

TCDAO FORFEITURE POLICY

Texas law provides for forfeiture of contraband to the State. In general, Chapter 59 of the Code of Criminal Procedure defines contraband as property used to facilitate the commission of and/or proceeds gained from the commission of certain felonies. As stated in Art. 59.05(e), forfeiture is intended to be remedial and should not be used to punish an offender. It is the means by which the community can recover a small part of the costs associated with criminal investigations and prosecutions. The Travis County District Attorney's Office believes that using forfeited contraband to help relieve some of the burden on local taxpayers is appropriate and will pursue such cases when warranted by the evidence.

While Chapter 59 allows for a forfeiture case to be filed regardless of whether a criminal prosecution has been initiated, only in exceptional circumstances should a forfeiture suit be initiated in the absence of a criminal case. Examples include cases where the criminal defendant is a fugitive or is deceased, or any other set of circumstances that would prevent a justified criminal conviction. Where both a potential forfeiture action and a criminal case exist, neither the prosecutor handling the criminal matter nor the prosecutor handling the forfeiture shall use the existence of one to gain leverage in negotiating the disposition of the other.

The Travis County District Attorney's Office does not and will not file asset forfeiture cases unless there is clear and compelling evidence that the property seized by law enforcement is in fact contraband. Proof that the seized property was an integral part of the underlying offense is a necessary part of the decision to pursue a forfeiture.

In all cases where a forfeiture is filed, the owner of the property and any and all interest holders shall be notified of the suit and given the opportunity to contest the case if an appropriate settlement agreement cannot be reached. The Travis County District Attorney's Office strongly believes that the mandate set out in Article 2.01 of the Code of Criminal Procedure that it is the duty of the district attorney to "see that justice is done" applies not just to criminal prosecutions but to asset forfeiture cases as well.

Proceeds received by the District Attorney's Office from forfeiture judgments shall be used by the office in accordance with Art. 59.06 to enhance the criminal justice efforts of the office. The expenditure of forfeited funds and use of forfeited property shall be a matter of public record in order to provide full transparency.