



NCIC Protection Order File Toolkit for Terminal Operators

Revised 2021

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I. Background and Purpose

The National Crime Information Center (NCIC) is a database of criminal justice information available to law enforcement and other criminal justice agencies. The system currently contains 21 different data files which assist the criminal justice system in effectively executing their duties. One of the files established in NCIC is the Protection Order File (POF). The NCIC POF serves as the national registry for protection orders issued in state, tribal, and territorial courts. The NCIC POF is a voluntary system; however, some states, tribes, and territories may mandate entry into the system. The POF allows for the entry, storage, and retrieval of protection order records.

The NCIC POF is designed to:

- ◆ Enable civil and criminal courts to receive timely and accurate information on active as well as historical protection order records.
- ◆ Allow law enforcement agencies to access information regarding the existence and terms of an order entered into the system.
- ◆ Assist in the possible identification of persons prohibited from purchasing or possessing firearms as a result of federal, state, local, tribal or territorial law.

To ensure the System's effectiveness agencies must timely enter complete and accurate data into the POF. The information is critical in assisting courts and law enforcement to track, serve, and enforce protection orders.

The purpose of this toolkit is to assist agencies responsible for entering protection orders into the NCIC POF by providing data entry guidance and tips. It is not a substitute for the Protection Order File Chapter of the *NCIC Operating Manual*, or any other document, training, or technical assistance provided by the FBI/NCIC and/or state or territorial Criminal Justice Information Services (CJIS) Systems Agency (CSA). The toolkit highlights areas of critical importance related to the entry of orders into the NCIC POF because of the impact that entry can have on victim, law enforcement, and community safety. It is hoped that the toolkit will facilitate the entry of a greater number of enforceable orders in each jurisdiction, with the goal of achieving the successful entry into the registry of all eligible orders after issuance.

Note: Information in the NCIC POF is regularly updated. For the most recent changes, questions or additional assistance, agencies should contact their CSA or the FBI's NCIC training staff at 1-877-324-6242.

Technical Assistance on Protection Orders and Firearm laws

The National Center on Protection Orders and Full Faith & Credit (NCPOFFC) provides training, technical assistance, and resources on protection orders and firearm laws related to domestic violence. For more information please contact NCPOFFC at (800) 903-0111, prompt 2; email: ncffc@bwjp.org; website: www.fullfaithandcredit.org.

II. Protection Orders Eligible for Entry into the NCIC POF

All records that are entered into the NCIC POF must be supported by a protection order (electronic or hard copy). A protection order must meet the following criteria prior to entry into the file:

The protection order includes any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with, or physical proximity to another person. This includes any temporary and final orders issued by civil or criminal courts whether obtained by filing an independent action or as a *pendente lite*¹ order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

This definition also includes any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to local, state, tribal, or territorial law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.²

Additionally, the Respondent to the protection order must be given reasonable notice and an opportunity to be heard sufficient to protect his or her right to due process. In the case of temporary or *ex parte* orders (orders that are issued prior to the respondent being provided notice and an opportunity to be heard on the matter) notice and an opportunity to be heard must be provided within the time required by state, tribal, or territorial law, or, in any event, within a reasonable period of time.⁵

TIP – TEMPORARY / EX PARTE PROTECTION ORDERS

A hearing need not have been held before a temporary/*ex parte* protection order can be entered into the NCIC POF. *Ex Parte* orders should be entered as temporary protection order records.³ If the order has not yet been served by the time that the order is entered into the POF, a note should be made in the Miscellaneous (MIS) field. Once the order has been served, the record should reflect this by modifying the order and entering a note to this effect in the MIS field.⁴

¹ A *pendente lite* order is one that is issued during the proceeding or litigation. See generally, *Black's Law Dictionary*, 8th ed.

² See *NCIC Operating Manual- Protection Order File*, Introduction, Section 1.2.1; See also, 18 U.S.C. § 2266(5).

³ See *NCIC Operating Manual- Protection Order File*, Introduction, Section 1.2.2

⁴ See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.5.6.4

⁵ See *NCIC Operating Manual- Protection Order File*, Introduction, Section 1.2.2

This definition of a protection order is extremely broad, making most protection orders issued by courts eligible for entry into the NCIC POF. Also, note the following:

- ◆ There is no particular relationship required between the Protected Person and the Respondent.
- ◆ The purpose for which the order is issued is not limited to the prevention of acts of domestic violence, only that it must be issued to prevent violence, threats, harassment against; sexual violence; contact or communication with; or physical proximity to the protected person(s).
- ◆ Temporary/*ex parte* protection orders can be entered into the system as well as final orders.
- ◆ Orders issued by criminal courts may be entered, including no contact orders, bail/bond conditions, probation conditions, or parole conditions, provided they meet the definition of protection order.

**TIP- PROTECTION ORDER ISSUED
AS PART OF A DIVORCE DECREE**

In some instances, a court may issue a protection order as part of a divorce decree. These orders are eligible for entry into the NCIC POF provided they meet the definition of protection order listed above. In order to facilitate enforcement, it is recommended that courts issue a separate copy of the protection order to the victim. These orders should contain the appropriate numeric identifiers for entry into the NCIC POF.

