

	<b>STANDARD OPERATING PROCEDURE</b> <small>State Form 39870 (R/S-06)</small>	Reference Number <b>LAB-013</b>
	Subject <b>Gambling Device Evidence Submission and Disposition Requirements</b>	
	Special Instructions Replaces LAB-005 (IV, H, 6) dated January 19, 2016	Effective Date <b>August 28, 2018</b>

**I. PURPOSE**

Establishes a formal procedure for the proper submission and disposition of gambling and electronic gaming device evidence seized in furtherance of criminal investigations.

**II. POLICY**

Department employees who seize gambling or electronic gaming device evidence, or recover property associated with the devices, shall properly secure the items, complete a Property Record and Receipt (PRR) form and submit the items for proper evidence storage, meeting the requirements in SOP LAB-001.

**III. DEFINITIONS**

A. **"Electronic Gaming Device"** – as defined in Indiana Code 35-45-5-1(b) means, in part, any electromechanical device, electrical device or machine which satisfies at least one (1) of the following requirements: (1) it is a contrivance which for consideration affords the player an opportunity to obtain money or other items of value, the award of which is determined by chance even if accomplished by some skill, whether or not the prize is automatically paid by the contrivance; (2) it is a slot machine or any simulation or variation of a slot machine; (3) it is a matchup or lineup game machine or device operated for consideration, in which two (2) or more numerals, symbols, letters, or icons align in a winning combination on one (1) or more lines vertically, horizontally, diagonally, or otherwise, without assistance by the player, the use of a skill stop is not considered assistance by the player; (4) it is a video game machine or device operated for consideration to play poker, blackjack, any other card game, keno or any simulation or variation of these games, including any game in which numerals, numbers, pictures, representations or symbols are used as an equivalent or substitute for the cards used in these games. The term does not include a toy crane machine or any other device played for amusement which rewards a player exclusively with a toy, a novelty, candy, other noncash merchandise or a ticket or coupon redeemable for a toy, a novelty, or other noncash merchandise which has a wholesale value of not more than the lesser of ten (10) times the amount charged to play the amusement device one (1) time or twenty-five dollars (\$25).

B. **"Gambling Device"** – as defined in Indiana Code 35-45-5-1(e) means, in part: (1) a mechanism by the operation of which a right to money or other property may be credited, in return for consideration, as the result of the operation of an element of chance; (2) a mechanism, when operated for a consideration, does not return the same value or property for the same consideration upon each operation; (3) a mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling; (4) a policy ticket or wheel; or (5) a subassembly or essential part designed or intended for use in connection

with such a device, mechanism, furniture, fixture, construction or installation. In the application of this definition, an immediate and unrecorded right to replay mechanically conferred on players of pinball machines and similar amusement devices is presumed to be without value.

#### **IV. PROCEDURE**

A. When an employee seizes or recovers gambling or electronic gaming device evidence, the employee shall properly package and seal the items, inclusive of required identification markings, in accordance with Laboratory Division Policies and properly document the items on a PRR form.

B. Gambling or electronic gaming device evidence as defined by law which has been seized by Department employees shall be maintained in a secure location until disposition of such devices has been ordered by the court of venue.

C. If prosecution does not occur within one year after the seizure of gambling or electronic gaming devices, the assigned investigating officer shall:

1. Contact the prosecutor having venue over the seized devices and determine whether the case shall be prosecuted; and

2. If the prosecutor having venue decides not to prosecute the case, request a court order from the prosecutor for the destruction of the devices; and

3. In those cases in which the prosecutor having venue is unwilling to prosecute the case and also unwilling to assist the Department with obtaining the necessary court order for destruction, request by memorandum, through channels, to the Department's Legal Office, assistance in obtaining a court order for destruction of the devices. The memorandum shall include the criminal incident number for the investigation and explain the facts of the case – to include the lack of action by the prosecutor of venue.

D. When a court order has been received ordering the destruction of seized or recovered gambling or electronic gaming devices, the procedure noted below, in addition to the requirements noted in SOP LAB-002, shall be followed:

1. A prosecutor's representative should be present for the destruction; and

2. A representative of the news media shall be invited to witness the destruction and the removal of any money from the devices; and

3. A representative of the news media shall be invited to witness the counting of the money from the devices and asked to sign a receipt as witness to the amount obtained; and

4. In the event a news media representative is not available to serve as a witness, other responsible independent persons may witness the events of destruction, removal and counting of any money, and signing the receipt as a witness; and

5. Photographs depicting the destruction and witnesses present shall be taken and included as part of the incident report documentation; and

6. The assigned investigating officer shall request the prosecutor having venue to initiate forfeiture proceedings on behalf of the state as to any money found in the devices.

E. This procedure is to be used in conjunction with all relevant Department regulations, rules, policies and procedures.