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## Is Doing Justice Really Enough?

*BY JUDGE R. MICHAEL KEY*

When I became a juvenile court judge in 1989, I thought my charge was simply to do justice, to embrace the mantra of justice for all without regard for the person and without favor or retribution, a noble and challenging calling in and of itself. Somewhere along the way, I have come to realize, as fulfilling and important as that charge might be, doing justice while resolving specific disputes between parties does little to address the collateral damage inherent in our court system's adversarial process, and even less to help the parties and their families heal from the damaging life experiences they brought into that process. Knowing now what we know about trauma, I have come to understand and accept that my charge as a judge, and our charge as stakeholders in the judicial system, is the greater responsibility of doing justice and promoting healing, healing among those we serve, among those who serve with us, and within ourselves.

Meeting our own needs and the needs of those we serve begins with creating a culture of well-being, of healing, where all people who enter our court feel physically and psychologically safe and valued. In creating this culture, it is important to understand that in the world in which we operate, reality often takes a back seat to perception. For the people we serve, their perception is their reality and their reality drives their behavior and impacts how they respond to us, to the court process, to treatment, and to everything else going on around them. We have to accept and value them for who they are and we have to demonstrate that to



them. By doing so, we can create an environment they perceive to be physically and psychologically safe, where they feel valued. Creating that culture requires getting buy-in from all staff and relevant stakeholders and begins at the front door.

First impressions are extremely important and "beginning at the front door" includes the people and the physical environment. Some years ago, I presented at the ER with chest pains and pain radiating down my left arm. When I approached the first service window I saw and was asked, "Could I help you," I described my condition as I have described it here, to which the lady replied in a monotone voice, legs swinging slowly in and out of the knee space of the desk on which she was sitting, "Next window." Not the best response to a patient who a few minutes later would be nearing death. Yet how many times do we create that same impression by calling the "next case" with little regard for the parties in the previous case? The front door is not limited to the physical door that is the entryway to our buildings. The front door may be on the phone, through electronic communication, or in schools, in service provider offices, in lawyer's offices, in homes, at the police department, or anywhere in the community where that first contact is made. Understanding that the first person people see in most courthouses is an armed deputy and the first

thing they see is a metal detector makes it even more important for the people and the physical environment beyond the metal detector to be welcoming and, to the extent possible, calming.

Once the people we serve are in the door, the next step is to engage them. Engagement is easier for some people than for others, and the reality is we cannot always get everyone to engage. What is important is to consistently give people a meaningful opportunity to do so. Too many times we see parents and children treated as the subject matter of the proceeding rather than as equal partners in the process. Too often their lawyers do not even give them the opportunity to speak in hearings or reviews. Parents and children should not lose their voice simply because they have issues that have to be dealt with in our courts and related systems. The voice of our foster care alumni group, EmpowerMENT, "Nothing about us without us," rings as true for parents as it does for children. Except where Fifth Amendment issues are involved, parents should be encouraged to speak out in court in an appropriate way and what they have to say should be heard and valued whether it is what we want to hear or not. And in my view, engagement promotes empowerment. Parents and children should be empowered to participate in decision making, often restoring a power that has been lost long before they were even known to the court system.

What we may not focus on enough is hope. When the people we serve lose hope, which many times is all some have left, failure is all but guaranteed. We have to plant seeds of hope in all we do and in all we say, even when accompanied by appropriate accountability. Those seeds can be planted in a number of ways, even in the physical environment. Turn dark into light whenever possible. Open the blinds and let the light in for goodness sake! You will be amazed how much difference it can make in how people feel.

At some point, you just have to dive in and get it done. We are becoming a trauma responsive court piece by piece and we are learning lessons along the way. If we wait until we have it all figured out, we will have spent too much of our time at the starting gate. If you decide to dive in, do it with the commitment I penned some years ago, "Doing for the children and families we serve that which we would want others to do for us and our families if we found ourselves in like circumstance."

