

Marvin Green

v.

HRC, Secretary,  
U.S. Dept. of State

DOS Case: DOS F-125-10  
EEOC Case: 570-2011-00700X

Exhibit 23 of \_\_\_\_.

State has no staff to study discrimination.

**Manderson, M. Katherine**

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**From:** Lussier, Philippe A  
**Sent:** Tuesday, August 31, 2010 12:18 PM  
**To:** Williams, Kendl (Panama)  
**Cc:** Alexander, Susan E; Cole, Bruce L  
**Subject:** RE: Tenure Statistics

Kendl,

In researching this request, these statistics are not readily available and I am not currently staffed to be able to perform this 'study' at this time.

Best, Phil

Philippe A. Lussier  
Director, Office of Resource Management & Organization Analysis  
Bureau of Human Resources, SA-1, RM 1301  
U.S. State Department (202) 663-2309

**From:** Williams, Kendl  
**Sent:** Monday, August 30, 2010 10:44 AM  
**To:** Lussier, Philippe A  
**Subject:** RE: Tenure Statistics

Phil,

Thanks.

Kendl

This email is UNCLASSIFIED.

**From:** Lussier, Philippe A  
**Sent:** Monday, August 30, 2010 10:37 AM  
**To:** Williams, Kendl  
**Subject:** RE: Tenure Statistics

Kendl, I will get back to you, likely tomorrow, as to whether or not we can support this request.

Phil

Philippe A. Lussier  
Director, Office of Resource Management & Organization Analysis  
Bureau of Human Resources, SA-1, RM 1301  
U.S. State Department (202) 663-2309

**From:** Williams, Kendl  
**Sent:** Monday, August 30, 2010 9:17 AM

**To:** Lussier, Philippe A  
**Subject:** FW: Tenure Statistics

hil,

Susan Alexander directed me to your office. I am an EEO counselor and am working on a case where a specialist did not get tenure his first time up and he feels it was based on his age. I have attached an email from him along with my email to Bruce Cole stating what the claimant is seeking (request highlighted in yellow). Could you please let me know if these statistics are available or if it would be possible to do a study of these statistics?

Thanks.

Kendl Williams

Sensitive Privacy Act  
This email is UNCLASSIFIED.

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**From:** Williams, Kendl  
**Sent:** Monday, August 30, 2010 8:42 AM  
**To:** Cole, Bruce L  
**Subject:** Tenure Statistics

Bruce:

Please see the claimants email below regarding tenure statistics. I have highlighted his specific request below. One of the remedies he is seeking in his claim is that the Dept. do a study on tenure statistics and age. I am sure you will need to speak with someone about this. Please let me know whether or not this will be done as I need to tell the claimant.

There are four successive winnowing events designed to provide the department with the best employees available:

1. applicant selection, 2. medical selection, 3. training selection, 4. tenuring selection.

If the department required 1 employee and selected and trained 100 it would be justified in not tenuring the remaining 99.

The department may, through the four steps listed above, progressively tighten the requirements and deselect qualified but less desirable candidates--but this is not the approach that the department has taken.

Why? Because the department has elected to take the "blindfold" approach and limit it's known candidate data non-protected data items. We are proud and quick to remind that we don't know the candidates age, race, religion etc. We select in 1 and 2 above--and we winnow in steps 3 and 4.

But if it can be demonstrated statistically that the candidates in the 2nd and 3rd tenuring process have a pronounced tendency to be older than 40 then we must consider the possibility that our blindfold approach has allowed unintended selection criteria to creep into the process and skew the result toward the selection of younger less qualified candidates.

Discrimination laws are designed to protect the most qualified candidate by eliminating non-relevant criteria in the selection process. They are not there to coddle the lazy or ineffectual. They are supposed to equal the playing field so the most specifically qualified candidate for the exact requirements stated in the position description--stands out for selection.

If a younger candidate is too volatile or cannot accept a difficult tour--then they should be eliminated in the tenuring process.

If an otherwise healthy older candidate adopts excessively sedentary preferences then they too should be eliminated in the tenuring process. Protected status should not protect a person from bad habits or a failure to put forth thier best effort.

Between columns B and C a column labeled "median age" is needed. Statistically the numbers in column B are sufficiently large to form a valid distribution curve hence the use of the arithmetic median which will more accurately gauge where the bulk of the distribution shows it's greatest weight.

An "average age" column may seem appropriate for the smaller numbers of the initially failed candidate columns. However, if the youngest candidates, not in a protected category, also had a higher failure rate than the median age candidates then it would excessively skew the data toward the middle and mask the discrimination against the older candidates who are in a protected category.

Therefore, I request actual age for all the candidates who have failed tenure review at least once and median age for all candidates considered.

My intention has always been to limit my complaint to IRM specialist only--as that is where I have the most personal knowledge. Examining age discrimination amongst all Specialists is something that the government (State Dept.) has introduced by providing me with data on all specialists rather than just IRM candidates. It is fine this way, I just want to make sure it is understood that there is a possibility that the age discrimination may not be occurring outside of IRM and if the statistics on all specialist should prove to be unconvincing I will still wish to pursue the IRM statistics more specifically.

