)
3. Tests Administered
- a. Test of Memory Malingered
  - b. Dot Counting Test
  - c. The “b” Test

**Notice of Purpose**

Prior to the evaluation, Raul was apprised of the reasons for the evaluation. I explained the limited nature of confidentiality, and informed him that the information regarding his current emotional and cognitive status relevant to Competency to Stand Trial would be forwarded to your office and would ultimately be shared with the court, District Attorney, and his attorney. He appeared to understand these facts and was willing to proceed.

**Background Information**

Raul’s personal history summarized in prior reports; thus the focus here will be on the issues related to current questions about trial competency.

General Background Information: Raul is a 17-year-old young man who is facing legal charges as enumerated above. He was referred for an evaluation of trial competency and received an initial Competency to Stand Trial, conducted by Sally Grant, Ph.D., on 7/4/11. Dr. Grant opined that he was not competent based on findings of cognitive impairment, learning problems, developmental immaturity, and impulsivity, and she suggested competency restoration services. Raul was found Incompetent to Stand Trial and ordered to receive restoration services by Judge Susan Turner on 9/10/11. Restoration services began on 1/13/12 and have continued to the present time. Restoration counseling notes indicate good effort on Raul’s part and a perception of progress despite his learning difficulties. On 7/5/12, a routine Competency to Stand Trial Evaluation was completed by Francine Walker, Ph.D. Dr. Walker opined that Raul remained

incompetent as a consequence of his cognitive and learning problems and responses on structured measures addressing trial competency-related knowledge. She recommended that restoration counseling continue, and offered specific recommendations to support his learning style and deficits.

Restoration services continued, and Raul's effort and engagement in the process were described in positive terms, despite a few episodes of flagging motivation in conjunction with his frustration at the fact that his case remained in limbo. Raul is described in restoration counseling notes as showing continued acquisition of information and improvements in conceptual understanding, though he continued to demonstrate difficulty learning and retaining information and understanding complicated concepts. On 8/10/12, at the request of his attorney he was re-evaluated by Dr. Grant. She found lower cognitive functioning on testing than had previously been identified, and her conclusions regarding his cognitive and learning deficits again were seen as indicating competency-related deficits. On this occasion, Dr. Grant commented that competency restoration "has apparently been tried and was not a success," seemingly offering the opinion that he was not likely to be restored to competency even with further restoration counseling. This opinion appears to have been based on her observations of Raul's progress, as she reportedly did not have competency restoration notes and did not speak with staff providing competency restoration services.

Raul has continued to receive restoration counseling to the present, with notes suggesting continued progress. A restoration supervisory summary from early October offered conclusions that he had a sufficient understanding of his charges, court terminology and proceedings, and his rights, and that he had the ability to assist his attorney in his defense.

All prior evaluators have opined that Raul's competency-related deficits are primarily a function of his intellectual and learning deficits; thus, discussion here will focus on this element of his functioning. Raul does have a history of some mental health problems as well, and while their influence has not been seen as primary, background information will also be provided in this area.

Mental Health Functioning: Raul has past diagnoses of Attention Deficit Hyperactivity Disorder, depression, and possible Posttraumatic Stress Disorder. Available information indicates that he began to receive mental health treatment in conjunction with his legal involvement, which appears to have begun about three years ago after the family relocated to an area of town in which Raul was exposed to, and joined with, a delinquent peer group. His difficulties in mental health functioning likely preceded this time, however, as he was reportedly physically abused by his father and witnessed his father's physical abuse of his mother, and he has reported a history of problems with anger problems that is likely related to these events.

Prior Competency to Stand Trial evaluations have noted this history, but generally not suggested that mental health impairment was a significant factor in Raul's competency-related deficits. An exception was Dr. Grant's initial evaluation, in which she included the conclusion that untreated depression was contributing to his deficits; however, in her recent re-evaluation, she described the mood symptoms as lessened, though noted their persistence. As will be elaborated, I did not see evidence of a significant psychological disturbance that interfered with Raul's trial

competency related abilities, and observed his deficits to be related primarily to cognitive limitations and associated developmental immaturity. At the same time, I believe it also important to note that more subtle mental health problems (mood reactivity, the persisting effects of prior trauma) can further impair judgment and decision-making in adolescents who struggle with cognitive limitations.

