

Mr. CULVER. When that adverse information comes in, what do you do with regard to employment?

Mr. SCANLON. If our screening board decides that adverse information is of a serious enough nature to possibly warrant denial of clearance, they will prepare a statement of reasons telling him specifically, and in detail, why they feel he should be denied clearance. He is still not denied employment. He gets the statement of reasons, has an opportunity to answer it in writing and request hearing.

Mr. CULVER. And he is still on the payroll?

Mr. SCANLON. Yes, sir. He comes into the hearing, and this is a point that I would like to correct, where I think there is a misunderstanding just now. Once the statement of reasons is issued by the screening board and the applicant responds to it in writing and requests a hearing, from that point on nobody in the adjudicative process has access to that investigative file. When he goes before the hearing examiner, the Government presents its proof of the allegations in the statement of reasons by live witness testimony and documentary evidence, and so on; the applicant presents his rebuttal and in support for his application for clearance. That is presented in an open hearing before the hearing examiner, who has no access to the investigative file, and he makes his determination based on the information placed in the open record before him without ever seeing the investigative file. If the man is entitled to clearance at that point, he gets the clearance.

If the examiner makes an adverse determination and denies him clearance, he still does not lose his job, as far as the Government is concerned. He has an opportunity to appeal to the Appeal Board.

Mr. CULVER. And he is on the payroll during this period?

Mr. SCANLON. He is still on the payroll, or we discontinue his case as far as clearance is concerned.

Mr. CULVER. I appreciate hearing your response. It seems to me that, without some compensation, how many employees can afford to litigate with the Federal Government and to take an appeal? During this period he is still on the payroll.

Mr. LIEBLING. He is always employed.

Mr. SCANLON. It is only when that final adverse determination is made either by the Appeal Board after the appeal or by the examiner, that then we notify the employer that this man is denied a clearance and the employer can do what he wants to.

Mr. LIEBLING. Even after denial he may still be on the payroll, as I indicated earlier, and be placed in another position. Of course, if he is a highly skilled engineer, this may be difficult.

The CHAIRMAN. Off the record.

(Discussion off the record.)

(At this point Mr. Willis left the hearing room.)

Mr. CULVER. Thank you, Mr. Chairman. I appreciate the time and I wonder, Congressman Tuck, if I may submit the remaining questions I have in writing. I don't want to take any more time. Could I submit those for the record to be answered?

Mr. LIEBLING. That is perfectly OK.

Mr. YEAGLEY. Yes. May I make one other comment on your earlier question about the criteria?

Mr. CULVER. Yes.