TIP – CRIMINAL BAIL PROTECTION ORDER

The CJIS APB approved the expansion of the POF criteria to include the entry of “Criminal Bail Protection Orders” (CBPO). However, the entry of these types of Protection Orders SHALL have attached the following information:

1. Protection Order Condition #8- “SEE MISCELLENOURS FIELD FOR COMMENTS REGARDING THE TERMS AND CONDITIONS OF THIS ORDER” AND
2. The following MANDATORY Caveat-“CRIMINAL BAIL PROTECTION ORDER” placed in the MIS Field. ⁶

Additionally, note the POF entry criteria allows for the entry of Military Protection Orders (MPO) under specific circumstances.

**TIP – CRITERIA FOR
ENTRY OF MILITARY PROTECTION ORDERS**

Military Protection Orders (MPOs) that serve the same general purpose of a court issued protection order issued in a civilian court may be entered into NCIC POF.⁷ Note: Please review sections III and VI of this Toolkit for additional information on MPOs.

⁶ See NCIC Operating Manual - Protection Order File, Entry, Section 2.5.6.7

⁷ See NCIC Operating Manual- Protection Order File, Introduction, Section 1.2.3

III. Entry of Orders

A. Timely Entry

In order to maximize the System's effectiveness all records must be entered immediately (not to exceed 3 days, or sooner, if required by the entering CJIS Systems Agency (CSA)) into NCIC POF upon receipt of the electronic or hard copy and the required data. The only exception to the immediate entry of an order is when documentation exists to support the delayed entry or when otherwise prescribed by federal law. *See NCIC Operating Manual*, Introduction, 3.2.2. Delays in entering protection orders into the system present risks to the Petitioner and any other protected parties.

B. Message Key Codes

All protection orders entered into the NCIC POF must be assigned a message key code (MKE).⁸ A new order may be entered as either EPO (final protection order) or ETO (*ex parte*/temporary protection order).⁹

TIP- CHANGING ETO TO EPO

If a temporary protection order record has been entered, it can later be modified (MKE/ETO) to a final protection order by changing the MKE from ETO to EPO.¹⁰

If a protection order record is entered with a caution indicator, the MKE ends with a C, and the CMC Field must contain a valid caution and medical code.¹¹ For example, a caution indicator should be added to the message key EPO or ETO when it is known that a subject is armed and dangerous, or a drug addict or whatever is appropriate to the particular circumstances of the respondent.¹² *See NCIC Operating Manual- Protection Order File* for the allowable CMC codes and translations.¹³

The MKE for these orders is as follows:

- ◆ EPOC (final protection order – caution)
- ◆ ETOC (*ex parte*/temporary protection order – caution)

TIP – CAUTION INDICATOR

If you enter the message key EPOC or ETOC, you must also indicate the reason for the caution in either the Caution/Medical Condition field or the MIS Field. The reason for the caution should be entered as the first item in the MIS field.

⁸ *See NCIC Operating Manual- Protection Order File*, Entry, Section 2.3

⁹ *See NCIC Operating Manual- Protection Order File*, Introduction, Section 1.3

¹⁰ *See NCIC Operating Manual- Protection Order File*, Modification, Section 3.5.2

¹¹ *See NCIC Operating Manual- Protection Order File*, Entry, Section 2.5.10

¹² *See NCIC Operating Manual- Protection Order File*, Introduction, Section 1.3

¹³ *See NCIC Operating Manual- Protection Order File*, Entry, Section 2.5.10

C. Entry Criteria

There are over 40 fields into which data may be entered for each protection order. Many of these are optional fields, or are conditional (i.e., required for entry only if data have been entered into another specified field). There are a number of mandatory fields for each POF record. The mandatory fields must contain data in order for a protection order to be successfully entered into the system.¹⁵

Table 1 contains the required fields and codes, the minimum and the maximum number of characters that may be used in each field, and the data type that is allowable.¹⁶

TIP- DATE OF EXPIRATION

For the Date of Expiration field, if the protection order does not have an expiration date (i.e., it is a non-expiring order or a lifetime order), NONEXP should be entered in the field.¹⁴

Table 1: Required Fields

Field Name	Message Field Code	Field Length (characters)	Data Type
Message Key	MKE	3-4	Alphabetic
Originating Agency Identifier	ORI* *Note: Your software system may auto-populate these fields	9-9	Alphabetic, Numeric
Name (Respondent)	NAM	3-30	Alphabetic, Numeric, Special Characters
Sex (Respondent)	SEX	1-1	Code as Defined in <i>NCIC CODE MANUAL</i>
Race (Respondent)	RAC	1-1	Code as Defined in <i>NCIC CODE MANUAL</i>
Date of Expiration	EXP	6-6 8-8	Alphabetic, Numeric
Protection Order Conditions	PCO	2-2	Code as Defined in <i>NCIC CODE MANUAL</i>
Date of Issue (Protection Order)	ISD	8-8	Numeric

In addition, records must have either an Originating Agency Case Number (OCA) or Protection Order Number (PNO) for entry.¹⁷ See Table 1a below for field codes, lengths and data type.

Table 1a.

