

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
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KEITH M. KANESHIRO  
PROSECUTING ATTORNEY



ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE HENRY J.C. AQUINO, CHAIR**  
**HOUSE COMMITTEE ON PUBLIC SAFETY**  
**Twenty-Seventh State Legislature**  
**Regular Session of 2013**  
**State of Hawai`i**

March 14, 2013

**RE: S.B. 635, S.D. 1; RELATING TO ANIMAL CRUELTY.**

Chair Aquino, Vice-Chair Ing and members of the House Committee on Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of S.B. 635, S.D. 1, and submits a proposed H.D. 1 for your consideration.

The purpose of S.B. 635, S.D. 1, is to add "law enforcement animals" to the existing offenses of "Causing injury or death or a service dog," and "Intentional interference with the use of a service dog." The Department strongly agrees that law enforcement animals are an integral part of Hawaii's law enforcement and corrections agencies, hand-selected and highly trained for their jobs. These animals diligently work side-by-side with law enforcement officers, deputies and other personnel, and should be afforded special protections.

Regarding the specific language of S.B. 635, S.D. 1, we note the terms "injury" on page 3, and "harm" on page 6, could become an issue upon application, as there are no express definitions for these terms. Also, within each statute, we believe the subsections pertaining to service dogs and subsections pertaining to law enforcement animals, could be combined to create more streamlined language. Finally, we do not believe it necessary to include the affirmative defense noted on pages 5 and 7, as law enforcement animals acting outside of their lawful "duties," whether due to improper handling or other reasons, could be validly raised and argued by defense, without having to go through the entire process of reviewing all of the national animal handling procedures and all of the particular agency's handling policies and procedures. To address these, and a few lesser matters, we have prepared and attached (below) a Proposed H.D. 1, for your consideration.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 635, S.D. 1, with the proposed H.D. 1. Thank you for the opportunity to testify on this matter.

**Report Title:**

Animal Cruelty; Law Enforcement Animal

**Description:**

Includes law enforcement animals under the offenses of causing injury or death to a service dog and intentional interference with the use of a service dog. Adds a definition for "law enforcement animal". (Proposed H.D. 1)

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# A BILL FOR AN ACT

RELATING TO ANIMAL CRUELTY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Hawaii's existing  
2 penal code does not adequately address situations when an  
3 offender injures or kills an animal used by a law enforcement  
4 agency or corrections facility. Dogs, horses, or other animals  
5 are specifically trained to assist law enforcement in detecting  
6 criminal activity, enforcing laws, or apprehending criminal  
7 offenders. On the national level, law enforcement trained  
8 animals are being used more frequently on a daily basis to  
9 assist law enforcement officers in the field to safely complete  
10 their daily activities, search for narcotics and explosives, and  
11 assist in search and rescue missions. Within the last twenty  
12 years, law enforcement agencies have relied on trained animals  
13 to address some of the departments' most dangerous assignments.

14           Although the death or injury of a law enforcement animal is  
15 not a serious problem in Hawaii yet, it has become a problem  
16 across the country. During the last forty years, one hundred  
17 thirty-nine police dogs were killed in the line of duty by

1 firearms. In 2000, the federal government enacted the Federal  
2 Law Enforcement Animal Protection Act of 2000. This federal law  
3 recognized the need to provide legal protection to animals who  
4 work with sworn law enforcement personnel on a daily basis to  
5 keep communities safe by imposing penalties on any person who  
6 wilfully and maliciously harms any police animal or attempts or  
7 conspires to do so, permanently disables or disfigures the  
8 animal, or causes serious bodily injury to or the death of the  
9 animal. Forty-four states and one territory have laws that  
10 protect law enforcement animals that include police dogs, police  
11 horses, and fire dogs. The legislature finds that it is now  
12 time for Hawaii to join this group to protect the animals that  
13 work hard every day to keep our community safe.

14 The purpose of this Act is to protect law enforcement  
15 animals in the line of duty by including law enforcement animals  
16 under the offenses of causing injury or death to a service dog  
17 and intentional interference with the use of a service dog.

18 SECTION 2. Section 711-1109.4, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§711-1109.4 Causing injury or death to a service**  
21 **dog[+] or law enforcement animal.** (1) A person commits the

1 offense of causing injury or death to a service dog or law  
2 enforcement animal if:

3 (a) The person recklessly causes substantial bodily injury  
4 to or the death of any service dog or law enforcement  
5 animal while the service dog or law enforcement animal  
6 is in the discharge of its duties; or

7 (b) The person is the owner of a dog and recklessly  
8 permits that dog to attack a service dog or law  
9 enforcement animal while the service dog or law  
10 enforcement animal is in the discharge of its duties,  
11 resulting in the substantial bodily injury or death of  
12 the service dog or law enforcement animal.

13 (2) Subsection (1) shall not apply to:

14 (a) Accepted veterinary practices;

15 (b) Activities carried on for scientific research governed  
16 by standards of accepted educational or medicinal  
17 practices; or

18 (c) Cropping or docking as customarily practiced and  
19 permitted by law.

