

will transmit copies of this Memorandum to all personnel affected by its provisions. This Memorandum shall not preclude the Department and the Agency from entering into mutually satisfactory arrangements concerning the handling of a particular case.

17. This Agreement shall apply to all cases filed on or after the date of approval of this Agreement by the Attorney General and the Administrator.

18. The Attorney General and the Administrator may delegate their respective functions and responsibilities under this Agreement.

19. The Department and the Agency shall adjust the conduct of cases arising before the effective date of this Agreement in a manner consistent with the spirit of this Agreement.

Date: June 15, 1977.

GRIFFIN B. BELL,
Attorney General.

Date: June 13, 1977.

DOUGLAS M. COSTLE,
Administrator, Environmental
Protection Agency.

[FR Doc.77-27989 Filed 9-23-77; 8:45 am]

UNITED STATES COMMITTEE ON SELECTION OF FEDERAL JUDICIAL OFFICERS

Change of Meeting Place

Chairman: Judge David W. Dyer. The place of the second meeting for the United States Committee on Selection of Federal Judicial Officers has been changed.

The second meeting will begin Monday, October 10, 1977, at 9 a.m., in Room 802, of the AFL-CIO Building, 815 16th Street, N.W., Washington, D.C. The meeting will continue October 11, 1977 at 9 a.m. in the United States Court of Claims, 717 Madison Place, N.W., Washington, D.C., and will continue, if necessary, through Wednesday, October 12, 1977. The purpose of this meeting will be to conduct interviews of applicants and to determine the recommendations to be made to the President. This meeting will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF U.S.C. 552b(c) (6).)

JOSEPH A. SANCHES,
Advisory Committee
Management Officer.

SEPTEMBER 21, 1977.

[FR Doc.77-27919 Filed 9-23-77; 8:45 am]

Federal Bureau of Investigation NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the National Crime Information Center (NCIC) Advisory Policy Board will be held on October 26-27, 1977, at the Hilton Palacio Del Rio Hotel, San Antonio,

Texas. The meeting will begin at 9 a.m. and terminate at 5 p.m. each day.

The purpose of this meeting will be to discuss policy matters relating to NCIC including storage and retrieval of stolen construction equipment data, retention period for nonexploring license tags and other topics which are presented to the Board.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members must notify the Designated Federal Employee (DFE) identified below or the Assistant Director, Administrative Services Division, FBI, Washington, D.C. 20535, at least 24 hours prior to the commencement of the session. Name, corporate designation, consumer affiliation or government designation must be provided along with a capsulized version of the statement to be given and an outline of the material to be offered.

Additional information may be obtained from the DFE, Mr. Frank B. Buell, Chief, NCIC Section, Administrative Services Division, FBI Headquarters, Washington, D.C. 20535, telephone 202-324-2606.

Minutes of the meeting will be available upon request from the above designated FBI official.

CLARENCE M. KELLEY,
Director.

[FR Doc.77-24592 Filed 9-23-77; 8:45 am]

LIBRARY OF CONGRESS

Copyright Office

[Docket RM 77-9]

APPLICATIONS FOR REGISTRATION OF CLAIM TO COPYRIGHT UNDER REVISED COPYRIGHT ACT

Inquiry

AGENCY: Library of Congress, Copyright Office.

ACTION: Inquiry.

SUMMARY: The purpose of this notice is to inform the public of certain issues the Copyright Office is considering in connection with the creation of forms to be used by the public in applying for copyright registration after December 31, 1977. The forms are required to be prescribed by the Register of Copyrights under section 409 of the Act for General Revision of the Copyright Law. The issues under consideration concern the parties entitled to apply for copyright registration under various circumstances, together with certain elements to be incorporated in the forms and their accompanying instructions.

DATES: Comments must be received on or before October 11, 1977 to be assured of consideration. Because of constraints imposed by printing requirements in connection with the new application forms, extensions will not be possible.

ADDRESSES: Five copies of all comments should be submitted, if by mail, to: Office of the General Counsel, Copyright Office, Library of Congress, Caller

No. 2999, Arlington, Virginia 22202; or, if by hand, to: Office of the General Counsel, Copyright Office, Room 519, Crystal Mall, Building No. 2, 1911 Jefferson Davis Highway, Arlington, Va.

FOR FURTHER INFORMATION, CONTACT:

Jon Baumgarten, General Counsel,
Copyright Office, Library of Congress,
Washington, D.C. 20559, (703-557-8731).

