



**ASHLEY MOODY
ATTORNEY GENERAL
STATE OF FLORIDA**

OFFICE OF THE ATTORNEY GENERAL

PL-01 The Capitol
Tallahassee, FL 32399-1050
Phone (850) 414-3300 Fax (850) 488-5106
<http://www.myfloridalegal.com>

MEMORANDUM

To: ALL STATE ATTORNEYS

From: Ashley Moody
Attorney General

Date: September 30, 2022

Subject: **Pretrial detention of certain offenders committing criminal acts during the state of emergency for Hurricane Ian**

There were isolated reports of individuals engaged in burglary and theft in evacuation zones prior to Hurricane Ian making landfall. It is important that citizens heed governmental evacuation orders and not worry about their property when their lives are in jeopardy. Given the widespread devastation of this hurricane, some have expressed concerns that there will be looting or additional burglaries and/or thefts in the storm's aftermath. Unfortunately, we already have some examples of individuals engaging in such conduct in multiple counties. Criminal acts amid such devastation are more reprehensible and could lead to a break down of law and order. We all must act with a continued sense of urgency and aggressively seek to keep those persons who engage in such illegal and dreadful behavior incarcerated during the emergency and until the time of trial.

As you all are likely aware, under Florida Statutes §812.014(2)(c), no defendant charged with a theft crime committed in a county that is under a declared state of emergency may be released prior to his or her appearance before the court at a first appearance hearing. I would ask each of you to remind your sheriffs or incarcerating authorities of this requirement and ask them, barring issues at the detention facility, to detain such criminals.

Further, I would ask each of you to seek pretrial detention to the fullest extent possible of those that commit such crimes during this state of emergency. Florida Statute §907.041(4)(b) directs that no non-monetary releases shall be granted for dangerous crimes at the first appearance hearing under certain circumstances. One such circumstance is for "dangerous crimes." The detention statute includes "burglary of a dwelling" as one of those "dangerous crimes" where non-monetary release should not be granted. Pretrial detention is appropriate because defendants who have engaged in such conduct have displayed a threat of harm to your community by engaging in such conduct during a state of emergency. Fla. Stat. §907.041(4)(b)(5). We should urge our courts to recognize the dangers of such actions during a declared state of emergency and the need of authorities to have people evacuate and follow emergency

orders. No one should have to feel threatened that their homes may be burglarized by such a criminal when they are asked to evacuate to safety or observe other emergency orders like curfews.

Finally, I ask you to consider discussing with the Chief Judge of your circuit augmenting the circuit bond schedules during this state of emergency. This would be done to enhance/increase/eliminate the standard bonds for theft, burglary and other crimes related to the circumstances created by the exigency that is the basis of the declared state of emergency.

These brazen and unscrupulous criminals are taking advantage of our citizens at one of the most feared and dangerous times of their lives. They should not be allowed the opportunity to be released during the emergency, or after during any recovery, so they may continue to use this opportunity to victimize others. When our citizens are ordered to evacuate and stay away from their homes, they need to do so for their safety without additional fears of becoming victimized by criminals. We need to deter such illegal actions and make examples of those engaged in criminal behavior during states of emergency.

If during this state of emergency, you need anything please do not hesitate to reach out to me, the Chief Deputy Attorney General, John Guard, [REDACTED] or the Statewide Prosecutor, Nick Cox [REDACTED].

Sincerely,



Ashley Moody