	A	B	C	D	E	F	G	H	I	J	
2	<b>TENURE FOR</b>										
3	<b>SPECIALIST CANDIDATES</b>										
4	<b>1997-2009</b>										
5											
6	<b>REVIEWED</b>		<b>TENURED ON 1ST REVIEW</b>		<b>TENURED ON 2ND REVIEW</b>		<b>TENURED ON 3RD REVIEW</b>		<b>DENIED</b>		<b>TOTAL TENURED</b>
7	<b>YEAR</b>	<b>NUMBER</b>	<b>NUMBER</b>	<b>%</b>	<b>NUMBER</b>	<b>%</b>	<b>NUMBER</b>	<b>%</b>	<b>NUMBER</b>	<b>%</b>	<b>%</b>
8	1997	86	83	97%	3	3%	0	0%	0	0%	100%
9	1998	72	64	89%	4	6%	4	6%	0	0%	100%

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8	1997	86	83	97%	3	3%	0	0%	0	0%	100%
9	1998	72	64	89%	4	6%	4	6%	0	0%	100%

10	1999	74	67	91%	7	9%	0	0%	1	1%	100%
11	2000	253	240	95%	11	4%	2	1%	0	0%	100%
12	2001	399	362	91%	37	9%	0	0%	1	0%	100%
13	2002	426	402	94%	18	4%	0	0%	1	0%	99%
14	2003	257	209	81%	4	2%	0	0%	6	2%	83%
15	2004	494	421	85%	27	5%	3	1%	1	0%	91%
16	2005	627	512	82%	44	7%	2	0%	1	0%	89%
17	2006	443	328	74%	42	9%	5	1%	8	2%	85%
18	2007	417	323	77%	37	9%	5	1%	2	0%	88%
19	2008	316	239	76%	33	10%	2	1%	4	1%	87%
20	2009	317	250	79%	23	7%	5	2%	1	0%	88%
21	2010										

[http://en.wikipedia.org/wiki/Mode\\_\(statistics\)](http://en.wikipedia.org/wiki/Mode_(statistics)):

Comparison of common averages				
Type	Description	Equation	Example	Result
Arithmetic mean	Total sum divided by number of values	$\frac{1+2+2+3+4+7+9}{7}$	$(1+2+2+3+4+7+9) / 7$	4
Median	Middle value that separates the greater and lesser halves of a data set		1, 2, 2, 3, 4, 7, 9	3
Mode	Most frequent number in a data set		1, 2, 2, 3, 4, 7, 9	2

Comparison of common averages				
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Median	Middle value that separates the greater and lesser halves of a data set		1, 2, 2, 3, 4, 7, 9	3
Mode	Most frequent number in a data set		1, 2, 2, 3, 4, 7, 9	2

[http://en.wikipedia.org/wiki/Statistical\\_inference](http://en.wikipedia.org/wiki/Statistical_inference)

On Fri, Aug 27, 2010 at 6:15 AM, Williams, Kendl <[WilliamsK2@state.gov](mailto:WilliamsK2@state.gov)> wrote:

Marvin

Here are the on tenure for specialists.

I will be sending you an email of notes from our conversation to ensure that I have the correct information.

Kendl

<<DATA ON SPTB YEARLY.xls>>

This email is UNCLASSIFIED

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Thanks,

Marvin

Wellington pouch address - personal and official mail:

MARVIN E GREEN  
4360 WELLINGTON PL  
DULLES VA 20189-4360  
(20521-4360 for official mail)

Wellington personal DHL address through embassy post office:

MARVIN E GREEN  
UNIT 4360, BOX 6035  
DPO AP 96532-6035

Wellington New Zealand local address:

MARVIN E GREEN  
2B LESLIE STREET  
WADESTOWN  
WELLINGTON 6012  
NEW ZEALAND

Other personal contact info:

IVG: 847-6116  
Desk: +64-4-462-6116

**Manderson, M. Katherine**

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**From:** Marvin E. Green (gmail) [marvin.e.green@gmail.com]  
**Sent:** Thursday, August 26, 2010 1:55 PM  
**To:** Williams, Kendl (Panama)  
**Subject:** Fwd: A Direct Deposit has Posted  
**Attachments:** AWRC Exhibit 05.3 - DS-3060 Daily Record of OT worked up until 03 05 10.PDF

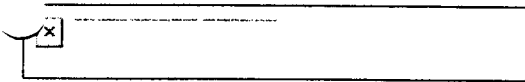
I worked 562.75 hours of unpaid overtime in an effort to meet his stated requirements for a tenure recommendation.

Before I left Freetown on July 7, Josh Hromatka sat me down, handed me a pen and demanded that I sign off on his willingness to pay 318 of the 562.75 hours. I refused since my signature would have acknowledged that there was no quid pro quo for a tenure recommendation.

I suspect that this direct deposit is for the 318 hours.

----- Forwarded message -----

**From:** Navy Federal Credit Union <noreply@nfonm.navyfederalcreditunion.org>  
**Date:** Thu, Aug 26, 2010 at 5:30 AM  
**Subject:** A Direct Deposit has Posted  
**To:** [MARVIN.E.GREEN@gmail.com](mailto:MARVIN.E.GREEN@gmail.com)



A direct deposit in the amount of \$6,989.45 posted to your savings account, ending in 0004, on 08/25/2010. To view your account transaction history sign on to Navy Federal Online Account Access, [www.navyfederal.org](http://www.navyfederal.org).

This e-mail has been sent to you based on the Member Notification preferences you previously established. If you would like to change your Member Notification preferences, please sign on to Navy Federal Online Account Access ([www.navyfederal.org](http://www.navyfederal.org)) and click on the Other Services link, go to the Member Notifications by E-Mail option, and then click on the Manage My Notifications tab.

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Thanks,

Marvin

Wellington pouch address - personal and official mail: