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## **Restorative Justice — America's New Frontier...pg 10**

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# "Restorative Justice" — America's New Frontier

By Dr. M.G. Maness

"Restorative Justice" — whatever does that mean?

In Woodville, Texas, plans for a Restorative Justice Ministry Family Service Center have begun. Yet, what is it? What will it do?

## Lewis and Clark and Restorative Justice

Compare the concept of "Restorative Justice" and the beginnings of this Service Center to the expedition of Capt. Merriweather Lewis and Lt. William Clark. The expedition charted a path through the northwest wilderness of 19th century America to the west coast under a commission from President Thomas Jefferson. In 2003-2004 there will be many commemorations to honor that trek's 200th anniversary. On May 14, 1804, Lewis and Clark left St. Louis, Missouri. On the first day they camped six miles up the Missouri River. They returned two and half years later on September 23, 1806, logging over 2,000 miles.

They had no map, precedent or guide-book.

At that time, everyone knew that someone needed to go into the wilderness with an "objective" to chart a Northwest pathway, not just make excursions for gold and beaver pelts. President Jefferson had been preparing Capt. Lewis to lead the expedition for over a year. With courage, self-sacrifice and the incredible fiber of individual confidence, Lewis and Clark entered a truly *uncharted* territory without any precedent and without any promise of success.

That expedition into the wilderness of the 19th century northwest compares to the current state of affairs of "Restorative Justice" on both the national and international scene. Moreover, the expedition compares to what is actually happening in Woodville, Texas.

## Woodville, Texas, and Restorative Justice

In July 2002, John Morrison gathered some community leaders together to discuss the need for a "Restorative Justice" service cen-

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ter in Woodville. Ideas and concerns were bantered about, and a board was founded. In subsequent meetings, some property was donated by the Hayes estate, and the board approved the steps necessary to pursue incorporation.

What "needs" will the Restorative Justice Center meet? Theoretically and broadly speaking, the initial goal was to help those caught up in the criminal justice systems. Those "caught up" include the offenders, the victims, their families, the agencies, the churches, and the many other service organizations with specific missions in the county, state, and nation.

Yet, those words about meeting needs lack specificity, and the "vision" of the center looks deep into the uncharted frontier of

the "Restorative Justice" wilderness. It is very difficult to see a clear pathway. Let me explain.

## International "Restorative Justice"

"Restorative Justice" (RJ) has been a developing philosophy for about 20 years on the international scene, primarily in places like Britain, Australia, Canada, New Zealand and even Japan and some third-world countries. RJ initiatives sprang up as complements to (even alternatives to) the frustrations experienced in the various nations' failures to curb crime and lower recidivism in those countries. Like the United States, those countries have concerns about crime, yet they have lower crime rates, lower recidivism, and lower incarceration rates per capita than the United States. Enter the significance of RJ.

The Restorative Justice Ministry Network of North America is the leading network on restorative justice with over 57,000 citizens and growing. Its Web site [www.rjmn.net](http://www.rjmn.net) defines RJ as the following:

Restorative Justice asks: 1) What will it take to restore "Shalom" (peace) back to this community now that it has been broken by this crime? 2) What will it take to restore a sense of autonomy to this crime victim? 3) What will it take to eventually restore this offender to the community? These questions lead to "healing."

Emmett Solomon has led this effort for several decades. Another leading Web site on RJ is [www.restorativejustice.org](http://www.restorativejustice.org), and it defines RJ as

a systematic response to crime that emphasizes healing the wounds of victims, offenders and communities caused or revealed by the criminal behavior. Practices and programs reflecting restorative purposes will: (a) identify and take steps to repair harm done, (b) involve all stakeholders, and (c) transform the traditional relationship between communities and their governments.

Theorists like J. Braithwaite, D. Ness, T. Marshall, H. Zehr, G. Bazemore, B. Galaway, and J. Hudson have researched and articulated most of the substantive issues and problems with RJ for the last 20 years. So much so, RJ has been tendered as a kind of new paradigm and even an alterative to current "criminal justice systems." A few more skeptical have given warnings that RJ could be a regression of justice.

In a way, the United States are late comers to the serious international discussions over integrating RJ initiatives formally into the actual judicial processes. Paralleling the international focus on the broader implications of RJ, many criminal justice agencies in the United States have been supporting the more focused agendas of the various "Victim-Offender Mediation" and "Victim Advocacy" programs for adults and children (and other programs focused on healing the pain of victimization). Most of those have focused on victim healing, remaining outside of the official judicial influence upon the fate of the offender.

Part of the reason for the U.S. hesitancy in the formal integration is that some RJ principles have the appearance of moving underneath the rule of law, like family and community conferencing (where families actually determine some portion of punishment and justice); this kind of conferencing has been a part of less complex cultures and societies for centuries. Another reason is that the "complexity" itself of U.S. criminal justice systems (the federal powers and the near independence of its 50 states) is not easily or quickly changed. Even so, sev-

eral RJ initiatives have been initiated in many state and county juvenile systems in the United States with respect to the adjudication of *juvenile* punishment (be that remedial, restitution or other alternatives to simple incarceration).