Cognitive Functioning and Learning Potential: I was not able to obtain school records for Raul from prior to three years ago, so was not able to review intellectual and achievement testing done when he was younger. Available school records note that he was found to be eligible for special education services when in Kindergarten or first grade. His classification at that time is reported to have been Learning Disabled secondary to a visual-perceptual weakness. He was subsequently classified with a primary designation of Learning Disability and a secondary designation of Speech Language Impairment and has remained in special education throughout his schooling to the present.

Records of intellectual and achievement testing are available from 2009 to the present, with assessments occurring in the school (2009 and 2010), a forensic psychological evaluation (2010), and three Competency to Stand Trial evaluations (one in 2011 and two in 2012). Given the central issue of Raul's intellectual and learning deficits, prior assessment findings will be elaborated and discussed.

A school psychoeducational assessment in September 2009 included a screening of general intellectual abilities and two nonverbal intelligence measures. On the Wechsler Abbreviated Scale of Intelligence (WASI), Raul exhibited functioning that was significantly impaired and fell at the border of the range of mental retardation and borderline intellectual functioning<sup>1</sup>. On this screening measure he attained a verbal score of 70, a nonverbal score of 67, and a full scale IQ estimate of 67. On two nonverbal intelligence measures, Raul exhibited similar deficits (a standard score of 71 on the Ravens Progressive Matrices test and a score reported as "<70" on the Comprehensive Test of Nonverbal Intelligence). Academic achievement testing at that time was found to be variable, with lower scores than predicted by cognitive tests in some areas (on the Woodcock Johnson Test of Achievement-III, Broad Reading = 54, Broad Written Language = 48, and on the Peabody Picture Vocabulary Test –III Standard Score = 51) and commensurate achievement (Broad Math = 72) in others. This pattern of generally weaker achievement than ability supported a diagnosis of Learning Disorder, but also highlights overall intellectual and limitations and low achievement.

In a forensic psychological (not Competency to Stand Trial) evaluation in October 2010, George Ramos, Ph.D., administered the verbal subtests only of the Wechsler Intelligence Scale for Children-Fourth Edition (WISC-IV), yielding a Verbal Comprehension Index score of 67, consistent with prior results. The following month, school-based achievement testing (a screening using the Woodcock-McGrew-Werder Mini-Battery) found achievement to be

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<sup>1</sup> IQ scores between 90-109 are considered Average, between 80-89 are considered Low Average, between 70-79 are considered Borderline, and below 70 are considered in the range of mental retardation. Scores lower than 70 do not necessarily indicate that an individual meets criteria for a diagnosis of Mental Retardation, which requires evidence of both substantially low intelligence (reflected in a valid IQ score at around 70 or below) and commensurate deficits in adaptive behavioral functioning.

impaired, with scores as follows: Reading = 68, Writing = 59, Math = 59, and Factual Knowledge = 72.

Intellectual abilities were assessed in three subsequent Competency to Stand Trial evaluations. On the first two of these, evaluators also administered a symptom validity test<sup>2</sup>, the results of which were seen as indicative of adequate effort. In November 2011 Sally Grant, Ph.D. also administered the Shipley Institute of Living Scales, a cognitive screening measure. On the Shipley, Raul obtained a verbal score of 61 and a nonverbal score of 76. A memory test, the Wechsler Memory Scale-III was also given, yielding an Auditory Memory Index of 71, a Visual Memory Index of 78, and a General Memory Index of 69. In May 2012, Francine Walker, Ph.D. administered the WASI, and Raul obtained a verbal score of 63, a nonverbal score of 74, and a full scale score of 66.

