



Office of the Public Defender State of Hawaii



Timothy Ho, Chief Deputy Public Defender

Testimony of the Office of the Public Defender,

State of Hawaii to the Senate Committee on Judiciary and Government Operations

February 13, 9:30 a.m.

RE: S.B. 1194: Relating To Offenses Against Public Order.

Chair Taniguchi and Members of the Committee:

This measure would prohibit gaffs or slashers which are intended to be used for cockfighting. We oppose S. B. 1194.

Gaffs or slashers are already prohibited by section 7-1.2 of the Honolulu Revised Ordinances. Each island has its own county codes or ordinances which address illegal cockfighting, making the need for a state law unnecessary. The language from subsection (1) of this measure is taken word for word from section 7-1.2.

State v. Modica, 58 Hawaii 249, 567 P.2d 420 (1977), would require any prosecution for gaffs or slashers prohibited on the island of Oahu to be conducted utilizing the city ordinance (section 7-1.2) instead of this measure. Under Modica, whenever facts support the charging of more than one offense, the state must proceed against a defendant with the lesser charge. Although the language proposed in this measure is identical to section 7-1.2, the penalty is more severe than the city ordinance, and thus could not be used against a defendant on this island.

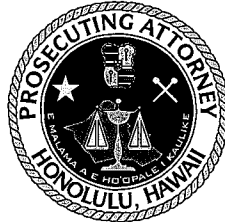
Individuals prosecuted under section 7-1.2 are typically sentenced to a fine, and are not sentenced to jail and/or court supervision. This measure will place an additional financial burden on the Judiciary, who will have to allocate probation officers to supervise these defendants. We doubt that the Judiciary has an animal cruelty education or prevention program in place. This measure does not give the Judiciary any time in which to implement such a program.

For the reasons stated above, we oppose S.B.1194. Thank you for the opportunity to comment on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 527-6494

PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE BRIAN TANIGUCHI, CHAIR
SENATE JUDICIARY AND GOVERNMENT OPERATIONS COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2009
State of Hawai'i

February 13, 2009

RE: S.B. 1194; RELATING TO OFFENSES AGAINST PUBLIC ORDER.

Chair Taniguchi, and members of the Senate Committee on Judiciary and Government Operations Committee, the Department of the Prosecuting Attorney submits the following testimony in support of SB 1194.

The purpose of SB 1194 is to create a new section in Hawaii Revised Statutes (HRS) chapter 711 which makes it a petty misdemeanor offense for a person to manufacture, buy, sell, barter or exchange, or have in the person's possession gaffs or slashers. Under SB 1194, persons convicted of this offense shall have the following included in their sentence: 1) completion of an animal cruelty education or prevention program; and 2) mandated fines of \$400 for a first offense, \$750 for a second offense; and \$1,000 for a third offense. The bill also permits the defendant to request that the fine be converted to community service.

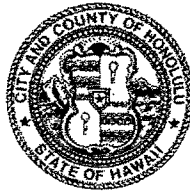
We strongly support this bill. Gaffs and slashers are sharp instruments designed to be attached to the leg of a gamecock when the bird is fighting; they have no other uses other than in cockfighting which is illegal in state of Hawaii. Despite having no other uses, not all of the counties in the state have an ordinance outlawing the possession of gaffs and slashers; this bill would rectify that deficiency. We further note that in 2007, Congress passed amendments to the Animal Welfare Act which made it illegal to sell, buy, transport or deliver gaffs in interstate or foreign commerce; however the federal law does not cover the possession of gaffs that cannot be demonstrated to be involved in interstate or foreign commerce. We believe that this law will be useful when federal law cannot be applied when it cannot be proven or shown that the gaff was sold, bought, transported or delivered in interstate or foreign commerce.

For these reasons, we respectfully request your favorable consideration of S.B. 1194 and thank you for this opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org

MUFI HANDEMANN
MAYOR



BOISSE P. CORREA
CHIEF

PAUL D. PUTZULU
KARL A. GODSEY
DEPUTY CHIEFS

OUR REFERENCE LK-TA

February 13, 2009

The Honorable Brian T. Taniguchi, Chair
and Members
Committee on Judiciary
and Government Operations
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Taniguchi and Members:

Subject: Senate Bill No. 1194, Relating to Offenses Against Public Order

I am Louis Kealoha, Captain of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department strongly supports Senate Bill No. 1194, Relating to Offenses Against Public Order.