Coach Kirby Smart says, "If you get the culture right, everything else takes care of itself." While conceding that the culture does not always take care of everything, we do know that it is extremely important in addressing past harm, minimizing future harm, and setting the stage for resolution and recovery. And, as the late Chief Justice P. Harris Hines, another hero of mine said and lived, "Be kind for everyone has his troubles." Thanks to the National Council of Juvenile and Family Court Judges ("NCJFCJ"), the National Child Traumatic Stress Network ("NCTSN"), the Barton Child Law and Policy Center, and the Georgia Child Welfare Training Collaborative for their support of our work. Our trauma journey began following a presentation from Dr. Shawn Marsh at an NCJFCJ annual conference, followed a few months later by a 'trauma audit' by NCJFCJ, and most recently brought more into focus by participation as a pilot court for the Trauma Informed Care Self-Assessment developed by the NCTSN with the support of NCJFCJ.

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## But I am Not Soft!

JANUARY 28, 2020 ~ GACOURTSJOURNAL

*By Judge Michael Key*

**N**ot that you asked out loud but, yes, you can be trauma responsive and still do your job, no matter what your job might be. In early 2019, I wrote an article for Georgia's Courts Journal entitled, *Is Doing Justice Really Enough*, wherein I confessed that, after thirty years on the bench, I had come to understand and accept that my charge as a judge is not just to do justice, but to do justice and promote healing; healing among those we serve, among those who serve with us, and within ourselves. Recently, I witnessed a powerful demonstration of the fulfillment of that charge from what some might believe to be an unlikely source.

The fifteen-year old young man had suffered through more adverse experiences as a child than anyone should have to experience in a lifetime. Travis (not his real name) had embarked on a course of crime, mostly entering autos ... a lot of autos. After his most recent string of thefts, he stood before me at a detention hearing. Whether there was probable cause to believe he committed the offenses was not at issue; the evidence was more than sufficient. I had to decide whether to detain Travis pending trial. It is something juvenile court judges do almost routinely where there is no good choice: balancing the risk of harm to a child by placing him in a secure detention facility against the risk to the community if the child is not detained.



Travis was clearly uncontrollable, with no one able to keep both him and the community safe pending trial, and I was left with no viable alternative to detention.

Before continuing with Travis's story, let me tell you about the Juvenile Court prosecutor, Lynda, who had a reputation for being tough as nails when she came to our Court. Some were concerned that Lynda might not be able to adjust to the restorative culture of a juvenile court. But Lynda had worked with our Felony Adult Drug Court, which is also restorative in nature, and I had always found her to be appropriately balanced in her approach. But even with that, I would never have imagined what happened in court that day.

When I announced I was detaining Travis, he walked quietly along with the deputies out of the courtroom to the holding area, where he became belligerent and disruptive. His mother jumped up from the defense counsel's table to go to him, but Travis's attorney grabbed her by the arm and said to her, "you can't go back there." Spontaneously, Lynda got up out of her chair and told Travis's attorney to go take care of his client. "I've got this," she said. Lynda then embraced Travis's mother, the same mother whose son she just argued should be locked up. Travis's mother reciprocated and they embraced for what seemed like an eternity. As I was leaving the bench to go to my chambers, I saw Lynda motion for Travis's mother to sit down and, I am told, Lynda explained to her what was going on and what would happen next. I am sure what Lynda did could not fully erase the harm done to Travis's mother by seeing her child taken away and hearing what was going on in the back, but it created an environment that minimized the harm and promoted healing.

I came back into the courtroom a little while later and only Lynda, court security, and a court staff member were there. I thanked Lynda for what she had done and she said, "that is what I was supposed to do," to which I replied, "but you didn't have to." She walked away dismissively as if I were making too much of it, and then she turned and said, "But I am not soft!"

That is the point, the point made better by Lynda's actions than I could ever make it in all of my teaching and writing about trauma. You can do your job and still be trauma responsive, whatever your job is. Being trauma responsive does not equate to being soft on crime. Being trauma responsive does not require compromising other values or commitments. Being trauma responsive is just treating people the right way even in the worst of circumstances. The late James Weldon, a good man and a great lawyer from our community, shared with me almost forty years ago the secret to his success, and encouraged me to use it in my practice. He told me to represent every client to the best of my ability and to try to win every case, but

to always treat the adverse party and counsel with respect. He said my clients would love me and the adverse party would speak kindly of me. He said it is a win-win for everybody. He was right and it worked well for me most of the time. I think it would work well for all of us if we just give it try. What do you think?