Field Name	Message Field Code	Field Length (characters)	Data Type
Originating Agency Case Number	OCA	1-20	Alphabetic, Numeric, Special Characters
Protection Order Number	PNO	3-15	Alphabetic, Numeric, Special Characters

¹⁴ See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.5.1

¹⁵ See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.3

¹⁶ Refer to the *NCIC CODE MANUAL* for the allowable data type for three of the listed fields. See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.2; 2.3

¹⁷ See *NCIC Operation Manual- Protection Order File*, Entry, Section 2.2;2.3

Additionally, all records must contain at least one of the following numeric identifiers: Date of Birth, FBI Number, Miscellaneous Number, Social Security Number, Operator's License Number, License Plate Number, Vehicle Identification Number or Protected Person's Name.¹⁸ For some of the identifiers, there are additional, conditional fields that must be entered if one of those identifiers is used.

TIP – NUMERIC IDENTIFIER

The preferred numeric identifier is the Date of Birth (DOB) when entering protection order records into the NCIC POF.

If the Protected Person's Name (PPN) field contains data, either the Protected Person's Date of Birth (PPB) or the Protected Person's Social Security Number (PSN) must be entered.¹⁹

However, if only the Protected Person's Name is known, and not the Date of Birth or Social Security Number, the PPN can be entered into the MIS Field.²⁰

TIP – SEARCHING NCIC POF

It is critical for the Respondent and the protected person to have their dates of birth entered. Having a DOB is important because it makes the name searchable in NCIC POF. The use of the Name and the DOB are preferred when searching NCIC POF.

TIP – PETITIONER'S VS. RESPONDENT'S NUMERIC IDENTIFIER

While a protection order may be entered into the NCIC POF if it contains a Protected Person's Date of Birth or Protected Person's Social Security Number, it is not advisable to enter an order into the system without also including one of the allowable numeric identifiers for the Respondent. Records containing only the protected person's information as the numeric identifier will not be hit upon when the inquiry is conducted on the Respondent to the protection order using the Respondent's name and a numeric identifier.²¹ Thus, if an inquiry of the NCIC POF is conducted as a means to verify the existence of a protection order for enforcement purposes, a protection order would most likely not be found in the system. Additionally, because many protection orders also disqualify Respondents from possessing, purchasing, or receiving a firearm for the duration of the protection order, a firearm background check conducted by NICS would most likely not discover a protection order that was entered without a numeric identifier for the Respondent, and the firearm could then be transferred to the Respondent.

¹⁸ See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.3

¹⁹ See *NCIC Operation Manual- Protection Order File*, Entry, Section 2.3

²⁰ See *NCIC Operation Manual- Protection Order File*, Entry, Section 2.5.4

²¹ See *NCIC Operation Manual- Protection Order File*, Entry, Section 2.4.5

Table 2 contains allowable numeric identifiers.²² Please refer to the *NCIC Operating Manual – Protection Order File* for the message field code, field length, and data type for the conditional fields listed in Table 2.

Table 2: Numeric Identifiers

Field Name	Message Field Code	Field Length (characters)	Data Type	Conditional Fields
Date of Birth	DOB	8-8	Numeric	None
Protected Person's Name	PPN	3-30	Alphabetic, Numeric, Special Characters	Protected Person's Date of Birth (PPB) or Protected Person's Social Security Number (PSN) required
Social Security Number	SOC	9-9	Numeric	None
License Plate Number	LIC	1-10	Alphabetic, Numeric	License Plate State (LIS) and License Plate Year of Expiration (LIY), and License Plate Type (LIT) (required to be entered as a set)
Vehicle Identification Number	VIN	1-20	Alphabetic, Numeric	Vehicle Year (VYR), Vehicle Make (VMA), and Vehicle Style (VST), (required to be entered as a set; model and color are not required for entry, but should be entered if known)
Operator's (Driver's) License Number	OLN	1-20	Alphabetic, Numeric	Operator's License State (OLS) and Operator's License Year of Expiration (OLY) (required to be entered as a set)
FBI Number	FBI	1-9	Alphabetic, Numeric	None
Miscellaneous Number	MNU	4-15	Alphabetic, Numeric, Special Characters	None

TIP – LICENSE PLATE NUMBERS

It is not advisable to use the Respondent's License Plate Number as the only numeric identifier, unless the license plate is a non-expiring one. The data in the License Plate Number (LIC), License Plate Year of Expiration, (LIY) and the License Plate Type (LIT) fields will remain in a POF base record or a supplemental record for the year of entry plus four years, from the date of entry of the base record, this is regardless of when the license plate data is entered. When the purged license plate is the only searchable numeric identifier in the POF record, then the entire protection order record will be removed from the system.²³

Note, a non-expiring license plate (LIY/NX) that is contained in a POF record remains on file until the originating agency takes action to remove the license data or clear or cancel the entire protection order record, or when the record expires.²⁴

²² See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.2

²³ See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.2

²⁴ See *NCIC Operating Manual- Protection Order File*, Introduction, Section 1.5

D. Protection Order Conditions

The text of a protection order condition may not be entered into the Protection Order Conditions (PCO) field. Rather, NCIC POF has assigned numbers to each of the most common types of conditions that may be contained in a protection order. Note: Additional text may be entered into the MIS Field, if needed. The PCO Codes and their text translations are contained in Table 3.

