



**ARIEL M. SMITH, ESQUIRE**  
**ATTORNEY GENERAL NOMINEE**

**ATTORNEY GENERAL CONFIRMATION HEARING**

**TESTIMONY BEFORE THE  
35<sup>TH</sup> LEGISLATURE OF THE VIRGIN ISLANDS  
COMMITTEE ON RULES AND JUDICIARY**

**MAY 10, 2023**

**PRESENTATION OF ARIEL MARIE SMITH  
ATTORNEY GENERAL NOMINEE  
THIRTY-FIFTH LEGISLATURE OF THE VIRGIN ISLANDS  
COMMITTEE ON RULES AND JUDICIARY  
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Good Morning Chairperson Diane Capehart, members of the Committee on Rules and Judiciary, other Senators of the 35<sup>th</sup> Legislature, legal colleagues, the hardworking staff, and other professionals at the Virgin Islands Department of Justice, as well as to those in the listening and viewing audience. My name is Ariel Marie Smith, and I am before you today as the Nominee for Attorney General of the Virgin Islands.

I must begin by thanking Honorable Governor Albert Bryan, Jr., and the Honorable Lieutenant Governor Tregenza Roach for their vote of confidence with this nomination based on my experience as a lawyer in this community for almost thirty years. Additionally, I want to thank my family, friends, neighbors, acquaintances, and former clients, who called, emailed, texted, sent messages or just shared a nod, a wave, a hug, or a thumbs up reflecting their support. I again say thank you.

I would like to take this opportunity to tell you a little about myself and inform you of my qualifications for the position of Attorney

General. I was born on St. Thomas, Islands to Magda Leoniece King Smith and the late Paul E. Smith. My initial introduction to law was through my mother who, now retired, was a thirty-year employee with the Superior Court of the Virgin Islands. I attribute to my father, who I consider the consummate gentlemen, savvy entrepreneur, --- a self-made man, --- my acumen for creative problem solving, willingness to collaborate and my fair-minded nature.

I am a proud mother of three. My adult children are my daughter Kamille Grace Willis, who works as a health care consultant with a major consulting firm and my son Vaughn Louis Willis, who currently serves in the U.S. Navy, as an electronics specialist. My youngest, Evan Lionel Watts is a junior at Charlotte Amalie High School.

For my elementary education, I attended Dober Elementary School under former Principal Ms. Leona B. Wheatley, who was one of my mother's teachers and still calls me by my mother's name. I completed my elementary school education at E. Benjamin Oliver Elementary School, and then matriculated to junior high school at Ivanna Eudora Kean High, which at that time was in split session

and was then known as Nazareth Bay High School. I transferred to Charlotte Amalie High School where I graduated as a Mighty and Proud Chicken Hawk, and its motto, “To Excel Always,” is one I carry with me and instill in my children.

After high school, I attended Rutgers College, Rutgers University in New Brunswick, New Jersey where I graduated with a Bachelor of Arts degree in Political Science and a minor in Spanish. I then worked as a paralegal at a New York brokerage firm for four years and then continued my education at Rutgers School of Law in Newark, New Jersey where I earned my Juris Doctorate degree in May 1993.

After graduation from Rutgers-Newark law school, I returned to the Virgin Islands, and served at the Superior Court, formerly the Territorial Court, initially as a law clerk to former Judge Henry C. Smock. I then served as a law clerk to former Judge Soraya Diase. Besides honing my legal skills at the court, I was also able to assist with coordinating the first Moot Court competition sponsored by the Superior Court. Over the years, I have also served as part of a coaching teams for various St. Thomas high schools and periodically

as a SPARKS Street Law lecturer teaching Constitutional Law to students at the Charlotte Amalie High School.

At the conclusion of my clerkship, I was Attorney Smock's first firm associate, and I worked in that capacity for over eleven years. During my tenure, I practiced general civil litigation, with a focus on insurance defense. In addition, I also litigated probate matters, child custody disputes, divorce proceedings, real estate transactions, as well as criminal defense and criminal appeals.

In 2006, I left Smock and Moorehead and began my public service career with the Office of the Territorial Public Defender. While there, I represented indigent persons through client consultations, motion practice, advising on plea offers, as well as providing defense in jury and bench trials in matters that ranged from disturbance of the peace to homicide. Conservatively, during this period, I would estimate that I litigated more than twenty jury trials, and this figure does not include the countless motions that I have argued before both the District Court, Superior Court, and administrative tribunals on behalf of my clients. As a former public defender, I have an acute awareness of the significance of the loss of personal liberty and the

effect of delayed justice on those who are arrested, charged with crimes, and awaiting trial.