In 1983, the City and County of Honolulu enacted an ordinance prohibiting the possession of gaffs or slashers that are commonly used in cockfighting. However, the other counties in this state still do not have any laws specific to the possession of gaffs or slashers. They currently arrest individuals in possession of gaffs or slashers under "possession of a gambling device."

Passage of this bill will bring continuity to the charging criteria regarding gaffs or slashers. It will also assist law enforcement by streamlining the identification of repeat offenders.

In Hawaii, it is not illegal to attend a cockfighting event, and it is not illegal to possess a fighting bird. According to the Humane Society of the United States, Hawaii ranks 46 out of 50 in the nation regarding cockfighting laws.

The Honorable Brian T. Taniguchi, Chair
and Members
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February 13, 2009

In 2007, the federal government enacted an animal fighting prohibition law that makes it a felony to illegally sell, purchase, or transport any knives, gaffs, or sharp objects between states that are designed and intended to be attached to the leg of a bird for use in an animal fighting venture. Passage of this bill will ensure consistency in the regulation of gaffs and slashers in the four counties.

Lastly, the proposed penalties include animal cruelty education or a prevention program. We support this as a means to prevent future violations.

The Honolulu Police Department urges to you support Senate Bill No. 1194, Relating to Offenses Against Public Order.

Thank you for the opportunity to testify.

Sincerely,


LOUIS KEALOHA, Captain
Narcotics/Vice Division

APPROVED:

for: 
BOISSE P. CORREA
Chief of Police

Senate Committee on Judiciary and Government Operations
Honorable Chair Brian Taniguchi, Vice-Chair Dwight Takamine
February 13, 2009
9:30am

Submitted by: Inga Gibson, Hawaii State Director
The Humane Society of the United States
In support of S.B 1194

Dear Honorable Chair Taniguchi and Committee Members:

On behalf of our 47,704 members and supporters of the Humane Society of the United States in Hawaii, I would like to thank you for this opportunity to speak in favor of S.B.1194; to prohibit the possession of gaffs/slashers. The HSUS is in strong support of this bill and we thank Senator Taniguchi for his introduction of this measure.

Need for prohibition on possession of implements:

There is currently no statewide law that explicitly prohibits the possession of cockfighting implements, commonly known as gaffs, knives or slashers. These implements serve only one purpose- to be strapped to the legs of a fighting rooster in an illegal cockfighting match. We believe the increased penalties for possessing such implements would be a deterrent for such illegal activity and its associated crimes.

This law would also put Hawaii in line with the language under the recently upgraded Animal Fighting Prohibition Enforcement Act, which prohibits knowingly selling, buying, transporting, or delivering, in interstate or foreign commerce, a knife, a gaff, or any other sharp instrument for attachment to the leg of a bird for use in an animal fighting venture.

Reduce associated criminal activity:

Law enforcement raids across the country have revealed several disturbing facets of cockfighting. Illegal gambling is the norm at cockfights. Thousands of dollars can exchange hands as spectators and animal owners wager large sums on their favorite birds. The owners of birds who win the most fights in a derby (a series of cockfights) may win tens of thousands of dollars of presumably unreported income. Firearms and other weapons are common at cockfights, mainly because of the large amounts of cash present. In addition, cockfighting has been connected to other kinds of violence—even homicide, according to newspaper reports.

Law enforcement officials have also documented a strong connection between cockfighting and the distribution of illegal drugs. Drug enforcement agents often learn about animal fighting operations as a result of narcotics investigations.

The presence of young children at cockfights is an especially disturbing element. Exposure to such brutality can promote insensitivity toward animal suffering and enthusiasm for violence.

While it is true that birds will fight over food, territory, or mates, such fights are only to establish dominance within a group (the pecking order) and seldom result in serious injury. This natural

behavior is quite different from what happens in staged cockfights, where pairs of birds, bred for maximum aggressiveness (and sometimes given steroids or other drugs to make them more successful fighters) are forced to fight until a winner is declared.

