

# State of New Hampshire



## PERSONNEL APPEALS BOARD

25 Capitol Street  
Concord, New Hampshire 03301  
Telephone (603) 271-3261

### ***Appeal of Derek Holston – Docket #2013-D-003 Department of Safety, Division of State Police***

***March 13, 2013***

At a prehearing conference convened by the Board on February 6, 2013, the Board heard oral argument on the Appellant's request for discovery in the above-titled appeal. The Appellant asked the Board to order the Department of Safety to produce the names of all Troopers suspended for participation in high speed pursuits, including the date of incident; the names of all Troopers disciplined in any way for their participation in high speed pursuits, including the date of incident; and police reports for seven specific incidents reportedly involving high speed pursuits.

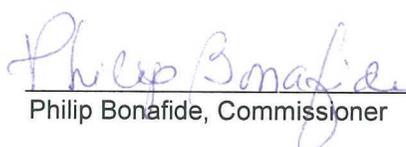
The Board voted to grant the discovery request, but only in part, directing the Department of Safety to disclose whether any Trooper had been suspended or disciplined in the past five years for his or her participation in a high speed pursuit.

By letter dated February 22, 2013, Attorney Marta Modigliani requested reconsideration of the Personnel Appeals Board's February 6, 2012 decision, arguing that the requested information was immaterial and irrelevant, and that no matter what information the State might provide, the Appellant would, "draw improper conclusions which can not be refuted by the State without invading the privacy rights of other employees by producing and 'litigating' other internal investigations." Attorney Modigliani also argued that the request was unduly burdensome, "because the Professional Standards Unit does not have an electronic records management system, which means an individual would have to manually read through every internal investigation file, since the Unit's inception, in order to provide a response."

In his Objection dated February 28, 2013, received by the Board on March 4, 2013, Attorney Gleason argued that the information was both material and relevant, and would not be unduly burdensome, since it involved answering only two questions and did not include requests for individual employee information at this time.

Having carefully considered the Motion for Reconsideration and Objection, the Board voted to deny the Appellee's request to reconsider. In so doing, the Board voted to order that the State provide a "yes" or "no" response to the two questions posed, as this information can apparently be provided without undue hardship and without the necessity of providing any further detail to Appellant. The State's continuing objection to relevancy is preserved for the hearing.

FOR THE PERSONNEL APPEALS BOARD

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Philip Bonafide, Commissioner

cc: Attorney Marta Modigliani, Department of Safety, 33 Hazen Drive, Concord, NH 03305  
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