In 2011, I left the Office of the Territorial Public Defender and continued my public service career as an Assistant Attorney General with the Virgin Islands Department of Justice in the Civil Division. This division practices before the Superior Court and the District Court. It has been an extreme honor to represent and defend the Government of the Virgin Islands in civil matters arising out of election laws, property tax challenges, contract and construction disputes, negligence claims, 1983 actions, condemnations, employment actions, and discrimination claims, to name but a few. Not only does the Department's practice include representation and defense of the Government's interests, but also mitigation of exposure where liability is clear. In 2016, I was promoted to Chief of the Civil Division where I had an opportunity and privilege to work with six excellent lawyers and the four-support staff assigned to that Division. Given the complexity of the new matters filed against the Government, more lawyers are needed.

Now that I have shared my background, I turn to the position for which I have been nominated, Attorney General of the United States Virgin Islands. Pursuant to Virgin Islands law, the Attorney General is the head of the Virgin Islands Department of Justice. In this role, the Attorney General is tasked with a multitude of duties and responsibilities which include prosecuting violations of our criminal statutes; representing the executive branch of Government in all civil actions where the Government is a party or has an interest; investigating violations of law for which the executive branch and its departments may invoke penalties, fines or forfeiture; appearing and representing the executive branch before administrative tribunals; furnishing legal advice to the Governor and all executive departments concerning any matters in connection with its exercise of their duties; and rendering written legal opinions relating to the exercise of power or duties of any executive department as well as preparing draft legislation upon request. A review of 3 V.I.C. §§ 111-125, will reflect that the above listing of responsibilities is not exhaustive. The Virgin Islands Department of Justice has a website - **usvidoj.com** - and I

invite all members of the Virgin Islands Community to visit it to learn more about the Department of Justice and the functions it performs.

I now highlight some of the operations at the Virgin Islands Department of Justice. First, the Virgin Islands Department of Justice is tasked with upholding the rule of law by prosecuting those who violate our criminal statutes. This function is the responsibility of our Criminal Division. Recently, there have been several arrests for possession of unlicensed firearms in the Territory. Possession of an unlicensed firearm is not a mistake; it reflects an express intention to do harm to others in this community. Under my leadership, I can assure you that these matters will be zealously prosecuted to the full extent of the law. In other words, I intend to make conviction of those charged with this crime a priority during my tenure, if confirmed.

I am aware that legislation regarding a local Speedy Trial Act has been proposed. In theory, I agree with the intent of the Speedy Trial Act, however given the noted lack of infrastructure and human resources that has been espoused by the Department of Justice, the



Territorial Public Defender and the Courts, enactment of such a mandate, without the necessary resources, would be premature.

Next, our Civil Division is what I think of as the Government's "first line of defense." It defends the government's interests in suits brought by individuals or corporate entities; it represents the Department of Health in medical malpractice cases against government employees; and is the Territory's lawyer representing VIPD and BOC in their efforts to comply with long term consent decrees. This Division also initiates enforcement actions against bad actors such as pharmaceutical companies that needlessly push dangerous narcotics and/or engage in illegal business practices; automobile manufacturers that produce and distribute faulty and dangerous equipment and vehicles; and financial institutions that aid others in wrongdoing. The Department of Justice, under my leadership, will continue to prosecute matters against all criminals, no matter their perceived fiscal and/or economic strength or other connections. The Department will continue to file new actions against those who choose to violate our laws.

The Solicitor General Division is primarily responsible for civil and criminal appeals. In addition, it reviews executive branch contracts and provides legal opinions and advice to executive branch agencies and boards regarding the interpretation of federal and local law.

The Virgin Islands Paternity and Child Support Division provides families access to financial support and facilitates visitation services to families in the territory regardless of whether the non-custodial parent resides in the territory. Paternity and Child Support is now under the leadership of Director Kathryn Jensen-DeLugo. We have discussed reviving and updating past projects, such as the “Did You Know” campaign as well as coordinating a public notice campaign to address the over One Million Dollars in undistributed funds.