SUPPLEMENTARY INFORMATION: Sections 408(a) and 409 of Pub. L. 94-553 (90 Stat. 2541) together provide that "at any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim" by submitting an appropriate deposit of the work, fee, and application in form prescribed by the Register of Copyrights. Section 403(d) provides that the Register "may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration, or to amplify the information given in a registration."

The purpose of this notice is to offer the public the opportunity to comment on certain matters the Office is considering in connection with the content of application forms for basic and supplementary copyright registration. Although the matters in question are essentially of an interpretative and policy nature, we believe it appropriate to offer them for public comment. These matters pertain to the impact of the doctrine of "divisibility" of copyright on applications for registration.

The divisibility doctrine is reflected throughout the new Act, but is essentially set forth in: (i) section 101, which defines a "copyright owner", with respect to any one of the exclusive rights comprised in a copyright, as "the owner of that particular right"; and (ii) section 201(d) (2), which states that "any of the exclusive rights comprised in a copyright, including any subdivision of the rights [of reproduction, adaptation, distribution, performance, and display] specified by section 106, may be transferred . . . and owned separately." The specific issues which are under consideration, and which will be reflected in the application forms for basic and supplementary registration, may be summarized as: (1) Who is entitled to apply for registration? (2) how many registrations may be made for a particular work?

For the purpose of this discussion, a "basic registration" means a registration made on application under section 408 (a) with appropriate deposit and fee; a "supplementary registration" means a registration made on application under section 408(d), to correct or amplify the information in a basic registration.

1. *Who is entitled to apply for a basic registration where there has been no earlier basic registration for the work?*

Under section 408(a), it is clear that the owner of the copyright, or of any

exclusive right in a work, is entitled to apply for a basic registration where no earlier basic registration has been made for the work. We are considering whether, after an author has transferred "all rights" in a work, that author may seek a basic registration.

Where an author retains a royalty interest in the exploitation of his or her work by a transferee of the rights, the author remains a beneficial owner of the copyright¹ and, we believe, should be entitled to make a basic registration for the work. Even where the author has not retained a continuing financial interest in the exploitation of the work, it appears questionable whether that author should be considered any less a copyright owner for the purpose of registration, or be otherwise deprived of the right to secure a basic registration for the work he or she has created. For example, under section 201(a) of the Act the author is the initial owner of all rights comprised in the copyright, and may be considered to retain an ownership interest sufficient for registration purposes by reason of a limited term or grant, or contractual or statutory termination privileges.

2. How many basic registrations may be made for a particular work?

Section 408(a) provides that the owner of copyright or of any exclusive right may obtain a basic registration at any time during the subsistence of copyright. We do not believe this to imply that multiple basic registrations for the same work are generally permitted under the Act. Similarly, we do not believe that those sections of the Act which make certain benefits conditional upon registration should be considered to impose upon the public the obligation, and cost, of multiple registrations for the same work in order to secure those benefits.

That there is a "general rule against allowing more than one registration (i.e., basic registration) for the same work" is clear from the legislative history of the Act. H.R. Rep. No. 94-1476, 94th Cong., 2d sess., Sept. 3, 1976, at 155; S. Rep. No. 94-473, 94th Cong., 1st sess., Nov. 20, 1975, at 138. Section 408(e) of the Act, which expressly permits an additional basic registration to be made for the published edition of a work registered in unpublished form, is a statutory recognition of this general rule, and would be meaningless otherwise. Although section 408(a) refers to registration "of the copyright claim," we do not believe that this indicates a basic registration to be personal to, or limited to the rights owned by, the applicant. Registration is made for the work, and the reference to "claim" is clearly intended in its historical copyright context, that is, to indicate an assertion of copyright in the work by the applicant, as distinct from a governmental grant of rights.

¹ See H.R. Rep. No. 94-1476, 94th Cong., 2d Sess., Sept. 3, 1976, at 159; S. Rep. No. 94-473, 94th Cong., 1st sess., Nov. 20, 1975, at 141.

In view of the above, we plan to adopt the general position that the Copyright Office will not knowingly make more than one basic registration for the same work. The form to be prescribed for applications for basic registration will be designed to elicit information on earlier registrations and, unless it falls within one of the qualifications or exceptions discussed below, an application for a second basic registration will be refused. (As the registration system is intended to make a public record of copyright in a work, and not to resolve conflicting claims to the ownership of copyright, we will not establish priorities of applicants either between authors and other copyright owners, or among copyright owners other than authors.)