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JANUARY 2020

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## A Very Special Thanksgiving...at the Troup County Jail

*by Judge R. Michael Key, inspired by the entire Family Time Team and especially by the children they serve.*

Imagine you are a nine-year old little girl who, along with your three-year old brother, are removed from your home because your mom is arrested on drug charges. Although you are placed with a loving, caring family, they are still strangers to you. You constantly worry about what will happen to you, how long will you be there, and what is happening to your mom and if she is ok. You wonder if you will ever see her again.

There are laws and policies that say you have a right to see your mom within a week after you are separated, which seems like forever to you, that you get to see her at least every other week, and that your little brother can see her at least once a week. However, days, weeks, and months pass and you never get to see your mom; and this is at a time when you need her more than ever. When you ask why you cannot see your mom, you are either lied to and told that your mom is on a trip, but you know she would never go on a trip and not take you and your brother, or you are told the truth, which is your mom is in jail and that visits are not allowed. Even if visits are allowed, they take place through video conferencing where you are allowed to see, but not touch your mom, a circumstance the new adults in your life decide will be more confusing and harmful for you than not seeing your mom at all. So, you wait and you wonder. Your heart hurts, deeply. Fortunately, in Troup County, Georgia, the hearts of the adults in the community also hurt for you, and they care enough to say, "Not our children. Not



on our watch." And they give legs to the words spoken often by Dr. Jerry Milner, Associate Commissioner of the Children's Bureau, "We are better than that. We can do better than that. We must do better than that."

Sheriff Woodruff, Judge Key and staff having a small ceremony to open the new room that allows children to have family time with their parent/s.

Thanks to the collective and inspired efforts of the Troup County Sheriff's Office, the Troup County Juvenile Court, the Department of Family and Children Services, West Georgia Counseling and Assessment, Inc., Georgia's Court Appointed Special Advocates, and others, on November 26<sup>th</sup>, children in foster care will be able to spend real family time with their parents who are incarcerated. While not quite like being at home, the visits will be in a specially renovated room at the jail, furnished in a home-like setting by the Department of Family and Children Services, with toys, books, and other child-friendly items provided by West Georgia Counseling and Assessment, Inc. and Success by Six. This initiative will appropriately start small with a limited number of children. The visits will be facilitated by well-trained parent aides who can observe the visitation, take opportunities to coach parents when appropriate, carefully prepare the children for the visits, and comfort and support them after the visits.

It is impossible to overstate the importance of this initiative, which is part of a plan to implement the recommendations contained in the recently published *Family Time Practice Guide*[1]. In almost every other jurisdiction in Georgia and around the country, real family time visitation just does not happen between children in foster care and their incarcerated parents. Many times, children are removed from their homes without the opportunity to see their parents before they go to jail and if they are lucky, they get to see their parents in court, but usually even then they are not allowed to speak with or hug them. While there are certainly cases in which it is not in a child's best interest, at least psychologically, to visit with their parents in jail, in most of cases, spending time together can minimize and possibly prevent additional trauma to the child and to the parent, and promotes healing.

Imagine again, on the Tuesday before Thanksgiving, you are that little girl. And imagine the feelings that will rush over you when you go for your first family time visit with your mom at the jail. Your heart will not heal immediately, nor will it heal just as a result of these special times with your mom, but can you imagine how rapidly it will beat as you enter the lobby and



head down the hall where you know on the other side of that door, you will be able to hug your mom, tell her how much you love and miss her, and ask her all of the questions you have been unable to ask anyone else, or that no one else could answer. It is only a beginning, but you are helping to lead the way and for that, we thank you.

Happy Thanksgiving and a wonderful and safe holiday season to all!

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[1] The *Family Time Practice Guide* is a project of the Georgia Supreme Court Committee on Justice for Children.

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## **The Judge's Role in Ensuring Meaningful Family Time**

While acknowledging the importance of making individualized decisions, as a general proposition, where reunification is the permanency goal for a child, the failure to provide meaningful family time between the child and the child's parents, in and of itself, is a failure to make reasonable efforts to reunify. In many jurisdictions, family time will be no more meaningful than the expectations set by the presiding judge. It is important for judges to set clear expectations for family time and to model its importance by allowing sufficient court time to effectively exercise judicial oversight and to promote ownership of family time by all parties and attorneys in each case. Judicial oversight should be exercised in terms of the necessity for supervision, frequency, duration, and quality.

