

Rule 18: Dismissals

- 18.1** Prior to trial the dismissal of a complaint or notice to appear shall be at the sole discretion of the Prosecutor unless the Judge finds:
- A. That the complaint fails to allege a criminal offense; or
 - B. The dismissal is otherwise permitted by ordinance, statute, common law, or constitution or as a sanction for pre-trial delay or serious misconduct attributable to the prosecution prejudicing the defendant's right to a fair and/or speedy trial; or
 - C. Such dismissal is the result of the Prosecutor's failure or inability to proceed on the scheduled day of trial, and in the discretion of the Court, such failure or inability to proceed is not excusable.
- 18.2** Dismissals prior to the commencement of trial are generally deemed to be dismissals without prejudice, allowing leave to the prosecution to re-file the matter within the applicable time standards relating to the statute of limitations and speedy trial.
- 18.3** A Judge will not dismiss a case with prejudice unless jeopardy has attached by the commencement of trial and where required by law or where the totality of the facts and circumstances giving rise to such dismissal make such a remedy or sanction appropriate under the law.