

Rule 19. [Reserved]**Rule 20. Transfer for Plea and Sentence**

(a) CONSENT TO TRANSFER. A prosecution may be transferred from the district where the indictment or information is pending, or from which a warrant on a complaint has been issued, to the district where the defendant is arrested, held, or present if:

(1) the defendant states in writing a wish to plead guilty or nolo contendere and to waive trial in the district where the indictment, information, or complaint is pending, consents in writing to the court's disposing of the case in the transferee district, and files the statement in the transferee district; and

(2) the United States attorneys in both districts approve the transfer in writing.

(b) CLERK'S DUTIES. After receiving the defendant's statement and the required approvals, the clerk where the indictment, information, or complaint is pending must send the file, or a certified copy, to the clerk in the transferee district.

(c) EFFECT OF A NOT GUILTY PLEA. If the defendant pleads not guilty after the case has been transferred under Rule 20(a), the clerk must return the papers to the court where the prosecution began, and that court must restore the proceeding to its docket. The defendant's statement that the defendant wished to plead guilty or nolo contendere is not, in any civil or criminal proceeding, admissible against the defendant.

(d) JUVENILES.

(1) *Consent to Transfer.* A juvenile, as defined in 18 U.S.C. § 5031, may be proceeded against as a juvenile delinquent in the district where the juvenile is arrested, held, or present if:

(A) the alleged offense that occurred in the other district is not punishable by death or life imprisonment;

(B) an attorney has advised the juvenile;

(C) the court has informed the juvenile of the juvenile's rights—including the right to be returned to the district where the offense allegedly occurred—and the consequences of waiving those rights;

(D) the juvenile, after receiving the court's information about rights, consents in writing to be proceeded against in the transferee district, and files the consent in the transferee district;

(E) the United States attorneys for both districts approve the transfer in writing; and

(F) the transferee court approves the transfer.

(2) *Clerk's Duties.* After receiving the juvenile's written consent and the required approvals, the clerk where the indictment, information, or complaint is pending or where the alleged offense occurred must send the file, or a certified copy, to the clerk in the transferee district.

(As amended Feb. 28, 1966, eff. July 1, 1966; Apr. 22, 1974, eff. Dec. 1, 1975; Pub. L. 94-64, § 3(30), July 31, 1975, 89 Stat. 375; Apr. 28, 1982, eff. Aug. 1, 1982; Mar. 9, 1987, eff. Aug. 1, 1987; Apr. 29, 2002, eff. Dec. 1, 2002.)

NOTES OF ADVISORY COMMITTEE ON RULES—1944

This rule introduces a new procedure in the interest of defendants who intend to plead guilty and are ar-

rested in a district other than that in which the prosecution has been instituted. This rule would accord to a defendant in such a situation an opportunity to secure a disposition of the case in the district where the arrest takes place, thereby relieving him of whatever hardship may be involved in a removal to the place where the prosecution is pending. In order to prevent possible interference with the administration of justice, however, the consent of the United States attorneys involved is required.

NOTES OF ADVISORY COMMITTEE ON RULES—1966
AMENDMENT

Rule 20 has proved to be most useful. In some districts, however, literal compliance with the procedures spelled out by the rule has resulted in unnecessary delay in the disposition of cases. This delay has been particularly troublesome where the defendant has been arrested prior to the filing of an indictment or information against him. See e.g., the procedure described in *Donovan v. United States*, 205 F.2d 557 (10th Cir. 1953). Furthermore, the benefit of the rule has not been available to juveniles electing to be proceeded against under 18 U.S.C. §§ 5031-5037. In an attempt to clarify and simplify the procedure the rule has been recast into four subdivisions.

Subdivision (a).—This subdivision is intended to apply to the situation in which an indictment or information is pending at the time at which the defendant indicates his desire to have the transfer made. Two amendments are made to the present language of the rule. In the first sentence the words "or held" and "or is held" are added to make it clear that a person already in state or federal custody within a district may request a transfer of federal charges pending against him in another district. See 4 Barron, *Federal Practice and Procedure* 146 (1951). The words "after receiving a copy of the indictment or information" are deleted.

The defendant should be permitted, if he wishes, to initiate transfer proceedings under the rule without waiting for a copy of the indictment or information to be obtained. The defendant is protected against prejudice by the fact that under subdivision (c) he can, in effect, rescind his action by pleading not guilty after the transfer has been completed.

Subdivision (b).—This subdivision is intended to apply to the situation in which no indictment or information is pending but the defendant has been arrested on a warrant issued upon a complaint in another district. Under the procedure set out he may initiate the transfer proceedings without waiting for the filing of an indictment or information in the district where the complaint is pending. Also it is made clear that the defendant may validate an information previously filed by waiving indictment in open court when he is brought before the court to plead. See *United States v. East*, 5 F.R.D. 389 (N.D. Ind. 1946); *Potter v. United States*, 36 F.R.D. 394 (W.D. Mo. 1965). Here again the defendant is fully protected by the fact that at the time of pleading in the transferee court he may then refuse to waive indictment and rescind the transfer by pleading not guilty.

Subdivision (c).—The last two sentences of the original rule are included here. The last sentence is amended to forbid use against the defendant of his statement that he wishes to plead guilty or nolo contendere whether or not he was represented by counsel when it was made. Since under the amended rule the defendant may make his statement prior to receiving a copy of the indictment or information, it would be unfair to permit use of that statement against him.

Subdivision (d).—Under 18 U.S.C. § 5033 a juvenile who has committed an act in violation of the law of the United States in one district and is apprehended in another must be returned to the district "having cognizance of the alleged violation" before he can consent to being proceeded against as a juvenile delinquent. This subdivision will permit a juvenile after he has been advised by counsel and with the approval of the court and the United States attorney to consent to be