**Presumptive Unsupervised Family Time.** Even after appropriate inquiry, supervised family time immediately following removal from the home and for some time following the preliminary protective hearing will likely be appropriate in a significant number of cases. However, the presumption should be that unsupervised family time is in the child's best interest and supervision should be required only if the child welfare agency can establish by at least a preponderance of the evidence presented in court that supervised family time is necessary for the protection of the child and that unsupervised family time is not in the child's best interest. The issue of supervision should be considered at the first hearing and at every hearing and review thereafter. Even where supervised family time is initially appropriate, there comes a point when, if the family cannot visit unsupervised, consideration needs to be given as to whether reunification is still an appropriate permanency goal or whether the case plan needs to be revised and additional services provided.

**Frequency and Duration.** Child development experts say that daily contact between a parent and a child should be provided in order to maximize bonding and attachment. Even considering the resource challenges in child welfare, it is not unreasonable for the judge to adopt minimum standards as to frequency and duration for family time. Georgia's Family Time Practice Guide makes the following recommendation: 1 ½ to 2 hours three times per week for children birth to 3 years, 2 or more hours at least 2 times per week for children 3 years to 12 years, and 1 or more hours 1 or 2 times per week for children 12 years to 18 years. While there are certainly factors in individual cases that make the provision of this level of family time difficult, any downward deviation from these recommendations should be limited, supported by evidence, and approved by the judge.

**Quality.** Family time should be as natural and family-like as possible, both in terms of setting and of dynamics. It is important for the judge to monitor quality as carefully as frequency and duration. Giving families the very best opportunity to maintain parental relationships contributes to positive outcomes for children removed from their birth families in terms of successful and timely reunification and in terms of child well-being.

**Incarcerated Parents.** The narrative changes when family time is viewed through the eyes of the child. Nowhere is that more true than when talking about family time with incarcerated parents. Instead of asking why incarcerated parents should be allowed to visit with their children in foster care, ask why children in foster care should not be allowed to visit with their incarcerated parents. The right to visit is valued more when it is expressed as the child's right. Considering the negative impact even a short-term loss of contact has on children, denying family time because parents are incarcerated inflicts significant trauma on the children and undermines the reunification plan.

For an article on family time between children and their incarcerated parents, go to <https://georgiacourtsjournal.org/a-very-special-thanksgiving-at-the-troup-county-jail/>.

**Milestones.** With effective case planning, implementation and monitoring, the time frames for moving from supervised family time (where required) to unsupervised family time to the transition home should be reasonably predictable within some acceptable range. Hope drives reunification and it is hard for families to maintain hope when they have to look too far down the line. Hope survives best when gains



can be made and celebrated in shorter periods. Milestones can be set so that as long as parents work their case plans and make appropriate progress, there is an expectation of moving from supervised visitation to reunification at targeted intervals.

It Takes a Village. As with many other challenges in the child welfare arena, other stakeholders see family time as something for which the child welfare agency is responsible and fail to accept their own legal and ethical responsibilities. Attorneys for parents, attorneys and guardians ad litem for children, and Court Appointed Special Advocates should hold the child welfare agency and the judge accountable for ensuring that children in foster care have meaningful family time with their parents, but they should also be full partners in making that happen. These advocates can sometimes identify non-governmental resources to allow for more family time and continuously monitor compliance with the family time plan and the milestones.

Can Family Time be Expanded Today? The Enhanced Resource Guidelines remind us to ask frequently what is preventing the child from returning home safely at every hearing and review. It should be the same with family time. Waiting until time for the next hearing to consider expanding family time delays permanency and prolongs the harm done by separating children from their families.

This article is not intended to be a research-based authoritative work, but to spur thoughts and conversations about the role of judges and other stakeholders for ensuring meaningful family time for children in foster care. For support for the positions contained herein and for guidance on how to implement meaningful family time, see Georgia's Family Time Practice Guide at <http://www.gacip.org/family-time-practice-guide/> or contact Judge Michael Key at [mkey@troupc.org](mailto:mkey@troupc.org).

