

### **Rule 12.1. Notice of Alibi**

(a) Notice by respondent. Upon written demand of the prosecutor stating the time, date, and place at which the alleged offense was committed, the respondent shall serve within 10 days, or at such different time as the Family Court may direct, upon the prosecutor a written notice of his intention to offer a defense of alibi. Such notice by the respondent shall state the specific place or places at which the respondent claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

(b) Disclosure of information and witness. Within 10 days thereafter, but in no event less than 10 days before trial, unless the court otherwise directs, the prosecutor shall serve upon the respondent or his attorney a written notice stating the names and addresses of the witnesses upon whom the government intends to rely to establish the respondent's presence at the scene of the alleged offense and any other witnesses to be relied on to rebut testimony of any of the respondent's alibi witnesses.

(c) Continuing duty to disclose. If prior to or during trial, a party learns of an additional witness whose identity, if known, should have been included in the information furnished under paragraph (a) or (b), the party shall promptly notify the other party or his attorney of the existence and identity of such additional witness.

(d) Failure to comply. Upon the failure of either party to comply with the requirements of this Rule, the court may exclude the testimony of any undisclosed witness offered by such party as to the respondent's absence from or presence at, the scene of the alleged offense. This Rule shall not limit the right of the respondent to testify in his own behalf.

(e) Exceptions. For good cause shown, the court may grant an exception to any of the requirements of paragraphs (a) through (d) of this Rule.

(f) Inadmissibility of withdrawn alibi. Evidence of an intention to rely upon an alibi defense, later withdrawn, or of statements made in connection with such intention, is not admissible in any civil or criminal proceeding against the person who gave notice of the intention.

### **COMMENT**

This Rule is identical to SCR Crim 12.1.