



**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 House Committee on Judiciary**



February 3, 2011, 2:00 p.m.

RE: H.B. 108: Relating To Cruelty to Animals

Chair Keith-Agaran and Members of the Committee:

This measure would repeal the current dog fighting statute and replace it with cruelty to animals by fighting dogs in the first and second degree.

The Office of the Public Defender opposes H.B. 108.

Section 4 of this H.B. 108 takes our current dog fighting statute and increases the penalty from a class C felony to a class B felony, and in section 1, inserts a new statute, creating the offense of dog fighting in the second degree, a class C felony. Anyone caught betting and/or attending a dogfight, or possessing any device to enhance a dog's fighting ability would be guilty of dog fighting in the second degree.

First of all, why do we need to increase the penalty for dog fighting from a potential five (5) year prison term to a ten (10) year term? Is it because our current law has not deterred people from engaging in dog fighting? Do we have a dog fighting epidemic? I have been employed with the Office of the Public Defender for twenty-three years, and have not known of a single case prosecuted under the dog fighting statute. The State of Hawaii does not have a dog fighting problem. We need to be focusing our attention, and resources elsewhere. Every year, during our legislative session bills are introduced to criminalize previously non-criminal behavior. Other measures are introduced to increase the penalties of our current laws. While some measures have merit and deserve your attention, each measure that is eventually enacted into law impacts our criminal justice system and adds to an already strained system.

Secondly, while the proposal to create the offense of dog fighting in the second degree may have some merit, the penalty (class C felony) is extremely harsh. The penalty for participating in a chicken fight on Oahu is a petty misdemeanor, punishable by a fine of between \$250.00 and \$1,000.00 and thirty (30) days in jail. If this legislature creates a second degree offense of dog fighting, we urge you to make it punishable as a petty misdemeanor, and first degree kept as a class C felony.

Thirdly, we urge you to replace the proposed language in section 4 of this measure with the original language in Section 711-1109.3, subsections (a) through (c). H.B. 108 would punish anyone who knowingly "owns, trains, transports, possesses, breeds, sells, transfers or equips any dog with the intent that the dog shall be engaged in a dogfight." There is potential for innocent breeders and/or people to be prosecuted and accused of a knowing act which is imputed upon them by the actions of a dog fighter. The current language proscribes owning or training a dog used for fighting, and does not include transport, possess, breed, sell, transfer or equips. We believe that the proposed language in section 4 is overbroad.

We oppose H.B. 108. Thank you for the opportunity to comment on this bill.

Feb. 2, 2011

LATE TESTIMONY

HOUSE Bill 108; related to dog fighting

House Judiciary – 2-3-11, 2p.m.

Dear Honorable Chair Keith-Agaran, Vice-Chair Rhoades and House Committee Members

PLEASE SUPPORT HB 108; to prevent cruel dog fighting

Hawaii has the weakest dog fighting laws in the nation. We rank #50, this is disgraceful and embarrassing.

We must not only strengthen our current law but it should also include the prosecution of any spectators. The use of other small animals as bait to train these dogs should also be illegal.

Gambling, drugs and other criminal activities including firearm possession and violence are all part of this horrifically cruel activity.

These dogs are also a menace to our communities as they are trained to be aggressive to both people and all other animals.

This bill will help to reduce the prevalent crime element always associated with dog fighting.

It's time we extended the Aloha Spirit to man's best friend.

Thank you for the opportunity to testify.

Ginger Towle, President



GINGER TOWLE
PRESIDENT &
GENERAL MANAGER

West Hawaii Humane Society

P.O. BOX 2695 • KAILUA-KONA, HAWAII 96745

(808) 329-2051

E-mail: towle@hawaiiantel.net