

STATE OF WISCONSIN

PERSONNEL COMMISSION

DEPARTMENT OF JUSTICE (Dowd) *
and (Linssen), *

Appellants, *

v. *

Secretary, DEPARTMENT OF *
EMPLOYMENT RELATIONS, *

Respondent. *

Case Nos. 85-0101, 0102-PC *

JOHN N. LINSSEN, *

Appellant, *

v. *

Secretary, DEPARTMENT OF *
EMPLOYMENT RELATIONS, *

Respondent. *

Case No. 85-0116-PC *

FINAL
DECISION
AND
ORDER

This matter is before the Commission on consideration of the attached proposed decision and order. The Commission has considered the appellants' objections and arguments with respect thereto, and consulted with the examiner. As its final disposition of this matter, the Commission adopts and incorporates by reference the proposed decision and order, and adds the following to the Findings of Fact and decision:

A sentence should be added to Finding of Fact Number 4 as follows:

Hereinafter, any reference to appellant Linssen refers likewise to appellant Dowd.

On page 9, bottom paragraph, eliminate the following sentence:

Belstner and Culp are exposed to dangerous situations in their investigations to a greater extent than Linssen.

Change the last two sentences in that paragraph as follows:

Because of their enforcement responsibilities, respondent rated the DCI positions higher than Linssen's. Appellants did not offer any persuasive evidence to the contrary which would lead the Commission to a different conclusion.

The reason the Commission deletes the reference to "dangerous situations" is because there is nothing in the class specifications to the effect that exposure to danger is a classification criterion for the Administrative Officer 2 and 3 classifications.

On page 11, first paragraph, eliminate the following sentence from the end of that paragraph:

Linssen's authority in this area is also limited by certain statutory constraints.

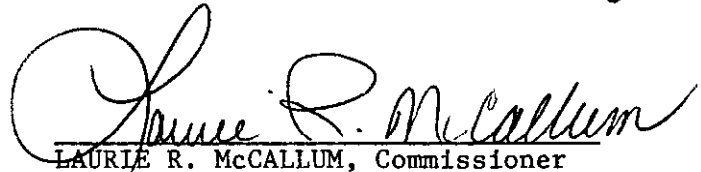
The reason for this change is that the statutes in question provide for the most part relatively broad parameters for the operation of the crime lab, as is the case with government entities generally. However, statutory provisions of this kind are of little significance in evaluating the authority of the positions in question for classification purposes.

These changes do not alter the Commission's conclusions as to the proper classification of the positions in question.

Dated: January 13, 1987 STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson


DONALD R. MURPHY, Commissioner


LAURIE R. McCALLUM, Commissioner

DPM/AJT:jmf
BAJ1/1

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STATE OF WISCONSIN

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DEPARTMENT OF JUSTICE (Dowd) *
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Case Nos. 85-0101, 0102-PC *

JOHN N. LINSSEN, *

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EMPLOYMENT RELATIONS, *

Respondent. *

Case No. 85-0116-PC *

PROPOSED
DECISION
AND
ORDER

NATURE OF THE CASE

These are appeals from respondent's decisions reallocating Daniel J. Dowd's position from Administrative Officer 3 to Administrative Officer 2 and denying the reclassification of John N. Linssen's position from Administrative Officer 2 to Administrative Officer 3. At a prehearing conference held on August 19, 1985, before Dennis P. McGilligan, Chairperson, the parties agreed to the following issues for hearing:

1. Whether respondent's decision of May 14, 1985, reallocating Dowd's position from Administrative Officer 3 to Administrative Officer 2 was correct?

2. Whether respondent's decision of May 3, 1985, denying the reclassification of Linssen's position from Administrative Officer 2 to Administrative Officer 3 was correct?

3. If not, whether appellant's position is appropriately classified as an Administrative Officer 3.

Hearing in the matter was held on February 12 and 13, 1986, before Dennis P. McGilligan. The parties completed their briefing schedule on September 2, 1986.