In her second Competency to Stand Trial evaluation, in October 2012, Dr. Grant administered the WISC-IV. Although she offered the conclusion that Raul's performance was consistent with his prior testing and academic achievement, his score was notably lower than on prior evaluations, and she did not administer a symptom validity test. On this occasion, Raul obtained a Full Scale IQ of 52, about a standard deviation lower than on most prior cognitive assessments. A screening of reading achievement (using the Wide Range Achievement Test-3 Reading subtest) yielded a standard score of 63.

As part of the current evaluation, further cognitive testing was not undertaken. Even with symptom validity testing, intellectual assessment results obtained in the context of forensic evaluation must necessarily be viewed with some skepticism. More importantly, such testing would have been redundant, as there is an established and largely consistent history of results, and there is no indication of any condition (e.g., a neurological insult) or external observation that would suggest a change in cognitive status.

Information about Raul's intellectual functioning and learning was also obtained from Juvenile Hall school staff, both through interview and perusal of his work samples. His primary teacher, who stated that she has him for most classes and has worked with him for much of his time in Juvenile Hall, reported that Raul has been progressing in school and is on track to receive a standard diploma this month, presuming that logistical issues unrelated to his progress can be resolved. She noted that she has observed him to have significant problems with learning and retention, but that he can and does show progress with intensive one-on-one support. She offered the opinion that he appears more similar in capacity to students with learning disabilities than to students with Mental Retardation based on his the content of his thinking and his ability to show improved learning when provided with consistent instruction that is sensitive to his deficits and needs. She also noted that he gives up easily, doubts his abilities, but is responsive to praise and interpersonal support. Writing samples from his schoolwork are notable for poor spelling,

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<sup>2</sup> Symptom validity tests are measures designed to assess test-takers' level of effort and/or to detect test-takers' attempts to manufacture or exaggerate deficits. When used with cognitive tests, they typically present tasks that appear difficult but can be completed easily even by impaired individuals. Comparison of a test-taker's performance to population-based norms and/or evaluation of the pattern of responses across items provides information about degree of effort and motivation. Symptom validity tests do not directly gauge test-takers' efforts on other measures (e.g., an accompanying IQ test), but since efforts to be impaired are likely to be made across tests, they can offer useful information.

limitations in sentence structure and comprehension, but demonstrate his ability to write sentences and complete assignments requiring critical thought, comprehension of simple information and ability to restate it in simplified language, and to take temporal and interpersonal perspective.

### **Mental Status during the Evaluation:**

Raul was seen in the morning and after a lunch break again in the afternoon. He was attentive and cooperative throughout. As has been previously observed, he had difficulty with complex sentence structure and vocabulary; however, he was often able to use contextual clues to understand difficult words, and he frequently asked that the examiners repeat statements or questions he did not understand. Often Raul had difficulty with specific terms while exhibiting understanding of the underlying concept. On occasions, he briefly confused terms (e.g., guilty for not guilty) or statements (e.g., switching offenses in a hypothetical plea bargain scenario), but was able to make corrections when given guidance, which is consistent with observations made in restoration counseling. On the symptom validity tests (Test of Memory Malinger, Dot Counting Test, The “b” Test), he remained focused and attentive without noticeably flagging attention on fairly rote tasks that lasted about 30 minutes. The profile on symptom validity tests suggested that on these measures, he made a generally good effort and was not exaggerating cognitive deficits.

Raul generally appeared forthcoming and was willing to discuss elements of his life history, although he was reluctant to speak in detail about his history of physical abuse and violence exposure in the home, noting that he has never liked talking about these experiences because remembering them is upsetting. He reported having a quick temper and stated that he often feels frustrated because of his continued incarceration and the slow pace of the restoration process, and he reported anxiety about his future and his family members’ well-being while he is incarcerated. However, he denied symptoms consistent with an acute mood or anxiety disorder, and noted that although he often feels “sorta sad,” he does not stay down or angry for long periods of time. He denied active or passive suicidal ideation. There was no indication in his report or behavior of the presence of a disturbance of thought (i.e., a psychotic disorder) or other acute psychological disturbance, and no other information suggested the presence of such difficulties.