As a result of the positions just discussed, it will be possible under the new Act for the owner of only one or part of the exclusive rights in a work to make the basic registration for that work, without identifying other owners and their rights. (The author of the work will be identified.) As indicated earlier, we believe that a basic registration made by any one owner is sufficient to secure the statutory benefits of registration to the author of the work and all other owners of rights in the work.² However, where the basic registration for a work has been made by the author or the owner of one or more exclusive rights, and the owner or owners of other exclusive rights wishes those rights to be made a matter of public record, the Office does plan to permit a supplementary registration under section 408(d), "to amplify" the information given in the basic registration for the work.³ At the same time it must be understood that a supplementary registration made to place the ownership of additional specified rights on public record will not serve as a substitute for recordation of the instrument under which that owner has acquired the rights.

Section 205(d) of the Act provides that "[n]o person claiming by virtue of a transfer to be the owner of copyright or of any exclusive right under a copyright is entitled to institute an infringement action under this title until the instrument of transfer under which such person claims has been recorded in the Copyright Office. . . ." The mere making of a supplementary registration to reflect acquired rights in a work would not meet the condition of this section. Similarly, a supplementary registration of additional rights will not be considered a recordation of the transfer of those rights so as to give constructive

² This is discussed more fully in paragraph 4, below.

³ Supplementary registrations will also be available to authors and other copyright owners to correct errors in a basic registration and "to amplify, explain or reflect changes in other information given in a basic registration. Supplementary registration made for these purposes may pertain to a basic registration made by another author or copyright owner in the same work."

notice of the facts of the transfer under section 205(c) of the Act, or to assure priority over a conflicting transfer or license under section 205 (e) or (f). In each of these cases recordation of a document evidencing the transfer rather than a supplementary registration pertaining to rights acquired in the work would be necessary.

Where a basic registration has been made by the owner of an exclusive right in a work, other than the author, the Office also plans to permit the author to make a supplementary registration for the work. The author may, for example, wish our records to reflect his or her retained or continued legal or beneficial ownership of certain rights. The recordation of a document of transfer is an inappropriate, burdensome and in many cases an unclear way to reflect retained rights, and supplementary registration may be the most practical method of accomplishing this purpose. At the same time, we do not believe there is any obligation on an author to make such a registration.

3. Exceptions and qualifications to the general rule against more than one basic registration for a work.

Although the application forms for basic and supplementary registration are planned to reflect the general rule against multiple basic registrations for a work, certain exceptions and qualifications must also be accommodated.

(a) Where the work for which a second (or other) basic registration is sought contains sufficient new copyrightable matter to constitute a compilation or derivative work, and the application clearly relates to that new matter, an additional basic registration can be made.

(b) Section 408(e) of the Act expressly permits an additional basic registration to be made where an earlier basic registration pertains to the work in unpublished form, and the second basic registration is sought for the first published edition of that work.

(c) A supplementary registration presupposes the validity of the basic registration it is designed to amplify. Where an applicant for a second basic registration for a particular work asserts that an earlier basic registration for the work was unauthorized and legally invalid, we do plan to permit the additional basic registration. Since we will not adjudicate or resolve such assertions or conflicts, it would not be appropriate either to cancel the first basic registration or to relegate the second applicant to a supplementary registration.

(d) We are giving serious consideration to permitting a second basic registration for a work in one other situation. Where someone other than the author is identified as the copyright owner in the earlier basic registration, and the author is now seeking a basic registration in his or her own name as copyright owner, there may be grounds for permitting the author to do so. Recordation of transfers

of copyright ownership are essentially directed at the transferee, not at the author from whom all rights derive; as indicated earlier they are a cumbersome, impractical, and inappropriate way of making a public record of an author's retained rights in a work. Also, as noted earlier, it may be asserted that for purposes of registration an author always retains some legal or equitable interest in the ownership of copyright in a work by reason of, for example, a royalty interest in its exploitation, an express limitation on the scope or term of grant, or a contractual or statutory possibility of termination of a transfer.

Although we plan to make supplementary registrations available to authors who wish to make a public record of their interest, supplementary registrations are ancillary to the principal public record of copyright. We therefore recognize that to prohibit an author from securing a basic registration in his or her own name as copyright owner where an earlier basic registration has been made for the work may conflict with the fundamental thrust of the new Act in identifying copyright, and the origin of all rights comprised in a copyright, with the author. We are equally concerned, however, that to acknowledge an exception for authors may work to their disadvantage.