FINDINGS OF FACT

1. At all times material herein, appellant John N. Linssen and Daniel J. Dowd have been employed in the classified civil service by the Department of Justice (DOJ).

2. By memorandum dated May 13, 1985, respondent denied a request from DOJ to reclassify appellant Linssen's position from Administrative Officer 2 to Administrative Officer 3. Effective May 14, 1985, Daniel J. Dowd's position was reallocated from Administrative Officer 3 to Administrative Officer 2 as a result of a review conducted by respondent precipitated by the aforesaid reclassification request from DOJ. Appellants filed timely appeals of these decisions with the Commission.

3. The duties and responsibilities of appellant Linssen's position are accurately described in the position description signed by appellant Linssen on February 23, 1984, a copy of which is attached hereto and incorporated by reference as if fully set forth as a part of this finding.

4. Daniel J. Dowd has basically the same duties and responsibilities as Director of the Madison Crime Lab as those noted for appellant Linssen in Finding of Fact Number 3 above.

5. The Administrative Officer 2 class specifications provide:

Class Description

PR1-17

Definition:

This is highly responsible and difficult administrative work in a major state agency. An employe in this class is responsible for providing all administrative and managerial services for the agency, including directing such staff services as personnel, budget preparation, fiscal management and purchasing; and/or for administering a complex departmental program. Employes exercise broad supervision and control over large numbers of technical, professional and clerical people. An employe in this class often serves as the principle advisor to the department head in developing departmental policies and rules and in promoting needed legislation. Within a broad framework of laws, rules, and policies, employes are responsible for many decisions affecting the department's program. The work is performed with a high degree of independence subject to administrative review by the department head.

All positions allocated to this class must meet the definitions of "Confidential" and "Supervisor" as contained in s.111.81 Stats.

Areas of Specialization:

Staff services, general administration, specialized program administration, or any comparable specialization or combination thereof.

Examples of Work Performed:

Plans and directs the major staff services of a large department, such as personnel and fiscal management, budget analysis and preparation, purchasing, and public relations; utilizes these staff services to develop and evaluate departmental programs.

Directs management studies for the establishment of valid quantitative and qualitative standards of measurement, and directs the development of operation methods and procedures.

Plans and directs departmental programs involving administrative operation of considerable diversity and complexity.

Develops departmental policies and regulations, and participates in the development and revision of legislation.

Develops programs to educate and inform the public of important departmental plans and programs which require public acceptance and cooperation.

Maintains effective working relationships with legislative committees, management executives of other departments, communications media, and organizations interested in the policies and activities of the department.

Performs related work as required.

6. The Administrative Officer 3 class specifications provide:

Class Description

PR1-18

Definition:

This is highly responsible administrative and managerial

work in providing highly complex executive, liaison, and staff functions and services. An employe in this class is responsible for major management functions including program development and evaluation. The work involves responsibility for management functions as they affect the programs of numerous complex organizational segments with professional or technical programs, and for the evaluation and improvement of such operations in any management area. An employe develops departmental policies and regulations, recommends the establishment and revision of legislation, and makes responsible management decisions within a broad framework of laws, rules and policies which have a great effect upon departmental programs. The work is performed with a high degree of independence, subject only to administrative review by the department head. Positions allocated to this class differ from those allocated to Administrative Officer 2 in the amount of authority delegated by the agency head, the influence of the administrative officer's decisions on the line functions of the agency, the variety, complexity, and professional nature of the agency's programs, the relationship of the administrative officer to professional program administrators, and the nature and complexity of the agency's organizational structure.

Examples of Work Performed:

Plans and directs the major staff services of a large department, such as personnel and fiscal management, budget analysis and preparation, purchasing, public relations, and the departmental program development and evaluation.

Initiates and directs management studies throughout the department for the establishment of valid quantitative and qualitative standards of measurement, and directs the development of operational methods and procedures.

Plans and directs major departmental programs involving administrative operations of great diversity and complexity.

Develops departmental policies and regulations, and participates in the development and revision of legislation.

