

## **DOD MAKES SUBTLE CHANGES TO SECURITY CLEARANCE ADJUDICATION PROCEDURES BEFORE THE DEFENSE OFFICE OF HEARINGS AND APPEALS (DOHA)**

The DoD Consolidated Adjudication Facility (CAF) has recently changed the process for adjudicating personnel clearances before DOHA. The changes may appear innocuous in nature, but they have potentially significant ramifications.

Here's what's new:

1. The Government can force the applicant to a hearing. Even if you do not want a hearing on your issues (and there are certain situations where a hearing would not be wise), and elect to have a decision based on the administrative record without a hearing, the Government can override your choice and hold a hearing. It is unclear at what point in the process the Government can exercise this right.

**IMPACT:** An applicant's strategy in responding to the Statement of Reasons and in preparing his/her case must consider the possibility that the Government will force the issues to a hearing where the applicant can expect a rigorous cross-examination from both the agency lawyer as well the judge.

3. The Government can require that DOHA hearing be conducted via video teleconferencing (VTC) rather than in person. This is particularly a risk where hearings are held a substantial distance away from Arlington, Virginia, DOHA's principal location.

**IMPACT:** VTC, which is like conducting a hearing through a T.V. monitor, is a poor substitute for appearing live before the hearing judge. A critical part of any DOHA hearing is the judge's assessment of your credibility, which is best achieved by observing you in person. Therefore, you should resist any effort by DOHA to have you appear at your hearing via VTC. If DOHA requires the use of VTC, insist that you are given the opportunity to appear in person with the judge and have the agency lawyer appear by VTC.