### **Competency to Stand Trial**

Raul initially stated that he is charged only with Reckless Driving and Rape. When discussing his charges, he initially professed a lack of knowledge of anything other than the names of these two charges, stating he had no knowledge of other charges or of the specific allegations. This was not credible given his prior statements and he was challenged in a supportive though direct manner. Although he became more forthcoming, it was clear that his responses continued not to reflect his full knowledge. Notably, this was the only area on the second day of evaluation in which Raul did not appear forthcoming, and his reticence appeared likely to reflect anxiety about talking about the allegations rather than a broader pattern of resistance. Ultimately, he made statements indicating his recognition of all charges and of at least some of the specific allegations. For example he was able to articulate that he was charged with stealing a car, trying

to evade police who tried to pull him over while he was driving the car, and giving a false name to the police officer when arrested, as well as raping a girl with two peers.

Raul expressed anxiety about his legal case and possible outcomes, rating his anxiety as a 7 or 8 out of 10, though also expressed frustration at the slow pace of his case. He indicated he did not know what outcomes are likely if he is convicted of these offenses, citing his attorney's decision not to talk with him about his case until the competency matter is resolved. He did indicate understanding that the range of possibilities includes a release on probation given the time that he has already served, a residential mental health placement, further juvenile hall time, or commitment to the ranch or Youth Authority. He stated that he is aware that his charges are potentially transferable to adult court, and stated that although his attorney and probation officer have reassured him that this will not occur he continues to worry that it could. He distinguished felony from misdemeanor charges, identified a felony as "a higher charge" associated with greater jeopardy and a misdemeanor as a "lower charge." He stated that he believed all his charges to be felonies, and when he was informed that the false information charge was a misdemeanor indicated his understanding stating "I thought that it was something big – lying to the cops."

Raul demonstrated a good knowledge of the primary individuals in the court system, indentifying them and accurately describing their roles. He identified the judge as someone who will "decide if I'm guilty or not," and "sentence me," while correctly defining those terms, and he identified her as in charge of courtroom proceedings. He stated that the District Attorney is a lawyer with interests opposed to his whose job is "to prove me guilty" and who is on "the government's side."

He identified his attorney by name, and noted that Mr. Diaz is the third attorney assigned to him, spontaneously offering the information that his second attorney was no longer able to represent him since she was also representing a co-defendant. He defined his attorney's role as "to help me out" and stated that an attorney could help his client by demonstrating his innocence in a trial, helping a defendant found guilty obtain a lower sentence, and "making a plea deal with the DA." He indicated that he trusts his attorney and would disclose fully to him. He struggled to come up with the term "attorney client privilege" as he was describing the concept, but articulated a good understand of an attorney's obligation to not disclose information without client consent even in the case of a client who has committed the act(s) in question (stating when asked, "No, he can't tell no one else without my permission"). When queried about whether he still might choose to not tell his attorney information that cast him in a negative light, he offered the thought that such disclosure would be important because "your lawyer should know ahead because the DA or somebody could bring it up."

Raul exhibited understanding of the kinds of things a defendant in a case such as his might share with his attorney to assist his attorney and although he indicated he would share both favorable and unfavorable information, he correctly distinguished between the types of information a lawyer might choose to share at trial based on whether it would likely be helpful to a defendant.

Raul used the term "witness" spontaneously and defined a witness as "someone that seen the crime" and could be called to offer testimony in court. He recognized that witnesses may be

called by both sides and that they would be subject to cross-examination (again struggling to recall the term as he was defining it and while not recalling it correctly, accurately defining the concept). With discussion, he also expressed understanding that witnesses might be people who were not present at the scene of a crime but could offer other useful information, and he identified possible witnesses in his case.

Raul exhibited a clear understanding of the adversarial nature of court proceedings. He identified his attorney as on his side, the DA as “against me,” and the judge as on “neither side.” He stated that a judge must be neutral for proceedings to be fair, and indicated that defendants have a right to a fair trial. He defined a right as “you have a right to something – it can’t be taken away” and in addition to a trial he identified rights that include not being forced to incriminate himself, and the right to an attorney.