Develops programs to educate and inform the public of important departmental plans and programs which require public acceptance and cooperation.

Maintains effective working relationships with legislative committees, management executives of other departments, communications media, and organizations interested in the policies and activities of the department.

Performs related work as required.

7. In its justification accompanying the reclassification request for appellant Linssen's position, DOJ noted that said position administers the Milwaukee Crime Lab, reports directly to the Administrator, Division of Law Enforcement Services, and directs a lab which performs professional analysis in eight distinct scientific disciplines. The justification also noted

that the position's responsibilities "have evolved to the present level through increased participation in the development and implementation of laboratory and division management and program policies." The justification concluded that the position compared favorably with both the specifications for Administrative Officer 3 and other positions with similar responsibilities at the agency.

8. Howard Bjorklund, Division Administrator, Division of Law Enforcement Services, is the immediate supervisor of appellant Linssen and Dowd. Bjorklund's administrative assistant is Robert Anderson. He provides program assistance to the Administrator in the "staffing, operation, control, direction and coordination" of the Crime Information Bureau, Training and Standards Bureau and the two Crime Labs. He coordinates the activities of said labs with special emphasis on insuring standardization of policies and procedures (primarily operational) and uniformity of scientific and technical applications. He exerts strong control in these areas. However, Anderson does not have any line authority over the crime lab directors or have any veto power over their policy initiatives.

9. From a classification standpoint, the appellant's position is at the same level as the following position, which is classified as an Agricultural Supervisor 6 (PR01-17):

Gerald R. Myrdal occupies a position with this classification as the Director of the Bureau of Laboratory Services, Wisconsin Department of Agriculture, Trade and Consumer Protection. Myrdal's lab occupies the same facility as the Madison Crime Lab. According to the position description, Myrdal's position is a middle management, administrative position "responsible for the development and implementation of bureau policies and procedures required to achieve the bureau objectives." The position description indicates four goals: one, administration of bureau programs including the establishment/attainment of objectives as they relate to the mission of the bureau; two, supervision of staff resources; three, performance of scientific and technical responsibilities including providing technical laboratory information, advice and counsel to Agency Secretary and line division administrators, serving as Department's technical representative with F.D.A., and other

federal and state agencies, the University and other states' laboratory programs; and fourth, administration of the physical plant operation. Myrdal's lab functions in a support capacity similar to Linssen's but with only four sections: feed and fertilizer, chemical residue, food chemistry and microbiology. Myrdal supervises about 12 employes. His analysts are classified generally at a lower level than Linssen's, and do not testify in court, except on rare occasions. Many of the tasks performed by the analysts under Myrdal are fairly routine and simple compared to those performed by Linssen's employes.

10. From a classification standpoint, the appellant's position is at a lower level than the following positions in the Division of Criminal Investigation which are classified at the Crime Investigation Director (PRI-18) level:

a. Leonard H. Belstner is the Director, White Collar Crimes Bureau. Belstner is a sworn law enforcement officer with the responsibility of planning, organizing and directing investigations of white collar crimes throughout the State of Wisconsin. Belstner has about 12 positions under him responsible for complex investigations in such areas as criminal antitrust, financial crimes and government corruption. He has the power of arrest, may carry a gun and wear a bullet proof vest and is involved in dangerous investigations.

b. Phillip Culp is the Director, Arson Bureau. Culp is a sworn law enforcement officer with the responsibility of planning, organizing and directing investigations of arson throughout the State of Wisconsin. Culp has about 12 agents under him responsible for complex and sometimes dangerous investigations of suspicious fire and explosions.

11. From a classification standpoint, the appellant's position is at a lower level than the following position which is classified at the A03 level:

Robert McGrath is the Director of the Crime Information Bureau. McGrath supervises approximately 28 employes in the administration of two statewide programs: one, direction and management of the statewide/national criminal justice computerized telecommunications system -- Transaction Information for Management of Enforcement (TIME) serving all criminal justice agencies within Wisconsin and the U.S.; and two, direction and management of the centralized repository for criminal identification and criminal history record information system serving all criminal justice agencies in Wisconsin and the U.S. McGrath is also responsible for the publication of the Law Enforcement Bulletin. He has sole authority to recommend legislation in the two aforesaid areas.