Table 3: Protection Order Condition (PCO) Translation Chart²⁵

01	01-The subject is restrained from assaulting, threatening, abusing, harassing, following, interfering with, or stalking the protected person and/or the child of the protected person.
02	02-The subject may not threaten a member of the protected person's family or household.
03	03-The protected person is granted exclusive possession of the residence or household.
04	04-The subject is required to stay away from the residence, property, school, or place of employment of the protected person or other family or household member.
05	05-The subject is restrained from making any communication with the protected person, including but not limited to, personal, written or telephone contact, or their employers, employees, fellow workers, or others with whom the communication would be likely to cause annoyance or alarm the victim.
06	06-The subject has visitation or custody rights of the child(ren) named.
07	07-The subject is prohibited from possessing and/or purchasing a firearm or other weapons as identified in the miscellaneous field.
08	08-See the Miscellaneous Field for comments regarding the terms and conditions of the order.
09	09-The protected person is awarded temporary exclusive custody of the child(ren) named.

**TIP – CODES 06 AND 09
FOR VISITATION & CUSTODY**

Note that PCO 06 should only be entered if the Respondent to the protection order was awarded visitation and/or custody rights of the child(ren) named in the protection order. If the Respondent has visitation rights pursuant to the protection order, but not custody, a note should be made in the MIS Field that the Respondent is allowed visitation, but does not have custody of the child(ren). If the Protected Person was awarded temporary exclusive custody of the child(ren), condition 09 should be entered.

The NCIC protection order conditions may be different from the conditions that are available pursuant to the state, tribal, or territorial protection order code. It is advisable to develop a uniform conversion chart that translates the state, tribal, or territorial protection order conditions specified in the state/tribal/territorial protection order statute to the proper NCIC PCO code. The conversion chart should be developed in conjunction with courts, prosecutors, and domestic violence

advocates, and distributed statewide to all agencies that enter protection orders into the NCIC POF. The following is how a conversion chart might appear:

If State Condition	Enter NCIC POF Code:
1	01 and 02
2	03
3	06 and 08 (specific terms must be entered into the Miscellaneous Field)

²⁵ See NCIC Operating Manual- Protection Order File, Entry, Section 2.5.2

E. Brady Record Indicator (BRD) Field

Protection orders meeting the criteria of 18. U.S.C. §922(g)(8) disqualify a person from possessing, purchasing and/or receiving firearms and/or ammunition under Federal law.²⁶

Orders that meet the requirements of this Federal statute should be entered as ‘Y’ in the Brady Indicator (BRD) field. Some jurisdictions have forms that include a check box or other indicator that the condition has been met to disqualify the Respondent from possessing, purchasing, and/or receiving firearms and ammunition under Federal law. If the form does not provide this information, the agency will have to perform an analysis regarding whether they should enter ‘Y’ or ‘N’ in the Brady Indicator field. A ‘U’ (Unknown) should only be used when it is impossible to make a determination. When no attempt is made to determine the disqualification status, a BRD Field should be left blank.²⁷ However, every attempt should be made to make the correct determination. If nothing is entered in the BRD field, it will default to ‘N.’

A protection order record should indicate ‘Y’ in the Brady indicator field if the following conditions are met:

- (1) **Hearing.** The order was issued after a hearing, of which the Respondent received notice and had an opportunity to participate.²⁸

TIP – TYPE OF ORDER

The order must be a final protection order (MKE/EPO or EPOC), and may not be an *ex parte* protection (MKE/ETO or ETOC). *Ex parte* orders do not meet the criteria specified by law, therefore ‘N’ must be entered in the field.²⁹ The order may be an agreed order, consent order, or default order, as long as the order was issued or agreed to by the parties after the Respondent was provided with notice that the petition for a protection order was filed by or on behalf of a protected party, and the Respondent had an opportunity to participate. The Respondent need not have appeared at the hearing (if notice was provided) in order to enter ‘Y’ in the Brady indicator field. The hearing need not have been a hearing at which evidence was proffered or testimony provided.

Note: Criminal orders (e.g., bail orders, sentencing orders, probation, and parole orders if issued by a court, which includes magistrates), as well as a protection orders within a divorce decree, qualify for 18 U.S.C. § 922(g)(8) purposes if the criteria are met.

²⁶ See NCIC Operation Manual- Protection Order File, Entry, Section 2.5.3

²⁷ See NCIC Operation Manual- Protection Order File, Entry, Section 2.5.3.5

²⁸ See NCIC Operation Manual- Protection Order File, Entry, Section 2.5.3.2.1a;
See also 18 U.S.C. §922(g)(8)(A).

²⁹ See NCIC Operation Manual- Protection Order File, Entry, Section 2.5.3.4

(2) **Relationship Requirement.**

A qualifying relationship can be described as one in which the protected person's relationship to the subject of the protection order (Respondent) is one of the following:

- ◆ A spouse or former spouse of the respondent;
- ◆ A person who cohabitates or who has cohabitated with the respondent (i.e., who resides/resided together in a sexual/romantic relationship);³⁰
- ◆ A person with whom the respondent has or had a child in common (regardless of whether they ever married or cohabitated); OR
- ◆ A child of the respondent or a child of the intimate partner.

