

**DAILY BULLETIN**  
**November 13, 2024**

## **Understanding the Brady Indicator Status on Protective Orders**

NCIC mandates that when a Protection Order (PO) is entered, the entering agency must independently determine if the Respondent is prohibited under federal law from possessing firearms (*Brady* Handgun Violence Prevention Act of 1993 - "*Brady Act*") **whether or not** the State judge has imposed such a restriction on the original order. Although the state-issued PO may/may not prohibit the person from possessing firearms, the LEADS agency entering the record is required to determine if the specific federal requirements identified in the Brady Act have been met and therefore, whether the person would be prohibited from possessing firearms pursuant to federal law.

Only a final protection order record (**MKE/EPO or EPOC**) can contain a Brady indicator of Y or U (unknown). Emergency or temporary orders (**MKE/ETO or ETOC**) issued ex parte **do not** meet the criteria specified by law, and, therefore, N must be entered in the field.

**Y – Yes:** Respondent is prohibited under federal law from possessing firearms, i.e., the order meets the federal criteria.

**N – NO:** Respondent is not prohibited under federal law from possessing firearms, i.e., the order does not meet the federal criteria.

**U – Unknown:** Cannot be determined if Respondent is federally prohibited from possessing firearms, i.e., cannot be determined if the order meets the federal criteria. Prior to entering the record, an entering agency should make every attempt to determine the firearm disqualification status. The U code should only be used when it is impossible to make that determination.

The following list enumerates the elements that define a qualifying protection order under the federal firearms prohibition. Generally, a defendant/responded subject to a protection order that includes one element (indicated below by bullet point) from each section listed below is covered by the federal firearms prohibition:

### **Hearing**

- Defendant/Respondent received actual notice and had an opportunity to participate.

### **Intimate Partner**

- Plaintiff/Petitioner is an **intimate partner** of the Defendant/Respondent this is:
  - A **spouse** of Defendant/Respondent
  - A **former spouse** of Defendant/Respondent
  - An individual who is a **parent** of a child of Defendant/Respondent; **or**
  - An individual who **cohabitates or has cohabited** with Defendant/Respondent.

### **Restrains Future Conduct**

- The order **restrains** Defendant/Respondent from **harassing, stalking, or threatening** the intimate partner, child of the Defendant/Respondent, or child of Defendant/Respondent's intimate partner; **or**
- The order **restrains** Defendant/Respondent from engaging in other conduct that would place the intimate partner in **reasonable fear of bodily injury** to the partner or child.

### **Credible Threat or Physical Force**

- The order includes the finding that Defendant/Respondent is a **credible threat** to the physical safety of the intimate partner or child; **or**
- The order, by its terms, explicitly prohibits the use, attempted use, or threatened use of **physical force** against the intimate partner or child that would reasonable be expected to cause bodily injury.