12. The duties and responsibilities of appellant Linssen's position (and Dowd's position) are more accurately described by the class specifications for an Administrative Officer 2 and said positions are more appropriately classified as Administrative Officer 2.

CONCLUSIONS OF LAW

1. These matters are properly before the Commission pursuant to §230.44(1)(b), Stats.
2. The appellants have the burden of proving that the respondent erred in denying the reclassification of appellant Linssen's position and the regrade of the appellant to Administrative Officer 3.
3. The appellants have the burden of proving that the respondent erred in reallocating Daniel Dowd's position to Administrative Officer 2.
4. The appellants have not sustained their burden of proof.
5. The respondent did not err in denying the reclassification and in approving the reallocation as aforesaid.

DECISION

At issue is whether the Crime Lab director positions should be classified as Administrative Officer 3 or Administrative Officer 2. In order for appellants to prevail, they must satisfy their burden of proving that said positions meet the Administrative Officer 3 definition and are more properly classified in that classification.

The Administrative Officer 3 class specifications define positions at this level, but also distinguish the 3 level from the 2 level as follows:

Definition:

This is highly responsible administrative and managerial work in providing highly complex executive, liaison, and staff functions and functions including program development and evaluation. The work involves responsibility for management functions as they affect the programs of numerous complex organizational segments with professional or technical programs, and

for the evaluation and improvement of such operations in any management area. An employe develops departmental policies and regulations, recommends the establishment and revision of legislation, and makes responsible management decisions within a broad framework of laws, rules and policies which have a great effect upon departmental programs. The work is performed with a high degree of independence, subject only to administrative review by the department head. Positions allocated to this class differ from those allocated to Administrative Officer 2 in the amount of authority delegated by the agency head, the influence of the administrative officer's decisions on the line functions of the agency, the variety, complexity, and professional nature of the agency's programs, the relationship of the administrative officer to professional program administrators, and the nature and complexity of the agency's organizational structure. (Emphasis added)

Since the disputed class specifications are so similar, except as noted above, a review of other positions cited by the parties would be helpful in determining the proper classification of the Crime Lab positions. This is particularly true since the language of either the A02 or A03 specification could generally describe the majority of the duties and responsibilities of the disputed positions.

In this regard a comparison of appellant Linssen's position with the Agriculture Supervisor 6 - Management (PRO1-17) position in the Department of Agriculture, Trade and Consumer Protection occupied by Gerald R. Myrdal is appropriate because the nature of the work performed by each is similar. Like Linssen, Myrdal is the director of a laboratory which performs certain scientific analyses in support of enforcement activities. A comparison of the Linssen and Dowd positions with Myrdal's demonstrates that the three are responsible for: establishing operational policy for their laboratories; case load analysis in support of enforcement activities and development of program policies and procedures. Appellants assert that the Linssen position involves greater variety and complexity both in terms of functions and outside agency contacts. However, with respect to outside contacts the record does not support a finding regarding same. Contrary to

appellants' assertions, Myrdal also has a large number of outside agency contacts in the performance of his work as noted in Finding of Fact Number 9.

Linssen's position does appear to entail greater variety and complexity in terms of certain functions. In this regard the record indicates that Linssen supervises eight sections, whereas, Myrdal supervises four sections. Crime lab analysts regularly testify in court, but Ag lab analysts rarely testify. Ag lab analysts regularly perform more routine tests than Crime lab analysts. Nevertheless, unlike the Linssen and Dowd positions, Myrdal has sole responsibility for his program. The Madison and Milwaukee Crime Lab directors share responsibility for their particular program.

Therefore, while there is ample evidence in the record that Myrdal and Linssen have similar types of duties and similar functions, the evidence is mixed over whether Linssen's position is more varied and complex. Based on all of the foregoing, the Commission finds that a comparison with the Myrdal position supports an A02 classification for the Linssen position.