TIP – INTIMATE PARTNER

If your state, tribe, or territorial protection order statute has relationship eligibility requirements that are the same as, or narrower than, the Federal definition of “intimate partner”³¹ the order will automatically meet this element of the Federal statute. If your state, tribal, or territorial statute is broader, you will have to determine the relationship of the protected party to the Respondent, and whether it meets the requirements of the Federal statute. If the protected person had a dating relationship with the Respondent, but they never lived together or never had a child together, the order will not qualify under the Federal statute, and you should enter ‘N’ in the Brady Indicator field.

The following chart contains relationships frequently encountered on protection orders and the corresponding value for the BRD Field.³²

PROTECTED PERSON	SUBJECT	BRD
Spouse	Spouse	Y
Former spouse	Former spouse	Y
Unmarried Child in Common	Unmarried Child in Common	Y
Unmarried Currently or formerly living together unless documentation of cohabitation exists	Unmarried Currently or formerly living together unless documentation of cohabitation exists	U
Child (includes foster children)	Parent	Y
Stepchild	Stepparent	Y
Currently or formerly cohabiting (includes same-sex intimate relationships)	Currently or formerly cohabiting (includes same-sex intimate relationships)	Y
Parent	Child	N
Nephew/Niece	Uncle/Aunt	N
Uncle/Aunt	Nephew/Niece	N
Grandchild	Grandparent	N
Brother/Sister	Brother/Sister	N
Cousins	Cousins	N
Roommates	Roommates	N
Neighbors	Neighbors	N
Stepparent	Stepchild	N
Boyfriend/Girlfriend (unless cohabitation exist)	Boyfriend/Girlfriend (unless cohabitation exists)	N
Stranger	Stranger	N

³⁰ “Cohabitation requires a live-in relationship (or former live-in relationship) between two (2) individuals (can be same-sex) which, in essence, is a sexual/romantic relationship, and NOT merely a roommate.” See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.5.3.6

³¹ “The term ‘intimate partner’ means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.” 18 U.S.C. §921(a)(32); See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.5.3.6

³² See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.5.3

(3) **Order Restrains Future Conduct.**

The order restrains the Respondent from harassing, stalking, or threatening the intimate partner, child of the Respondent, or child of the Respondent's intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.³³

TIP –ORDER RESTRAINS FUTURE CONDUCT

Most protection orders issued pursuant to the state, tribal, or territorial protection order statute will meet this requirement. A protection order meets the requirement provided the statutory authority for issuing the order specifies that protection orders issued pursuant to the statute are intended to prevent future abuse, violence, injury, harassment, etc.

(4) **Credible Threat Finding OR Express Prohibition on Conduct.**

Credible Threat Finding: The order includes a finding that the Respondent represents a credible threat to the physical safety of the intimate partner or child;³⁴

**TIP –
CREDIBLE THREAT
FINDING**

The credible threat finding is not required, it is one of two statutory alternatives.

OR

Express Prohibition on Conduct: The terms of the order explicitly prohibit, the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.³⁵

If the requirements for the Federal statute are met, 'Y' should be entered in the BRD field. A caveat will be generated as part of a response to an NCIC query. The caveat will follow the protection order alert but will proceed the NCIC record, and the language will appear as follows:

****THE SUBJECT OF THIS RECORD IS PROHIBITED FROM RECEIVING OR POSSESSING A FIREARM UNDER FEDERAL LAW (TITLE 18, U.S.C., SECTION 922) ****³⁶

³³ See *NCIC Operation Manual- Protection Order File*, Entry, Section 2.5. 3.2;
See also, 18 U.S.C. § 922(g)(8)(B).

³⁴ See *NCIC Operation Manual- Protection Order File*, Entry, Section 2.5. 3. 2.2a;
See also, 18 U.S.C. § 922(g)(8)(C)(i).

³⁵ See *NCIC Operation Manual- Protection Order File*, Entry, Section 2.5. 3. 2.2b;
See also, 18 U.S.C. § 922(g)(8)(C)(ii).

³⁶ See *NCIC Operation Manual- Protection Order File*, Entry, Section 2.5.3.3

F. PCO code 07

Some jurisdictions have broader laws on firearm qualifications than the federal government. If a protection order does not meet the federal criteria, it may still prevent the subject from possessing a firearm based on state, tribal, or territorial law. NCIC POF supports the identification of state, tribal, and territorial firearm prohibitions in orders that do not meet the federal criteria through the use of the PCO Field.

When a POF record includes PCO code 07, the following statement will appear as follows:

“07-THE SUBJECT IS PROHIBITED FROM POSSESSING AND/OR PURCHASING A FIREARM OR OTHER WEAPONS AS IDENTIFIED IN THE MISCELLANEOUS FIELD.”³⁷

Regardless of any federal prohibitions that may exist, the PCO code 07 should be utilized by the entering agency under the following circumstances:

- ◆ The court indicates in the order that the person subject to the protection order is prohibited from purchasing and/or possessing a firearm or other weapon.
- ◆ The order prohibits the subject from purchasing and/or possessing a firearm or other weapon.
- ◆ Under the statute or local ordinance, the existence or the circumstances of the protection order would prohibit the subject from possessing and/or purchasing a firearm or other weapon.
- ◆ Note: *PCO code 07 must be enforced nationwide under the full faith and credit provision of the Violence Against Women Act, 18 U.S.C §2265. However, Full faith and credit will*

The use of PCO code 07 and State Firearm Prohibitions issued in a Temporary/ Ex Parte, Interim, Emergency Protection Orders

An active temporary/emergency/interim/ex parte order in the NCIC POF populated with PCO code 07 is considered a state prohibition. In addition, an active temporary/ex parte order not identified with a PCO code 07 but meeting the PCO code 07 conditions is also viewed as being a state prohibition. Temporary/ex parte protection orders are disqualifying for firearm transfers when the respondent's state of residence SOR *or* state of purchase SOP are the same as the state issuing the order.