As indicated earlier, and discussed more fully below, we believe that a valid basic registration by one owner (or author) will secure the statutory benefits of registration to all authors and other owners of rights in the work. Accordingly, we do not believe that a refusal of a second basic registration will injure the second applicant (whether author or other copyright owner) in enforcing his or her rights; indeed, our refusal to make multiple basic registrations for the same work is intended, in part, to avoid any implication that all authors and owners must register their claims in order to enforce their rights. We are concerned that permitting an author to make a basic registration for a work, after an earlier basic registration has been made, may lead to legal or judicial implication that authors must bear the expense of registration in order to enforce their rights.

In considering the possibility of exception for authors to the general rule of "one basic registration per work", we are also considering whether the exception should be applied in cases where (i) the earlier basic registration was made by one co-author of the work, and the second application is made by another co-author; and (ii) the work is one made for hire.

4. Effect of a single basic registration.

Several sections of the new Copyright Act provide inducements to copyright "registration." The purpose of copyright registration is to make a public record of claimed copyright protection in the work for which it is made, not to reflect the division of copyright in that work among different owners. The benefits accorded to registration are to encourage

that record. Although "any of the exclusive rights comprised in a copyright may be transferred . . . and owned separately" (§ 201(d)(2)), transfers of rights are to be reflected by recordation of the underlying document. Accordingly, we believe that the statutory benefits of registration are effective upon one basic registration being made for the work; they are not personal to the owner of the rights who has secured the registration, nor limited to the preservation or enforcement of those rights. Similarly, a supplementary registration is not required in order to assure these benefits to the author or owners of other rights. (However, as indicated above, an application for supplemental registration made to place the owner of other rights on public record will not be refused.)

Specifically:

(a) Under section 205(c)(2) of the Act, the recordation of a document in the Copyright Office will give constructive notice of the facts stated, provided that registration has been made for the work. One basic registration will suffice for this purpose, and that basic registration need not be in the name of a party to the document. Since this section pertains to the effect of recording a document which itself evidences a transfer of rights, there is no reason to require that the registration be in the name of such a party.

(b) Section 405(a)(2) of the Act provides that the omission of a copyright notice from publicly distributed copies or phonorecords does not invalidate the copyright in a work, if among other conditions, registration for the work has been made or is made within five years after the publication without notice. The purpose of registration in this case is clearly to protect the public by evidencing a claim to copyright protection; the identity of the owner of particular rights is immaterial to this purpose. Accordingly a single basic registration made by any author or copyright owner will satisfy this condition, and the basic registration need not be in the name of the owner of the exclusive right to exploit the work in the particular form of copies or phonorecords from which the notice was omitted.

(c) Under section 411(a) of the Act, "registration of the copyright claim" must be made before an action for infringement is instituted. A basic registration made by any author or copyright owner will be sufficient to allow an action to be brought by any author or other copyright owner of the work, provided that the plaintiff has recorded an appropriate document under section 205 (d). There is no reason to believe that Congress intended to require both recordation and registration of particular rights as a condition of suit.

⁴ The following is by way of explanation of certain actions to be taken by the Copyright Office, and will not necessarily be reflected in regulations.

(d) Section 412 of the Act prohibits a judicial award of statutory damages or attorney's fees in certain cases where an infringement is committed before registration of a work. A timely registration made by any author or copyright owner will preserve the possibility of such remedies for any other author or copyright owner of the work. The section is clearly intended as an inducement to make a public record of protection and, as recordation of a transfer is required before a suit under section 205(d), no purpose would be served by requiring the registration to be made in the name of the plaintiff for these purposes. Additionally, such a requirement would render the specific 3-month provision of section 412(2) meaningless, or prevent the award of statutory damages and attorney's fees to any owner of rights first exploiting the work more than three months after its first publication.

There are sections of the new statute that pertain to a record of particular authors or other owners of rights in a work for purposes other than constructive notice or judicial enforcement of rights under a recorded document. In these cases, the recordation records, special records of identity, or, where appropriate, supplementary registration may be utilized and there is no requirement that a basic registration be obtained in the name of the author or owner for these purposes. These provisions include: (i) identification of the owner of the right to receive royalties under the compulsory license for phonorecords (§ 115(e)(1)); (ii) identification of one or more of the authors of an anonymous or pseudonymous work (§ 302(c)); (iii) identification of the copyright owner where an error has been made in the copyright notice (§ 406(a)); and (iv) the identification of persons having an interest in the copyright for purposes of notice of suit (§ 501(b)). Similarly, the Office does not plan to require that persons requesting an import statement under section 601(b)(2) of the Act be, or be designated by, the person identified as copyright owner in a basic registration for the work.⁵

Under section 410(c) of the Act, a "certificate of a registration made before or within five years after the first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate." The language and history of the Act indicate that certificates of both basic and supplementary registration may be given such effect. See Supplementary Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law: 1965 Revision Bill, May 1965 at 123.