The Commission reaches a similar conclusion when comparing Linssen's position to criminal investigation bureau director positions in the Division of Criminal Investigation. Leonard Belstner is the Director of the White Collar Crimes Bureau. Philip C. Culp functions as the Director of the Arson Bureau. All three positions including appellant Linssen's function as bureau directors. Belstner and Culp are sworn law enforcement officers having the power of arrest. Linssen is not a sworn law enforcement officer and does not have the power of arrest. Belstner and Culp are exposed to dangerous situations in their investigations to a greater extent than Linssen. Because of their enforcement responsibilities and the degree

of danger involved in their jobs, respondent rated the DCI positions higher than Linssen's. Appellants did not offer any persuasive evidence to the contrary which would lead the Commission to a different conclusion.

Belstner and Culp each have sole authority over a statewide program which appellant Linssen and Dowd share. Belstner and Culp are also involved in complex and difficult investigations (arson and white collar crimes) in which the Crime Labs may play a support role by analyzing evidence gathered as part of those investigations. While the Commission is not saying the analysis performed by the Crime Labs is routine, the Commission recognizes that these tests may be only one part of the investigation puzzle which Belstner and Culp's bureaus are responsible for solving. And to that extent the Commission concludes that their work is more varied and complex than Linssen's.

Appellant Linssen's position was also compared with Robert McGrath, Director of the Crime Information Bureau, who is classified at the A03 level. Again, for the reasons listed below, the Commission finds that Linssen's position is at a lower level.

McGrath heads a bureau which is responsible for the management of two statewide programs (Linssen and Dowd share responsibility for one statewide program) as noted in Finding of Fact Number 11: a statewide/national criminal justice computerized telecommunications system and a criminal identification/history information system. McGrath supervises 28 employees in the administration of these programs. McGrath has sole authority to recommend legislation in these areas whereas appellant Linssen shares this responsibility with Dowd, Bjorklund and to a lesser extent, Anderson. In addition, McGrath spends a greater amount of his time on policy development versus Linssen.¹

¹ Respondent Exhibit Numbers 3, 19-21.

Finally, appellant Linssen compares his position with two State Historical Society positions at the A03 level: the Old World Wisconsin position and the State Archives director position. There simply is not enough evidence in the record regarding the State Archives director position to determine whether the Linssen position is comparable. With respect to the Old World Wisconsin position, appellants maintain that Linssen has as much, if not more responsibility, since said position (Old World) supervises only eight positions; has local site responsibility like Linssen; manages only one program (collecting historical information) like Linssen; and, in general, has easier contacts with the public. However, the record indicates to the contrary that Linssen shares responsibility for one program (State Crime Lab) with Dowd unlike the Director of Old World Wisconsin; that Linssen has responsibility for one building while there are 85 buildings at Old World Wisconsin and that the Director of Old World Wisconsin clearly has sole responsibility for developing and implementing his program while Linssen shares that responsibility to a certain extent with Dowd, Anderson and Bjorklund.² Linssen's authority in this area is also limited by certain statutory constraints. For these reasons, the Commission rejects these contentions by appellants.

The Commission concludes, based on the foregoing, that the duties and responsibilities of appellant Linssen's position are comparable to those found at the A02 level and that the Crime Lab Director positions are more appropriately classified at the A02 level.

² Appellant's Exhibit Number 2 and the testimony.

ORDER

The aforesaid decisions of respondent are affirmed and these appeals are dismissed.