Raul stated that a defendant has a right to plead guilty or not guilty. He defined a guilty plea as an acknowledgement that a defendant has committed a crime. He initially defined a not guilty plea as “you didn’t do it – you’re innocent”; however, as I started to correct him, he corrected himself, saying, “Basically, (the DA) have to prove it.” He stated that a defendant pleading guilty would proceed to sentencing, and a defendant pleading not guilty would proceed to trial (he did not use this term at this time, though expressed clear understanding that the judge would then hear evidence and make an adjudication), if found guilty be sentenced, and if found not guilty be free to return home.

Raul has less ability to describe in detail the trial process. He stated that in a trial attorneys call witnesses and present evidence, though could not describe the specific components of a trial in sequence (i.e., opening statement, calling of witnesses, cross-examination, etc.). While he was beginning to learn this material as I presented it, more time would have been necessary to help him solidify his understanding. However, he did exhibit awareness that attorneys call witnesses and present evidence and that based on this information a judge determines if a defendant is guilty. He defined evidence as “stuff you left behind – like you dropped something – or a camera that seen you.” As with the discussion of witnesses, he was also able to articulate an understanding that evidence could also be exculpatory (e.g., “that I wasn’t there, that I was somewhere else”).

Raul expressed clear understanding that the burden of proof falls on the government. He stated when asked about this, “the DA has to prove I did it” and that if a case is not proven by either side, a defendant is found not guilty. Regarding standard of proof, he understood that the standard is a high one, though initially seemed to believe it to be unreasonably high, opining that a judge being pretty close to certain of a defendant’s guilty should rule the defendant not guilty. After we discussed this, he volunteered a guess that a judge should be “90 (percent), around there; doesn’t have to be 100 percent.”

Raul spontaneously referenced plea-bargaining, and when we returned to this later in the interview, he defined it as “a deal, you say you did something and you get a lower sentence. The DA and your lawyer make a deal, you admit you did it” and further “saying you did something and some charges be dropped.” When we discussed hypothetical plea bargain scenarios involving a made-up case and his own case, Raul demonstrated rational thinking when justifying



his decisions. He referenced the difference between worst-case sentences and plea offers and the relative strength of the evidence as factors that would influence his thinking. He did this in a simplistic manner, as if the possibilities would be that the evidence was very strong (in which case a defendant should almost always take a plea offer), very weak (in which case a defendant should almost never take a plea offer), or even (in which case he tended to pay more attention to the disparity between the offer and worst case sentence), without considering more subtle distinctions. However, he did demonstrate a simple understanding of probability and risk decisions.

Although Raul does appear to have learned many facts and concepts in restoration counseling, an additional issue of concern raised by those who have worked with him is his difficulty advocating for himself, both because he often does not understand and because he masks his lack of understanding with social behaviors. For example, he reported to us and to others previously, that he has had essentially no understanding of what has transpired in prior court proceedings in which he has been involved. Whether that assertion is accurate is beyond the scope of this evaluation, but it would be consistent with his prior lack of knowledge and his generally reported behavior. He commented that he was not confident that he would inform his attorney in court if he did not understand something, or if there were important facts to interject. Further, Raul's history suggests that he would likely have considerable difficulty thinking on his feet, particularly in an emotionally charged set of circumstances such as a court hearing might entail. These deficits are consistent with both his intellectual limitations and his developmental immaturity, and are reasonable sources of concern. However, Raul did demonstrate in these interviews and prior interactions with other in the court system the ability to advocate for himself, though recognition of his concern and active support by others was often a necessary prerequisite for this self-advocacy to occur.