Unnecessary Cruelty

A cockfight usually results in the death of one of the birds; sometimes it ends in the death of both. A typical cockfight can last anywhere from several minutes to more than half an hour. The birds, even those who do not die, suffer in cockfights. The birds cannot escape from the fight, regardless of how exhausted or injured they become. Common injuries include punctured lungs, broken bones, and pierced eyes. Such severe injuries occur because the birds' legs are fitted with razor-sharp steel blades or with gaffs, which resemble three-inch-long, curved ice picks. These artificial spurs are designed to puncture and mutilate.

Recent Animal Fighting Cases in Hawaii demonstrate need for stronger penalties:

Aug. 4, 2008 — A Louisiana man was sentenced to 2 months in federal prison for attempting to smuggle more than 200 cockfighting gaffs into the United States through Hawaii.

March 1, 2008 — Hilo Police arrested ten people for gambling and cruelty to animals, seized 36 birds, more than \$27,000 in cash, multiple firearms and extensive cockfighting implements.

Jan. 20, 2008 — Four Molokai men were arrested and charged with gambling and animal cruelty. 150 people were said to be at the cockfighting site.

March 25, 2007 — One man was shot to death, one man arrested and several others fled the scene from what police said appeared to be a botched robbery of a cockfighting operation.

Sept. 27, 2006 — An official from Aloha Stadium pled guilty to extortion. The investigation was part of a massive FBI bust involving an alleged drug-trafficking and cockfighting ring that led to the arrests of an FBI worker and 29 others.

Nov. 21, 2001 — Police arrested 3 men in Kalihi in connection with a death after a post-cockfight argument.

We respectfully urge your support of SB 1194.

Please contact me at (808)922-9910 or igibson@humanesociety.org if I may provide additional information.

Susan Miyao

From: Kawehi Yim [kyim@hawaiianhumane.org]
Sent: Thursday, February 12, 2009 4:36 PM
To: JGO Testimony
Subject: SB1194 -- Relating to Offenses Against Public Order
Attachments: att62e6c.jpg



HAWAIIAN
HUMANE
SOCIETY

Senator Brian T. Taniguchi, Chair
Committee on Judiciary and Government Operations

SUBJECT: SB1194 -- Relating to Offenses Against Public Order
POSITION: STRONGLY SUPPORT

The Hawaiian Humane Society strongly supports SB1194 which provides a statewide prohibition on the owning and/or possession of gaffs or slashers, instruments commonly used in cockfighting.

Cockfighting is animal fighting in its most inhumane and cruel form. Nationally, Hawaii ranks 48 out of the 50 states as it relates to our laws against cockfighting. The public sentiment is weighing in and the community is no longer tolerant of these senseless, cruel bloodsports.

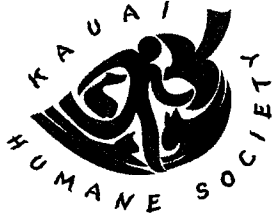
With federal and county legislation in place to address animal fighting, the time is ripe for this legislative body to finally take a stand and make it illegal, statewide, to own and or possess fighting paraphernalia used in cockfighting.

We strongly support this legislation and ask that the Senate Judiciary Committee support SB1194.

Sincerely,

Kawehi Yim
Community Relations Director
Hawaiian Humane Society

From: Dr. Becky Rhoades [drbecky@kauaihumane.org]
Sent: Thursday, February 12, 2009 2:27 PM
To: JGO Testimony
Subject: SB 1194 Relating To Offenses Against Public Order
Attachments: image001.jpg; image003.jpg; image002.jpg



Kauai Humane Society
PO Box 3330
Lihue, Hawaii 96766
(808) 632-0610
www.kauaihumane.org

February 12, 2009

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

HEARING DATE: Friday, February 13, 2009, 9:30 a.m.
Conference Room 016, State Capitol

Re: SB 1194 Relating To Offenses Against Public Order

Dear Chairman Taniguchi and Members of the Committee,

On behalf of the Kauai Humane Society and its 2000 supporters, we strongly support SB 1194 which prohibits the possession of gaffs used in cockfighting.