Throughout the United States, so many good and lasting results have been achieved by the various victim advocacy groups in aiding resolution (even in reparation in some foreign countries) and by the juvenile conferencing models, where a youth is saved from a criminal record, that these initiatives are quickly becoming institutions in themselves. But some of these nascent institutions have been unaware of (or lost) their connection to their RJ roots; and worse, most of these nascent United States institutions have no ongoing connection to the more judicially pervasive, theoretically holistic, and more philosophically coherent vision of the international community's RJ principles.

The international considerations of RJ principles have been about much more than victim advocacy and juvenile restoration. The international considerations have been about the *community* pain and cost of victimization, the damage to community trust (to social contracts, etc.) and beyond to seriously include the formal integration of the community (nonofficial persons) into the *actual adjudication* — beyond just a person's duty to sit on a jury in America's current criminal justice system.

Internationally, RJ is not a religious movement, but a developing philosophy that is supported by many governments, special

interests groups, cultural representatives, religious groups, as well as leading criminologists and jurists. But with some doubt.

### New Zealand's Watershed Study

New Zealand's Ministry of Justice has made some of the most substantive investigations to date. Secretary of Justice, John Belgrave, initiated the research for *Restorative Justice: A Discussion Paper* (November 1995) that outlined the major research "for" and "against" the RJ philosophy and how RJ principles "may" or "may not" impact New Zealand's current cultures and its total criminal justice system. In June 1998, the Ministry of Justice published *Restorative Justice: The Public Submissions*, which summarized the results of the feedback from the discussion paper.

New Zealand analyzed RJ principles and their theoretical impact upon an entire government's criminal justice system. The importance of such a thorough study cannot be overestimated for the whole cause of RJ (pro or con). What became evident was the huge degree of *complication* of RJ side-by-side with the many valid concerns for bringing the community back into adjudication of a crime's punishment. What New Zealand did has yet to be surpassed by a developed country.

For a superpower like the United States to do a comparable study and get a like amount of representative feedback would require an almost unimaginable amount of work. New Zealand is only about four million strong with just over 100,000 square

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# Restorative Justice

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miles. Just Texas alone is over 2 and a half times the size with over five times the population. The complexity of such a self-analysis for just Texas would be tenfold or more, to say nothing of a good national study.

RJ in the United States is still a vast wilderness, too uncharted with so few obvious natural resources to catch the eye of venture capitalists and too few proven theorems to catch the curiosity of the grant writers for any major research institutions.

## United Nations and Restorative Justice

RJ continues. At the 2000 United Nations Crime Congress in Vienna, Austria, in an ancillary meeting dealing with international restorative justice issues, John Braithwaite presented a formative paper, *Standards for Restorative Justice*. The first standard was:

Restorative justice programs should be evaluated according to how effectively they deliver restorative values which include: respect for the fundamental human rights specified in the [United Nations (UN) documents] Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its Second Optional Protocol, the United Nations Declaration on the Elimination of Violence Against

Women and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

The second standard outlined the most essential values in the above-mentioned UN documents: restoration of property loss, restoration of injury to the person or health, restoration of damaged human relationships, restoration of communities, restoration of the environment, emotional restoration, restoration of freedom, restoration of compassion or caring, restoration of peace, restoration of empowerment or self-determination, and restoration of a sense of duty as a citizen.

At those UN ancillary meetings, the presenters were primarily from NGO's (non-government organizations), and there were no presenters from any of the criminal justice agencies in the United States (federal or state). The one person that contributed documents from the United States was Donald Van Ness, who is the coordinator for the new International Center for Justice and Reconciliation, organized by Prison Fellowship (PF). PF has paved the way for some prison reform and is clearly aligned with the Christian religious right in the United States.

## United States, Texas and Restorative Justice

The irony is that there appeared to be only one nongovernment person discussing RJ principles from the United States at the UN ancillary meetings with other nongovernment representatives from around the world, while at the same time the United

States has the largest number of incarcerated and highest recidivism rate in the world (Texas with the highest incarceration rate per capita in the United States). That is truly ironic and sad.

Dialogue with those countries with lower crime rates and lower recidivism seems to be in the best interest of the United States. With respect to Texas, PF itself brought Texas and the Texas Department of Criminal Justice (TDCJ) to the national "religious RJ" scene by pioneering the funding of the first prison totally devoted to faith-based values in the history of the United States with the InnerChange Freedom Initiative.

I am somewhat biased and think TDCJ and Texas have much to offer the national and international dialogue on RJ principles. Texas, TDCJ and their leaders are administering one of the largest, most complex and influential criminal justice agencies in the world.