The use of PCO code 07 of State Firearm Prohibitions issued in a Temporary/ Ex Parte, Interim, Emergency Protection Orders and Full Faith and Credit
When the respondent's SOR *and* SOP are *not* the same as the issuing state the temporary/ex parte/interim/emergency orders require one additional verification to establish the firearm prohibition if the respondent of the order attempts to receive a firearm and his/her SOR *and* SOP are *not* the same as the state that issued the order, the firearm restrictions of the order may be honored by other jurisdictions when:

1. The order is active (not expired);
2. The firearm restriction has been ordered by the court (meaning either the language of the order, or by a judge's notation in order prohibits purchasing and/or possessing a firearm); and
3. Notice and opportunity to be heard (for the final order) will be provided within a reasonable time sufficient to protect the respondent's due process rights.

For further information please reference: FBI Criminal Justice Information Services (CJIS) Division National Instant Criminal Background Check System (NICS) Section GUIDANCE DOCUMENT Guidelines for Domestic Violence Protection Orders, Extreme Risk Protection Orders (ERPO), and Other Court-Ordered Firearm Restrictions: Employing the National Crime Information Center (NCIC) and the NICS Indices to Enhance Public Safety

³⁷ See NCIC Operation Manual- Protection Order File, Entry, Section 2.5.2

*not apply when the firearm restrictions are established from a statute alone, and not a qualifying final or temporary/ex parte court order.*³⁸

If PCO code 07 is used and the weapon is not a firearm, the type of weapon must be identified in the MIS field.³⁹

G. Miscellaneous Field (MIS)

The MIS Field should be used to provide more specific information about the terms of the protection order.⁴⁰ For example, if PCO 04 is entered, the MIS field should provide more information about the places from which the Respondent is prohibited from going, and/or any exceptions to the prohibition. For example, PCO 04 STAY AWAY FROM ALL LOCATIONS PPN IS KNOWN TO BE EXCEPT HOME OF PPN WHEN PICKING UP AND DROPPING OFF CHILDREN FOR VISITATION ON WEDNESDAY EVENING AND ALTERNATING FRIDAY/SUNDAYS.

The MIS field can also be used to provide details about service of the order (i.e., whether service has been effected, or whether the order has not yet been served on the Respondent). This information can be extremely useful to law enforcement officers (particularly if they are not in the jurisdiction in which the order was issued) who need to determine whether the Respondent has been provided with notice of the issuance of a temporary/*ex parte* protection order before they enforce the order.

Table 4⁴¹ SVC Field Codes.

SERVICE INFORMATION (SVC) FIELD CODES
The SVC Field may contain: 1=SERVED 2=NOT SERVED 3=UNKNOWN

If SVC=1 than the Service Date (SVD) must be entered with the date the order was served.⁴² Likewise, if the SVD field is populated with a date, the SVC field must reflect “SERVED” as the inclusion of date implies service of the order was accomplished on that date. Please refer to the *NCIC CODE MANUAL* for the service field code description listed in Table 4.

The NCIC allows for the entry of Criminal Bail Protection Orders and Military Protection Orders into the POF using the protection order condition PCO code 08.

- ◆ When an agency enters a POF records with a Criminal Bail Protection Order, PCO code 08 will be used with the following mandatory caveat in the MIS Field:
“CRIMINAL BAIL PROTECTION ORDER.”⁴³

³⁸ See *FBI Criminal Justice Information Services (CJIS) Division National Instant Criminal Background Check System (NICS) Section GUIDANCE DOCUMENT Guidelines for Domestic Violence Protection Orders, Extreme Risk Protection Orders (ERPO), and Other Court-Ordered Firearm Restrictions: Employing the National Crime Information Center (NCIC) and the NICS Indices to Enhance Public Safety*

⁴⁰ See *NCIC Operating Manual - Protection Order File*, Entry, Section 2.5.6.4

⁴¹ See *NCIC CODE MANUAL*, Section 39

⁴² See *NCIC Operating Manual - Protection Order File*, Entry, Section 2.5.8

⁴³ See *NCIC Operating Manual - Protection Order File*, Entry, Section 2.5.6.7

- ◆ When an agency enters a POF record with an MPO, PCO code 08 will be used with the following mandatory caveat in the MIS Field:
“THIS IS A MILITARY PROTECTIVE ORDER AND MAY NOT BE ENFORCEABLE BY NON-MILITARY AUTHORITIES. IF SUBJECT IS IN POSSIBLE VIOLATION OF THE ORDER ADVISE THE ENTERING AGENCY (MILITARY LAW ENFORCEMENT).”⁴⁴

IV. Modification of Orders and Supplemental Records

A protection order record may be modified, but only by the agency that entered the record. A modification message is used to add to, delete, or change data in the base record.⁴⁵

