

# OGDEN CITY POLICE

## Office of the Chief

### Policy No: 9A

Subject Domestic Violence in the Presence of a Child	Effective Date November 18, 2020
Department Police	Replaces Policy Dated February 2006
Division All Police Personnel	Review Date November 2024
Authorized Signature 	

**NOTE: This rule or regulation is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.**

#### I. PURPOSE

Children are often indirect victims of domestic violence that they witness in their homes. As victims they are often extremely traumatized by the incident and left scarred for the rest of their lives. Children who witness domestic violence are often prone to being either victims or perpetrators of domestic violence when they become adults, and therefore become firmly entrenched in the cycle of violence. It is the intent of this policy to help break that cycle of violence by prescribing courses of action which police officers should take in response to domestic violence situations where they find children present.

#### II. POLICY

It is the policy of the Ogden Police Department to:

- A. Reduce the incidence and severity of child abuse as a result of domestic violence.
- B. Protect the child victims of domestic violence and provide them with support through a combination of law enforcement and community services.

III. DEFINITIONS (*Reference 30-6-1, 77-36-1 and 76-5-109.1 Utah Criminal Code*)

- A. Domestic Violence: The same as that term is defined in Section 77-36-1 and in Policy 9.
- B. Child: A human being who is 17 years of age or younger.
- C. In the Presence of a Child: In the physical presence of a child or having knowledge that a child is present and may see or hear an act of domestic violence.

IV. PROVISIONS OF THE LAW (*76-5-109.1 Utah Criminal Code*)

A person is guilty of third-degree felony child abuse if he or she:

- A. Commits or attempts to commit criminal homicide, as defined in Section 76-5-201, against a cohabitant in the presence of a child; or
- B. Intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon, as defined in Section 76-1-601, or other means or force likely to produce death or serious bodily injury against a cohabitant, in the presence of a child; or
- C: Under circumstances not amounting to a violation of Subsection (2)(a) or (b), commits an act of domestic violence in the presence of a child.

A person who violates Subsection (2)(c) is guilty of a class B Misdemeanor.

V. PROCEDURE

- A. If a child is present during a domestic violence homicide, aggravated assault or if an arrest is made that includes a charge related to domestic violence in the presence of a child/child abuse; by means of custody, summons, or citation, the officer should ensure that Child Protective Services is notified.
- B. If a child is present during a domestic violence situation where there is serious bodily injury to a cohabitant or the use of a dangerous weapon, the officer should ensure that Child Protective Services is notified.
- C. If during the investigation of domestic violence, the officer determines that a child was present during a homicide or serious bodily injury, or the use of a dangerous weapon, or any misdemeanor act of domestic violence, and an arrest is going to be made for the initial domestic

violence crime, a second charge of domestic violence in the presence of a child/child abuse should be made in accordance with the laws mentioned above.