

DRUG FORFEITURE PROCEDURES

1. Arrest should be punishable under R.S. 40:966 through 40:970 or R.S 15:1351-1356.
2. Within 72 hours of arrest (excluding weekends & holidays) the arresting agency should present to the District Attorney an Application for a Seizure Warrant along with an affidavit from the arresting officer.
3. A Warrant of Seizure for Forfeiture will then be produced by the District Attorney to be presented to a judge for his signature.
4. The District Attorney must serve the defendant with a Notice of Pending Forfeiture (within 30 days). This may be done by personal service or by use of certified and return receipt mail. An affidavit of verification of service may also be used along with the service return.
5. Thirty days after Notice of Pending Forfeiture, if no claim has been filed, the District Attorney may proceed with the forfeiture by filing a Motion to Forfeit Property and a Judgment of Forfeiture.
6. This District Attorney normally waits until after the adjudication of the criminal charges before filing a Motion and Judgment of Forfeiture.
7. In some cases, a Motion to Forfeit Unclaimed Property may be filed. Property for which no proper claim has been made after a period of two (2) years may be claimed in this manner.
8. After the final Judgment of Forfeiture, proceeds are allocated as following:
9. Police Agency, 60 %
10. Criminal Court Fund, 20 %
11. District Attorney, 20 %

FORFEITURE PROCEDURES WHEN DEFENDANT FILES CLAIM

1. The defendant may file a claim to his property by using the procedure that is outlined in the Notice of Pending Forfeiture.
2. When a claim is filed by defendant, the District Attorney must respond with a Petition for Forfeiture, etc.
3. If no agreement can be reached, the case will be set for trial as a civil procedure.