The following are points to remember regarding modification of orders:

- ◆ If an agency has entered a temporary protection order record, it can be modified to a final protection order record by changing the MKE from ETO to EPO.⁴⁶
- ◆ If the court that issued the protection order modifies it in any way, the court must notify the agency that entered the order into the NCIC POF.⁴⁷
- ◆ If a court modifies the expiration date of a protection order, but the order has already expired before the modification can be entered into the NCIC POF, the entire record must be reentered.⁴⁸
- ◆ The entering agency will receive a message five days before the expiration of a protection order to remind the agency to enter any modifications to the expiration date if the protection order was extended or renewed by the court.⁴⁹
- ◆ Records cannot be modified if they have been cleared or expired and are in an inactive status.⁵⁰

TIP- COMMUNICATIONS REGARDING MODIFICATIONS

Entering agencies should collaborate with the courts that issue protection orders to develop or enhance communication systems for providing notification of modifications or dismissals of protection orders.

A supplemental record should be entered in order to provide additional identifiers to an existing protection order record. For example, if the entering agency receives the license plate number for the Respondent, and entry of that number has been requested, the entering agency would add a supplemental record with the license plate number to the existing record. See the *NCIC Operating Manual– Protection Order File* for details on the data fields that may be included in a supplemental record, along with their field codes and the maximum number allowable in a POF record.

⁴⁴ See *NCIC Operating Manual - Protection Order File*, Entry, Section 2.5.6.6

⁴⁵ See *NCIC Operating Manual - Protection Order File*, Modification, Section 3.1

⁴⁶ See *NCIC Operating Manual - Protection Order File*, Modification, Section 3.5.2

⁴⁷ See *NCIC Operating Manual – Protection Order File*, Modification, Section 3.5.4

⁴⁸ See *NCIC Operating Manual – Protection Order File*, Modification, Section 3.5.5

⁴⁹ See *NCIC Operating Manual – Protection Order File*, Modification, Section 3.5.6

⁵⁰ See *NCIC Operating Manual – Protection Order File*, Modification, Section 3.5.7

V. Retention of Protection Order Records

A protection order record will remain active in the NCIC POF until it is canceled or cleared by the entering agency, or until the order expires. Five days before a protection order's expiration date, NCIC sends the entering agency an administrative message as a reminder to enter a modified expiration date should the court extend or renew the order. If the expiration date is not modified within the five-day period, the record will expire and become inactive after the fifth day. Inactive records (those that have been cleared and those that have expired) will be maintained online for the remainder of the current year, plus an additional five years, and are accessible via the QPO message for this period of time. At the end of the time period, NCIC will not notify the ORI of the record. Protection order records that are inactive cannot be modified or cleared, however, the inactive records can be canceled.⁵¹

Records for non-expiring protection orders (i.e., those for which there is no expiration date) will remain active in the NCIC POF until they have been cleared or canceled by the entering agency.⁵²

VI. Entering Agency Requirements for Handling a Hit

When a hit on a protection order record is obtained, the entering agency must be able to confirm the status and terms of a protection order to the querying agency. The entering agency must either have the ability to provide this service 24 hours a day, 7 days a week or must obtain the written agreement of another agency that it will provide responses to hit confirmation requests.⁵³

Hit confirmation is not required for Military Protection Orders (MPOs). NCIC's policy only requires a hit confirmation when taking official action based on the order.⁵⁴ However, it is important that local, state, federal, tribal and territorial authorities are aware of the order to provide notification to the entering agency (military law enforcement) for victim and officer safety. Providing notification allows military law enforcement to take appropriate action.

NOTE: Military agencies that enter records into the system should include a Y in the Notifying Originating Agency (NOA) Field of the POF to be notified of all hits that occur through a \$.H. Originating Agency Notification.⁵⁵

VII. Other Types of Orders

Extreme Risk Protection Order (ERPO)

An extreme risk protection order (ERPO) is a civil remedy that allows an eligible party to petition a court to temporarily remove firearms from a person who poses a risk of harm to self or

⁵¹ See *NCIC Operating Manual, Protection Order File*, Introduction, Section 1.4

⁵² See *NCIC Operating Manual, Protection Order File*, Introduction, Section 1.4.3

⁵³ See *NCIC Operating Manual, Protection Order File*, Inquiry, Section 5.6.1

⁵⁴ See *NCIC Operating Manual, Protection Order File*, Inquiry, Section 5.6

⁵⁵ See *NCIC Operating Manual - Protection Order File*, Inquiry, Section 5.6.3

others. For the duration of the order, the individual is prohibited from purchasing firearms and ammunition.

Currently, the NCIC does not have a file specifically for the entry of ERPOs. Each ERPO should be reviewed to see if the order meets the criteria for entry into an existing NCIC file. For example, if an ERPO meets the criteria for entry into the NCIC POF or Violent Persons File (VPF), the information should be entered accordingly so it is available to law enforcement for officer and public safety in addition to being accessible for NICS purposes. An ERPO generally do not involve a *protected person*; therefore, the orders would not meet the requirements for the federal prohibition, 18 U.S.C. § 922(g)(8).