The Medical Examiner’s Office is tasked with making inquiries into all unnatural or suspicious deaths in the Territory. Challenges have arisen over the last year with the resignation of both of our medical examiners. In the interim, the Department has hired part-time rotating medical examiners to fill the void. We are also

redoubling our recruitment efforts to hire a Territorial Medical Examiner to service both the St. Thomas and St. Croix District. This is a critical hire position and additional funds may be required to attract and retain a new hire to include possible relocation and signing bonuses. Meanwhile, the Department continues to focus on the infrastructure issues related to the St. Croix Medical Examiner's Office. Although we have a fully staffed and outfitted location on St. Thomas, we are addressing this critical need on St. Croix.

My predecessors have responded to the St. Croix challenge with the purchase and planned installation of modular units at the Toro building site in Estate Orange Grove. The Department has begun investigating alternative sites for the temporary modular units in anticipation of redevelopment of the Toro Building site. Several years ago, plans were drawn for a new building at the Toro site and in the immediate future, these plans will be forwarded to the Department of Planning and Natural Resources and the Department of Public Works for vetting in accordance with current building codes. Once vetting is complete, I will be reporting back to this body for its support of the initiative to move this project forward. This would allow the Toro

building site to be developed for its intended purpose----a building to house all Virgin Islands Department of Justice operations in the St Croix district.

In addition to the previously stated, the Attorney General is obligated to implement social programs for the prevention of crime and currently administers the witness protection and victim services programs. The witness protection program assists those courageous citizens who have agreed to provide testimonial evidence and are threatened or are at risk as a result. The victim services program provides support for victims of crime and their families. As the crime rate in Virgin Islands community continues to increase, the Department as part of its mandate will continue to provide support services to these often “unsung heroes”.

In the upcoming weeks, the Department of Justice is expecting receipt of certain funds from the Epstein settlement procured under the tenure of former Attorney General Denise George. Once received, I will request that the Department of Justice be named the Administrator of those funds for the benefit of the Department’s Victim Services Unit. As per the agreement, these monies must be

earmarked to fund projects, services, counseling services and activities to help Virgin Islands residents who are victims of sexual assault, sex trafficking, human trafficking, sexual misconduct, and child sex abuse. The Victim Services Unit offers victims of crime, and their families support and information at every stage of the criminal process. With the Department of Justice administering these funds, we can bolster our Victim Services Unit by adding additional counseling services for victims, witnesses and their families. We also intend to add additional staff such as a staff psychologist, additional prosecutors, and other professionals to aid children and adult victims of crimes and human trafficking. Crime victims and their families have rights and under my leadership the Department of Justice will remain committed to ensuring those rights are protected.

Finally, our newest law enforcement arm is the Virgin Islands Department of Justice Medicaid Fraud Unit. The VI Medicaid Fraud Control Unit, otherwise referred to as “MFCU,” is one of 53 in the country. Under federal law, the MFCU is tasked with investigating, penalizing, and prosecuting providers, and companies responsible for improper or fraudulent Medicaid billing schemes. It also investigates

and prosecutes cases to safeguard elderly and disabled Virgin Islanders that are Medicaid beneficiaries from abuse and neglect. The VI MFCU is 100% funded by the U.S. Department of Health and Human Services, Office of the Inspector General. Under my leadership, the Department will continue to partner with local and federal law enforcement to investigate and prosecute those who abuse our elders and exploit our Medicaid program for their own personal gains. Given the multitude of responsibilities of the Department of Justice, the “head” cannot function without the neck, which I equate with senior management at the Department and the body which consists of the hardworking assistant attorneys general, staff, and other professionals within the Department of the Justice. My intent is to collaborate with all managers and non-managers to get things done. My end goal is to work more collaboratively and form partnerships with other executive agencies, for more transparent, effective, and efficient government. To paraphrase President Kennedy, all “this will not be finished in the first one hundred days...but let us begin.”

The responsibilities of the Department of Justice are weighty, of great consequence, and have a significant impact on the Virgin Islands community. Nevertheless, having been exposed to the prodigious tasks that lie before me, I can assure this Committee that I will not shrink from this responsibility—in fact, I look forward to facing them with high energy and enthusiasm.

In the next 180 days, I expect to stabilize the staffing of the Department, complete the infrastructure for the St. Croix medical examiner's office and formalize my presentation for the development of the long overdue Toro building to house St. Croix's Department of Justice operations.

This concludes my formal remarks. Again, I thank this Committee for your time and favorable consideration of my nomination. I am available for questions.