"A Very Special Thanksgiving At The... Troup County Jail," by Judge R. Michael Key, *Georgia Courts Journal*, Dec 2019, is available on the *Georgia Court* website at <https://georgiacourtsjournal.org/a-very-special-thanksgiving-at-the-troup-county-jail/>





# COUNCIL OF ACCOUNTABILITY COURT JUDGES OF GEORGIA

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## ACCOUNTABILITY COURT NEWS & SPECIAL EVENTS

### TROUP COUNTY FAMILY TREATMENT COURT

*Written by the Honorable R. Michael Key, Troup County Family Treatment Court Judge*



The old saying "close but no cigar" no longer rings true at the Troup County Family Treatment Court (FTC) now that parents receive tangible rewards for doing a lot of things right even when they do not do everything right. Parents take great pride in being a "star", a designation for any parent who gives a clean, non-diluted drug screen when tested and timely attends all treatment and self-help meetings between court reviews. The designation also brings with it a tangible acknowledgement, such as a gift certificate or a candy bar, and the right to leave court early. An additional benefit is that the more times a parent is a star, the more likely it is that the parent will successfully and timely move through the program. Parents are expected to accomplish a lot in FTC and judges and other FTC team members are trained and encouraged to brag on the parents and to make a big deal out of the fact that they accomplished so much even if they fall a little bit short of star status. Most of the parents in FTC struggle financially while trying to meet all of the requirements of the program. It is hard for parents to stay motivated when they have difficulty meeting even the most basic needs for themselves and their families. In response to that, the FTC team wanted to develop a tangible acknowledgement of good, but not perfect, work to find a way to ease the financial strain on the parents and their families.

The idea of a store was already percolating when team members from FTC visited Callaway Middle School to observe their PBIS program. PBIS stands for Positive Behavioral Interventions and Supports and is based on setting standards for good behavior and high character and acknowledging individual acts consistent with those principles. The implementation of PBIS has improved school climate and academic outcomes in schools all around the state. During our visit, the students gave an inspiring presentation which drove our decision to replicate a similar model in FTC.



The Accountability Store officially opened for business on November 6, during FTC staffing and was well received. Denise Smith, the FTC Coordinator, and our two Court Ambassadors from the faith community staffed it. When asked about the store in court afterwards, there was a lot of excitement about it among the parents. Some of the parents brought their children with them to shop, just like going to a regular retail store. The original plan was to try it out for two to three months, but it went so well a unanimous decision was made to keep it going. The store is appropriately named the Accountability Store to emphasize that there is value in accountability, both in terms of recovery and financial considerations.







At each court hearing, parents have an opportunity to receive \$2.00 in Accountability Bucks if, since the last court date, they delivered all clean, non-diluted screens, \$2.00 in Accountability Bucks if they made all of their individual and group sessions, and \$1.00 in Accountability Bucks if they attended all of their self-help meetings. With star status being the ultimate goal, if parents do all of that they will earn \$3.00 additional Accountability Bucks and still get a gift certificate, a candy bar or other tangible acknowledgment as they have done before. The store is stocked with donations of clothing, household items, toys, books, and other basic needs for parents and children.

Available funds were used to purchase household and personal staples that were selected based on input from the parents as part of engaging them in the project. All of the items are priced reasonably so parents can get good value for their good work.



It is amazing how much inspiration can come from approximately 180 square feet of what was once an old storage room in the basement of the Courthouse when filled with the right products and sprinkled with a heavy dose of care and compassion. As we learned from the children at Callaway Middle School, change begins first with the adults (teachers, administrators, etc.) and then with the children. The store has already touched and changed the adults working in FTC and will certainly make a positive long-term difference in the lives of the FTC parents and their families as they travel their road to recovery.

For more information about the Accountability Store, contact Judge R. Michael Key at (706) 302-3478, Denise Smith at (706) 883-2165, or Michelle Bowman at (706) 883-1735, Extension 1.

