**Rule 12.2. Notice of an Insanity Defense; Mental Examination**

(a) Notice of an Insanity Defense. Insanity shall not be raised as a defense unless the defendant has complied with the notice provisions of D.C. Code § 24-501 (j) (2012 Repl.).

(b) Notice of Expert Evidence of a Mental Condition. If a defendant intends to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing on the issue of guilt, the defendant must—within the time provided for filing a pretrial motion or at any later time the court sets—notify an attorney for the government in writing of this intention and file a copy of the notice with the clerk. The court may, for good cause, allow the defendant to file the notice late, grant the parties additional trial-preparation time, or make other appropriate orders.

(c) Mental Examination.

(1) Authority to Order an Examination; Procedures. In an appropriate case the court may, upon motion of the prosecutor or upon its own initiative, order the defendant to submit to one or more mental examinations by a psychiatrist or other expert designated for this purpose in the order of the court.

(2) Inadmissibility of a Defendant's Statements. No statement made by a defendant in the course of any examination conducted under this rule (whether conducted with or without the defendant's consent), no testimony by the expert based on the statement, and no other fruits of the statement may be admitted into evidence against the defendant in any criminal proceeding except on an issue regarding mental condition on which the defendant has introduced evidence requiring notice under paragraphs (a) or (b) of this rule.

(d) Failure to Comply. The court may exclude any expert evidence from the defendant on the issue of the defendant's mental disease, mental defect, or any other mental condition bearing on the defendant's guilt if the defendant fails to:

(1) give notice under Rule 12.2(b); or

(2) submit to an examination when ordered under Rule 12.2(c).

(e) Inadmissibility of Withdrawn Intention. Evidence of an intention as to which notice was given under Rule 12.2(a) or (b), later withdrawn, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.

COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. It differs from the federal rule in several respects.

Paragraph (a) retains the language of the former rule and its reference to the local statute, D.C. Code § 24-501 (j) (2012 Repl.).

Paragraphs (b), (c), and (d) omit the provisions of the federal rule pertaining to capital punishment. The District of Columbia has no death penalty.

Paragraph (c) also omits all references to competency examinations, which are now governed in the District of Columbia by D.C. Code § 24-531.01 et seq. (2012 Repl.).