Raul demonstrated in the current evaluation the ability to take temporal and interpersonal perspective, and engage in hypothetical reasoning; though in both circumstances his ability to do so was not advanced, consistent with his developmental limitations and immaturity. For example, he stated a belief that his attorney has not recently discussed much case material with him because the attorney is waiting for the competency matter to be resolved before doing so. Raul also stated that when he wanted to get a job prior to his incarceration (believing that he is at risk of getting into trouble when not in structured activities) his probation officer forbade it because of a wish that he focus on his schoolwork. In a demonstration of problem-solving, he engaged in a role-play in which he argued a case for being allowed to work reasonably well. Raul also expressed understanding that a defendant who chooses to testify on his own behalf runs a risk of disclosing unfavorable information, illustrating thinking that while not highly complex, clearly indicates an ability, at least when he is supported and in a relatively unactivated state, to make a reasonable assessment in the type of legal decision he may face.

## **Summary and Opinion: Competency to Stand Trial**

Raul demonstrated an at times limited but ultimately sound factual and rational understanding of and ability to appreciate the nature of his charges and courtroom proceedings, including the roles of those involved and the adversarial nature of legal proceedings, his rights, his plea options, likely outcomes, and the trial process. He demonstrated a sound factual and rational understanding of his attorney's role as his advocate, as well as the capacity to provide relevant information to his attorney and recognition of the importance of doing so. Similarly, he demonstrated the capacity to understand and rationally make the types of decisions that may be required of him in pretrial and trial decision-making in the Juvenile Court, including in the context of plea-bargain offers.

In the past, Raul has exhibited significant deficits in these areas, and his ability to consistently articulate his understanding remains limited, particularly on his first efforts to do so. However, restoration counseling notes suggest that he has made significant progress in knowledge and understanding, and he demonstrated this knowledge and the ability to apply it in a rational manner with me. In these interviews, his knowledge was at times limited, and he could not reliably provide some information when first asked, but with changes in questioning (including simplified wording, repeated queries, and further education) he was able to show improved understanding that clearly went beyond rote repetition or mirroring of what had been said to him and illustrated actual conceptual understanding. Beyond discussion of the facts of court procedure, Raul's comments in discussions about court and other matters indicated that he can reasonably and rationally understand and make decisions about relevant to his legal involvement. For example, comments that a defendant must share fully with his attorney so that the attorney can be prepared to respond if such information is presented by the prosecution, spontaneously offered, illustrate not only factual knowledge but also the ability to take temporal and interpersonal perspective in much more than a rudimentary manner. Creative argumentation in a role-play in which he considered ways to convince his probation officer to let him try to find a job similarly demonstrated the capacity for abstraction and problem-solving.

These findings are consistent with observations of teachers who note that despite limitations, Raul can successfully learn with intensive one-to-one support and maintain learned material with continued support, and with the fact that he is expected to receive a standard high school diploma shortly.

However, it is critical to note that despite having these capacities Raul is a significantly impaired adolescent, with deficits that stem from a combination of intellectual limitations, learning disabilities, the influence of emotional factors, and developmental immaturity. He often has trouble expressing what he knows, and the knowledge and reasoning that he does possess is limited when compared with most of his same-aged peers. He is easily confused, may be easily misled, and, particularly when emotionally activated and/or under pressure, is likely to have great trouble making sound and rational decisions. Given these limitations, two recommendations are offered to enhance his effective participation in his defense and the decision-making that may be required of him:

1. If in the course of a trial or other hearing Raul must make important decisions, he would benefit from time to think them through and interpersonal support while doing so. If he is required to make complex or weighty decisions on the spot, or decisions that require him to consider long-term outcomes, his cognitive deficits, impulsivity, and immaturity would likely lead to impairment in reasoning and judgment. Thus, ensuring his understanding, and allowing a break to confer with his attorney if he were required to make unexpected decisions could be helpful.
2. If Raul is found competent to stand trial, it may be useful for restoration counseling to continue up to the point of his trial or the case's resolution. Because his deficits in understanding can be addressed through one-on-one support, the provision of ongoing restoration counseling would likely enhance his understanding and self-interested decision-making. If appropriate, the restoration counselor could, in conjunction with his attorney, help Raul consider specific issues that may arise.

I hope that this information is helpful. Please do not hesitate to contact me if I can be of further assistance.

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Stewart Jones, Ph.D.  
Clinical Psychologist

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Date