When an active and valid ERPO does not meet the criteria for entry into the NCIC, the descriptors of the respondent may be entered into the NICS Indices so the information is available to assist in the determination of firearm eligibility during a NICS check.

Further guidance on ERPOs can be found by access the following document:

FBI Criminal Justice Information Services (CJIS) Division National Instant Criminal Background Check System (NICS) Section, GUIDANCE DOCUMENT

Guidelines for Domestic Violence Protection Orders, Extreme Risk Protection Orders (ERPO), and Other Court-Ordered Firearm Restrictions: Employing the National Crime Information Center (NCIC) and the NICS Indices to Enhance Public Safety

BRADY FIELD INDICATOR WORKSHEET⁵⁶

In order to complete the BRADY “BRD” Field, users must be able to answer the following question:

Does the protection meet the federal prohibiting criteria?

Users may respond with “Y” for Yes; “N” for No; or “U” for status unknown in NCIC POF.

A ‘U’ should only be used when the status remains unknown after reviewing all available documentation.

Every attempt should be made to make the correct determination.

When no attempt is made to determine the disqualification status, a BRD Field should be left blank.

A protection order record should indicate ‘Y’ in the Brady indicator field if the following conditions are met:

1. Hearing The order was issued after a hearing, of which the Respondent received notice and had an opportunity to participate. <p style="text-align: center;">AND</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
2. Relationship Requirement The Petitioner has a relationship to the Respondent that can be described as one of the following: <input type="checkbox"/> The Petitioner is the current or former spouse of the respondent. <input type="checkbox"/> The Petitioner cohabits or has cohabited with respondent (in sexual/romantic relationship). ⁵⁷ <input type="checkbox"/> The Petitioner has a child in common with the respondent (regardless of whether they ever married or cohabitated). <input type="checkbox"/> The Petitioner is a child of the respondent. <input type="checkbox"/> The Petitioner is a child of the intimate partner. <p style="text-align: center;">[See the relationship chart on the back for additional information]</p> <p style="text-align: center;">AND</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
3. The Terms of the Order Restrains Future Conduct The order must restrain the Respondent from harassing, stalking, or threatening an intimate partner, or child of an intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to him/herself or the child; <p style="text-align: center;">AND</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
4. The Order includes a Credible Threat Finding or Express Prohibition on Conduct⁵⁸ <input type="checkbox"/> The order includes a finding that the Respondent represents a credible threat to the physical safety of the Petitioner or the child. <p style="text-align: center;">OR</p> <input type="checkbox"/> The terms of the order explicitly prohibit, by its terms, the use, attempted use, or threatened use of physical force against the Petitioner or the child that would reasonably be expected to cause bodily injury.	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN

A Brady Indicator of Y may only be used when all of the questions listed above are answered with a YES.

⁵⁶ See *NCIC Operation Manual- Protection Order File*, Entry, Section 2.5.3. Note: This worksheet is not a substitute for the Protection Order File Chapter of the *NCIC Operating Manual*, or any other document, training, or technical assistance provided by the FBI/NCIC and/or state or territorial Criminal Justice Information Services (CJIS) Systems Agency (CSA). Information in the NCIC POF is regularly updated. For the most recent changes, questions or additional assistance, agencies should contact their CSA or the FBI’s NCIC training staff at 1-877-324-6242.

^{57 57} “Cohabitation requires a live-in relationship (or former live-in relationship) between two (2) individuals (can be same-sex) which, in essence, is a sexual/romantic relationship, and NOT merely a roommate.” See *NCIC Operating Manual- Protection Order File*, Entry, Section 2.5.3.6

⁵⁸ Note: A protection order may have both a credible threat finding and an express prohibition on conduct.

The following chart contains relationships frequently encountered on protection orders and the corresponding value for the BRD Field⁵⁹.

PROTECTED PERSON	SUBJECT OF PROTECTION ORDER	BRADY INDICATOR
Spouse	Spouse	Y
Former Spouse	Former Spouse	Y
Unmarried Child in Common	Unmarried Child in Common	Y
Unmarried Currently or Formerly Living Together Unless Documentation of Cohabitation* Exists	Unmarried Currently or Formerly Living Together Unless Documentation of Cohabitation Exists	U
Child (Includes Foster Children)	Parent	Y
Stepchild	Stepparent	Y
Currently or Formerly Cohabiting* (in sexual/romantic relationship)	Currently or Formerly Cohabiting (in sexual romantic relationship)	Y
Parent	Child	N
Nephew/Niece	Uncle/Aunt	N
Uncle/Aunt	Nephew/Niece	N
Grandchild	Grandparent	N
Brother/Sister	Brother/Sister	N
Cousins	Cousins	N
Roommates	Roommates	N
Neighbors	Neighbors	N
Stepparent	Stepchild	N
Boyfriend/Girlfriend (Unless Cohabitation Exist)*	Boyfriend/Girlfriend (Unless Cohabitation Exists)	N
Stranger	Stranger	N

⁵⁹ See NCIC Operating Manual- Protection Order File, Entry, Section 2.5. 3

*Note: Cohabitation requires a live-in relationship (or former live-in relationship) between two (2) individuals (can be same-sex) which, in essence, is a sexual/romantic relationship, and NOT merely a roommate.” See NCIC Operating Manual- Protection Order File, Entry, Section 2.5.3.6



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