## COBB COUNTY DUI COURT

*Submitted by Darcy Kamau, Cobb County DUI Court Coordinator*



In August 2019, the Cobb County DUI Court Program brought our treatment services "in-house" by opening our own treatment facility! In September, the Cobb County Chamber of Commerce assisted with a formal ribbon cutting at the new location. We are thrilled to embark on this new chapter in our program's history. Opening our own facility has allowed us to have gender-specific activities such as baby showers and birthday parties, start a new therapeutic alumni group once a month, and open our testing window by co-locating our urine collection services with Averhealth. We are using contracted clinicians to provide therapy services, and they love the independence of designing groups and the creative space we have given them. Real estate is a rare commodity near the Cobb County judicial complex, but we were able to find a building that is just over a half of a mile walking distance from the

Courthouse. We have big plans for the space and are excited about new opportunities on how to better meet the needs of our program participants by having the freedom and flexibility that comes with in-house services. In just a few short months, it's already become our second home.

*Pictured are Steve Ellis (Sober Streets Inc. President), Ann Keller (Cobb County DUI Court Community Advisory Board President), Sharon Mason, (Cobb County Chamber of Commerce), Honorable Eric Brewton (Cobb County DUI Court Judge), Darcy Kamau (Cobb County DUI Court Coordinator) and Tiffany Jones (Assistant DUI Court Coordinator)*



## THE SECOND GREATEST LOVE OF ALL<sup>1</sup>

The late Whitney Houston captured our hearts when she sang *The Greatest Love of All*, though many of us failed to understand the love she sang about. Hearing the first lyrics, “I believe the children are our future, teach them well and let them lead the way, show them all the beauty they possess inside, give them a sense of pride to make it easier, let the children's laughter remind us how we used to be”, makes some people think the song is about the love for children. Some people think the song is spiritual. But the truth of the song is revealed with the words, ‘Learning to love yourself is the greatest love of all’, and that is a powerful message. While at first seeming selfish, maybe loving ourselves gives us a greater capacity to love others, and maybe that is the second greatest love of all, to love others, and to love and serve others in a way that helps them love themselves, even in their most challenging and desperate times.

Everything Whitney said about children in the first verse of the song is true and her message is particularly important for children living in foster care. In Georgia, more than 13,000 of our children will spend Christmas in foster care, many of them placed with relatives, some of them placed in group homes, but most of them placed in family foster homes. While we are grateful to all of the loving foster families, case managers, service providers, court personnel, and others who love and care for our children living in foster care, this piece is about Court Appointed Special Advocates (“CASAs”). They are called “special” for a reason. They are people who unselfishly and freely, with no remuneration and little public recognition, become involved in the tragic and heartbreaking lives of some of our most vulnerable and traumatized children. They serve children who have been neglected, abused, abandoned, or all of the foregoing. They serve children who have experienced in the early years of their lives things that no one should have to experience in a lifetime. They serve children who are hurting, confused, vulnerable, wondering when or if they will see their parents again and what their future holds for them. While most children think of their future in terms of things like where will they go to college, what will they do for a living, and will they ever get married, the children served by CASAs wonder where they will sleep tonight and tomorrow night and each thereafter for what seems looking forward alike an eternity. They wonder how their parents and sometimes their siblings are doing. They can hardly see past the next few days, much less into adulthood. It is for these children that CASAs seek safety and well-being. It is within these children that CASAs seek to instill those things Whitney sang about, the beauty they possess inside and a sense of pride, for it is those things that have been lost in the child welfare shuffle, if ever they had or felt them at all. CASAs help children navigate through the complicated child welfare system. They open their hearts to these children so that the children will feel loved, respected, and valued, so that they will know that they are greater than the sum of their adverse life experiences. They literally help change children's stories, one child at a time, one family at a time, one story at a time. What greater gift can one give than that?

We began with Whitney so let us end with Whitney. “And, if by chance, that special place that you're dreaming of leads you to a lonely place, find your strength in love”. To our CASAs, when the work you are doing leads you to a lonely place full of despair with a child in the center,

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<sup>1</sup> Thrown together by R. Michael Key, but inspired by the amazing Court Appointed Special Advocates working to change the stories of some of Georgia's most vulnerable children.



fill that place with the love within you and let that child find their strength in you. Thank you for all that you do and all that you give of yourself. May you be blessed throughout the year, but especially during this holiday season. Enjoy your time with your family knowing that you have made the lives of others better through your service.

December 17, 2019 10:37 am version