Sincerely,

A handwritten signature in black ink that reads "R. Rhoades".

Rebecca H. Rhoades, D.V.M.
Executive Director
Kauai Humane Society

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2009 2:23 PM
To: JGO Testimony
Cc: selkie@hawaii.rr.com
Subject: Testimony for SB1194 on 2/13/2009 9:30:00 AM

Testimony for JGO 2/13/2009 9:30:00 AM SB1194

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Cathy Goeggel
Organization: Animal Rights Hawai'i
Address:
Phone:
E-mail: selkie@hawaii.rr.com
Submitted on: 2/12/2009

Comments:

ANIMAL RIGHTS HAWAI'I

P.O.BOX 10845
HONOLULU, HI 96816
808.941.9476
ANIMALRIGHTSHAWAII.ORG
SELKIE@HAWAII.RR.COM

Committee on Judiciary and Government Operations Friday, February 13, 2009 Conference Room
016 Hawai'i State Capitol

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice Chair

re: SB 1194 relating to offenses against public order
position: support

For years, the issue of fighting chickens has not been taken seriously. This bill will assist the police in identifying those participating in this cruel activity, and we hope to see an end to the fights which persist in neighborhoods all over O'ahu.

Please move this bill forward.

Mahalo,

Cathy Goeggel
Director

From: WinSheltie [winsheltie@aol.com]
Sent: Wednesday, February 11, 2009 11:55 AM
To: JGO Testimony
Subject: SB1194

I strongly support this bill. The use of gaff in gamecock or other fighting fowl is a disgusting and inhumane act. Possession should be treated as intent and be prohibited.

S. Keleher

From: Joel Fischer [jfischer@hawaii.edu]
Sent: Wednesday, February 11, 2009 1:13 PM
To: JGO Testimony
Subject: SB1194;JGO;2/13/09;9:30AM;Rm016

Importance: High

SB1194, Relating to Offenses
JGO; Chair Sen Taniguchi

PLEASE, PLEASE PASS THIS BILL!

There is only one reason that any one would own or sell a gaff: to illegally engage in the illegal torturing of animals. It really is amazing that we have taken this long to close a loophole in the law.

If you hear any testimony in opposition to the bill, you know that these people are evading the law and torturing their animals. Please do not let their testimony prevent you from doing what is right.

Thank you for hearing this bill and passing it.

Aloha, joel

Dr. Joel Fischer, ACSW
President, 19-3, Democratic Party

Professor
University of Hawai'i, School of Social Work
Henke Hall
Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice."
Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."
Dr. Martin Luther King, Jr.

"Never, never, never quit."
Winston Churchill

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 12, 2009 1:54 PM
To: JGO Testimony
Cc: punahoupoidog@hawaii.rr.com
Subject: Testimony for SB1194 on 2/13/2009 9:30:00 AM

Testimony for JGO 2/13/2009 9:30:00 AM SB1194

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: peggy fern
Organization: Individual
Address:
Phone:
E-mail: punahoupoidog@hawaii.rr.com
Submitted on: 2/12/2009

Comments:

A small step to stopping this cruel sport, and illegal gambling, and drugs, that are part of cockfighting.

From: Francie Boland [Francie_Boland@hmsa.com]
Sent: Thursday, February 12, 2009 2:57 PM
To: JGO Testimony
Subject: SB1194

My name is Francie Boland and I am a member of the Board of Directors of the Hawaiian Humane Society. I would like to voice my strong support for Senate Bill 1194 which would create a state-wide ban of cockfighting gaffs and increase the penalty for possessing gaffs.

"MMS <hmsa.com>" made the following annotations.

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=====

Susan Miyao

From: Gerri Cadiz [gcadiz@hawaii.rr.com]
Sent: Thursday, February 12, 2009 4:46 PM
To: JGO Testimony
Subject: SB1194

STRONGLY SUPPORT the prohibition of possession of gaff used in cockfighting. No reason to possess such an item except to inflict cruelty.

Gerri Cadiz
Board Member of Hawaiian Humane Society