Dated: _____, 1986 STATE PERSONNEL COMMISSION

DENNIS P. MCGILLIGAN, Chairperson

DONALD R. MURPHY, Commissioner

BAJ1
Attachment

DPM:baj

Parties:

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POSITION DESCRIPTION

Respondent's Exhibit # **3**

DER-PERS-10 (Rev. 1-78)
 State of Wisconsin
 Department of Employment Relations
 DIVISION OF PERSONNEL

1. Position No. 039195	2. Cert/Reclass Request No. 1177	3. Agency No. 455
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NAME OF EMPLOYEE John N. Linssen	5. DEPARTMENT, UNIT, WORK ADDRESS Justice State Crime Laboratory - Milwaukee 1578 S. 11th Street Milwaukee, WI 53204
	JAN 28 1986

CLASSIFICATION TITLE OF POSITION Administrative Officer 2	8. NAME AND CLASS OF FORMER INCUMBENT Personnel
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AGENCY WORKING TITLE OF POSITION Crime Laboratory - Director	10. NAME AND CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES Daniel J. Dowd, Administrative Officer
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NAME AND CLASS OF FIRST-LINE SUPERVISOR Howard G. Bjorklund, Division Administrator	12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW? 7/76
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DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes No IF YES, COMPLETE AND ATTACH A SUPERVISORY POSITION ANALYSIS FORM (DER-PERS-84).

POSITION SUMMARY - PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

This is highly responsible administrative and supervisory work functioning as Director of the State Crime Laboratory. The work involves formulating rules, policies and procedures as well as the planning and coordinating the Crime Laboratory's service programs. Supervision is received from the Division Administrator through conferences, reports and general administrative review.

DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION (Please see sample format and instructions on back of last page.)

-GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
 -WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
 -TIME %: Include for goals and major worker activities.

TIME % **50%** GOALS AND WORKER ACTIVITIES **3** (Continue on attached sheets)

A. Management and Direction of Crime Laboratory

A1. Direct all activities related to internal business and technical operations of the State Crime Laboratory.

A2. Review fiscal statements, requirements and expenditures, develop operating budgets, grant requests and reports. Insure smooth and accurate fiscal operation.

A3. Regularly review Laboratory goals and progress, evaluate consistency and effectiveness of the Crime Laboratory's analytical units, supervise quality control and level of technical service provided. Evaluate impact of actual and proposed changes upon the Criminal Justice Agencies served.

6 SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION (See Instructions on Back of last page)

a. The supervision, direction, and review given to the work of this position is close limited general

b. The statements and time estimates above and on attachments accurately describe the work assigned to the position. (Please initial and date attachments.)

Signature of first-line supervisor: *[Signature]* Date: **2/23/84**

7 EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understood that the statements and time estimates above and on attachments are a description of the functions assigned my position. (Please initial and date attachments.)

Signature of employee: *[Signature]* Date: **2/23/84**

8 Signature of Personnel Manager: *[Signature]* Date: **7-10-84**

POSITION DESCRIPTION

John N. Linssen, Administrative Officer

Page 2

Time %	Goals and Work Activities
25	<p>A. Continued</p> <p>A4. Conduct necessary "public relations" contacts to insure smooth working relationships with law enforcement and government officials. Provide necessary administrative services within and outside the Department, including correspondence, reports, surveys, committee and association activities, training, and other personal appearances.</p> <p>B. Coordination and Supervision of Laboratory Staff.</p> <p>B1. Plan and direct efforts of the Crime Laboratory's full-time permanent and professional employes.</p> <p>B2. Develop personnel projections and requirements.</p> <p>B3. Coordinate recruitment, interviews, selection and appointment of clerical, technical and supervisory personnel.</p> <p>B4. Determine specific training needs and schedule training.</p> <p>B5. Review and evaluate performance.</p> <p>B6. Recommend promotion, reclassification, discipline or discharge.</p> <p>B7. Interpret management position on bargaining unit contracts.</p>
25	<p>C. Formulation of Policy</p> <p>C1. Establish and define policy for State Crime Laboratory.</p> <p>C2. Develop and implement operating procedures which allow the Crime Laboratory to best achieve its service objectives.</p> <p>C3. Interpret and apply policies of the Law Enforcement Services Division and the Department of Justice as relate to the Crime Laboratory, especially to insure consistency and fairness in such administrative matters as personnel management, training and performance, evaluation, and budgeting.</p> <p>C4. Provide input and assistance in the formulation of Division and Department policies.</p>

J. N. Linssen
3/25/54