## Restorative Justice = Meeting Needs

The full implications of RJ are yet to be manifest, especially in the United States. What is clear is that RJ is about meeting needs, and those "needs" include dealing with the very structure of our U.S. criminal justice systems and all of the stakeholders in those systems. The stakeholders are every citizen: victim, offender, employee, volunteer and the families of all these and even the businesses surrounding all of these.

While RJ is about meeting needs first, RJ is also about an internationally developing philosophy informing, contributing and influencing criminal justice protocols. Whatever it may be called in the future, as RJ moves beyond the philosophical stage, we will need to inform more people from all of the stakeholders to inform. Among those most necessary are those at a critical level — where the offenders live. They are intricately involved in such world class institutions like TDCJ. Though PF has led the way in dialoguing on the international scene, it would seem prudent that leaders of the U.S. penal systems themselves should be engaged in these dialogues, if not leading them.



## The "Wilderness" of RJ

Back to Lewis and Clark and Woodville, Texas. Taking the initiative to go where no one has gone before and stepping out to chart a path through an unknown wilderness demands courage and a sizable risk.

What is a RJ Ministry Family Service Center? It is a point of contact between the church and the criminal justice system — a resource for those caught up in or adversely touched by the criminal justice system. But those words do not say much about "meeting specific needs." Those "words" are like the wilderness that Lewis and Clark were commissioned to chart. The "words" are broad and meaningless until one crosses the mountain and charts the valleys.

What is the purpose of a Restorative Justice Ministry Family Service Center? It is to counsel with a grieving parent whose child was just arrested, to connect that parent with an attorney or help them visit their loved one, to be with a victim or family member and help them network with other specific resources, to provide a place to stay for someone during a jail or prison visit, to connect a parolee with a church, and to provide an avenue for mediation *prior to adjudication*. Those are some of the needs, but by no means the full wilderness.

A RJ center cannot know all of the needs in the wilderness *before* the trek begins. That is the adventure, perhaps one of the few *truly* uncharted wildernesses left to be explored. Some of the needs will *only* come to light when a center is present. Some of the wilderness and definition and charting will *only* unfold as someone takes the risk to go where no one has gone before.

## Texas "Wilderness" of RJ

There are over 148,000 prisoners, over 76,000 offenders on parole and over 430,000 on probation in Texas Department of Criminal Justice (TDCJ). How many more exist in the city and county justice systems? Each of those offenders have mothers and fathers, grandmothers and grandfathers, and others; most offenders have children too. Add to that the huge number of victims and their families. Add to that TDCJ staff and volunteers and their families. Add all those involved in the crimi-

nal legal system in Texas: the judges, juries, law enforcement agencies, lawyers, support apparatuses, and their families.

This translates into about half of Texas' population in some way touched by the criminal justice system — over 10 million good Texas citizens. "Who is not touched by crime?" is less trite and becomes a more formidable and urgent question *in light of the pervasive international RJ principles*. Those who are touched by crime are involved in RJ, even unknowingly. Isn't it prudent and cost-effective and democratic that a means be found to more "consciously" involve all of the stakeholders in RJ? At a bare minimum, this ought to entail a "conscious" and "conscientious" dialogue with the international RJ community.

Remember, RJ is about meeting needs. Subtract from the above the needs that are currently met by the victim advocacy and services groups like crisis shelters and food banks (though networking would help meet more needs). Subtract an ephemeral number of those who "do not need help" because they are strong, have family and church and other resources. The difference of those adversely touched would still be several million.

Who are they and what are their needs? That is the *uncharted* Texas "wilderness" of RJ.

## Charting the "Wilderness" of RJ

In Woodville, Texas, a board of directors is pondering how to start a Restorative Justice Ministry Family Service Center. The board does not yet know all of what will be discovered. The board does know that the territory is vast, hostile, and uncharted.

RJ is about the citizen's involvement in the judicial and criminal justice systems *beyond* the citizen's duty to sit on a jury. RJ is about *meeting needs*. RJ is an initiative in crime prevention, crime reduction, offender habilitation, and recidivism reduction. RJ is not just a response to pain. RJ is of the people, for the people, and hopefully it will be "by" the people — *all* of the stakeholders.

Like their counterparts internationally, those involved in RJ in Texas and in the United States do not have all of the answers.

Yet isn't that just what makes up a true adventure? Charting as you go. Discovering what you can on the way. Placing danger signs where needed. Networking. Marking out the path as it is discovered. Then, at the end, to be able to say "we boldly went where no one had gone before." Best of all, to be able to say, "here are some pictures of the wilderness; here is where a new settlement of peace can be built."

"Restorative Justice" is America's new frontier and deserves more support as that frontier unfolds for us in the decades to come. And among the best ways for RJ to unfold is through dialogue with the international community. For more information on RJ visit [www.restorativejustice.org](http://www.restorativejustice.org), [www.rjmn.net](http://www.rjmn.net), or check out the super list of 900+ of the Internet's top Web sites on RJ and a bibliography at [www.preciousheart.net](http://www.preciousheart.net).