Under section 408(b) of the Act, certain applications for basic registration

⁵ Under exceptional circumstances, a second basic registration for a work may become necessary under section 601(d)(3). In such cases, the Copyright Office will consider a request for a second basic registration made at the appropriate time.

are to be accompanied by copies or phonorecords of "the best edition" of the work. The "best edition" is defined in section 101 as "the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes." Accordingly, the required deposit* in these cases will be determined by Library of Congress acquisition policy and will not necessarily be the form in which the applicant for a basic registration has exploited his or her rights. For example, if a hardcover edition of a work is considered to be the "best edition," an applicant for basic registration who claims copyright ownership by reason of exclusive paperback rights in a work will be entitled to a basic registration if no earlier basic registration has been made for the work. However, the paperback publisher will be required to deposit copies of the hardcover edition of that work if such an edition has been published in the United States; since that would be considered the "best edition."

(17 U.S.C. 207, and under the following sections of Title 17 U.S. Code as amended by Pub. L. 94-553: 408; 409; 702.)

Dated: September 21, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77-28035 Filed 9-23-77; 8:45 am]

NATIONAL COMMISSION FOR MANPOWER POLICY MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will conduct a field review on the net employment effects of the public service employment (PSE) program on November 3 and November 4, 1977. The meeting will be held in the South Ballroom of the Stouffer's Denver Inn located at 3203 Quebec Street, Denver, Colorado. The reviews will commence at 9:00 a.m. and conclude at 4:00 p.m. on both days.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect

* This discussion is only intended to explain the relationship between the deposit provisions and the "one registration per work" rule. Regulations pertaining to specific deposit requirements will be the subject of a separate proceeding.

to the Nation's manpower policies and programs. The Emergency Jobs Programs Extension Act of 1976 directs the Commission to study and report to Congress on the net employment effects of PSE programs under Title II and Title VI of the Comprehensive Employment and Training Act.

The purpose of the review is to elicit the views of those at the state and local level (in and out of government) on the effects and effectiveness of the public service employment program. Among the issues to be addressed are:

1. What goals and objectives are developed by state and local governments for the PSE programs? How are these goals developed so that they are supportive of national goals; provide needed public services; and are supportive of other services?

2. To what extent has PSE resulted in an increase in the provision of services by state or local governments? Has PSE been instrumental in maintaining the level of services where they would have otherwise been curtailed due to revenue reductions, increased costs or other factors? What types of services are being provided through the PSE programs? What types of agencies (e.g., public safety, sanitation, education) received PSE jobs? If the PSE program were reduced or phased out, to what extent would these services also be reduced or terminated?

3. To what extent has PSE resulted in an increase in the services provided by nonprofit community organizations? How has this changed as a result of the requirements of the Emergency Jobs Programs Extension Act of 1976? What types of services are being provided by community organizations with the employment provided by PSE?

4. What is the ability of state and local governments to absorb additional PSE jobs? To what extent can this be expanded by increased utilization of nonprofit community organizations? What has been the experience in implementing and increasing the PSE programs to date? What are the constraints to further increasing the size of the program?

5. What effect has the presence of the PSE program had on the personnel practices of state and local governments? Have changes been made to provide PSE employees with improved access to regular (i.e., non-PSE) jobs? Has the PSE program resulted in any changes in the composition of the regular employment of the employing jurisdiction in terms of race, sex, education, experience, or other characteristics? Can PSE be used as a means of training the hard-to-employ and then obtaining access for them to permanent, unsubsidized employment?

6. What should be the areas of concern in consideration of phasing out or phasing down the current PSE programs? What areas should be considered if the target populations or mode of operation of the current programs are to be modified? To what extent and how do changes in the scale, mode of operation, target population and/or continu-

ity of the program effect the delivery of needed public services?

Members of the general public or other interested individuals may attend the Commission field reviews. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written application must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: the name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers and other documents prepared for the meeting will be available for public inspection five working days after the field review at the Commission's headquarters located at 1522 K Street, NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this 15th day of September 1977.

ISABEL V. SAWHILL,
Director, National Commission
for Manpower Policy.

[FR Doc.77-27938 Filed 9-23-77; 8:45 am]

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will hold a formal meeting on October 21, 1977. The meeting will be held in the Federal Room of the Capital Hilton Hotel located on the corner of 16th and K Streets NW., Washington, D.C. The meeting will commence at 9:00 a.m. and conclude at 4:30 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda will cover a review of the status of recommendations that have