20 [~~2~~] (3) Any person who commits the offense of causing  
21 injury or death to a service dog or law enforcement animal shall  
22 be ~~[punished as follows:]~~

1 ~~(a) For a first offense by a fine of not more than \$2,000,~~  
2 ~~imprisonment of not more than thirty days, or both;~~  
3 ~~and~~

4 ~~(b) For a second or subsequent offense by a fine of not~~  
5 ~~more than \$5,000, imprisonment of not more than thirty~~  
6 ~~days, or both.] guilty of a class C felony.~~

7 ~~[(3)]~~ (4) ~~[Any]~~ In addition to any other penalties, any  
8 person who is convicted of a violation of this section shall be  
9 ordered to make restitution to:

10 (a) The ~~[person with a disability who has custody or~~  
11 ~~ownership]~~ owner of the service dog or law enforcement  
12 animal, for any veterinary bills and out-of-pocket  
13 costs incurred as a result of the injury to the  
14 service dog or law enforcement animal; and

15 (b) The person, entity or organization that incurs the  
16 cost of retraining or replacing the service dog or law  
17 enforcement animal ,for the cost of retraining or  
18 replacing the service dog or law enforcement animal,  
19 if it is disabled or killed.

20 ~~[(4)]~~ (5) As used in this section, "service dog" shall  
21 have the same meaning as in section 347-2.5."

1 SECTION 3. Section 711-1109.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§711-1109.5 Intentional interference with the use of a**  
4 **service dog[-] or law enforcement animal.** (1) A person commits  
5 the offense of intentional interference with the use of a  
6 service dog or law enforcement animal if the person, with no  
7 legal justification, intentionally or knowingly[-  
8 ~~—(a) Harms]~~ strikes, beats, kicks, cuts, stabs, shoots, or  
9 administers any type of harmful substance or poison to a service  
10 dog or law enforcement animal[-  
11 ~~—(b) Strikes or kicks a service dog;]~~  
12 while the service dog or law enforcement animal is in the  
13 discharge of its duties.

14 (2) Subsection (1) shall not apply to:

15 (a) Accepted veterinary practices;

16 (b) Activities carried on for scientific research governed  
17 by standards or accepted educational or medicinal  
18 practices; or

19 (c) Cropping or docking as customarily practiced and  
20 permitted by law.

21 [-2+] (3) Intentional interference with the use of a  
22 service dog or law enforcement animal is a misdemeanor.

1       (4) In addition to any other penalties, any person who is  
2 convicted of a violation of this section shall be ordered to  
3 make restitution to:

4       (a) The owner of the service dog or law enforcement  
5 animal, for any veterinary bills and out-of-pocket  
6 costs incurred as a result of the injury to the  
7 service dog or law enforcement animal; and

8       (b) The person, entity or organization that incurs the cost of  
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10 animal ,for the cost of retraining or replacing the service dog  
11 or law enforcement animal, if it is disabled or killed

12       ~~[(3)]~~ (5) Nothing in this section is intended to affect  
13 any civil remedies available for a violation of this section.

14       ~~[(4)]~~ (6) As used in this section, "service dog" shall  
15 have the same meaning as in section 347-2.5."

16       SECTION 4. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19       SECTION 5. Section 711-1100, Hawaii Revised Statutes, is  
20 amended by adding a new definition to be appropriately inserted  
21 and to read as follows:



1        "Law enforcement animal" means any dog, horse, or other  
2 animal used by law enforcement or corrections agencies and  
3 trained to work in areas of tracking, suspect apprehension,  
4 victim assistance, crowd control, or drug or explosive detection  
5 for law enforcement purposes."

6        SECTION 6. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8        SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_

**Report Title:**

Animal Cruelty; Law Enforcement Animal

**Description:**

Includes law enforcement animals under the offenses of causing injury or death to a service dog and intentional interference with the use of a service dog. Adds a definition for "law enforcement animal". (Proposed H.D. 1)

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5 are specifically trained to assist law enforcement in detecting  
6 criminal activity, enforcing laws, or apprehending criminal  
7 offenders. On the national level, law enforcement trained  
8 animals are being used more frequently on a daily basis to  
9 assist law enforcement officers in the field to safely complete  
10 their daily activities, search for narcotics and explosives, and  
11 assist in search and rescue missions. Within the last twenty  
12 years, law enforcement agencies have relied on trained animals  
13 to address some of the departments' most dangerous assignments.

14           Although the death or injury of a law enforcement animal is  
15 not a serious problem in Hawaii yet, it has become a problem  
16 across the country. During the last forty years, one hundred  
17 thirty-nine police dogs were killed in the line of duty by

1 firearms. In 2000, the federal government enacted the Federal  
2 Law Enforcement Animal Protection Act of 2000. This federal law  
3 recognized the need to provide legal protection to animals who  
4 work with sworn law enforcement personnel on a daily basis to  
5 keep communities safe by imposing penalties on any person who  
6 wilfully and maliciously harms any police animal or attempts or  
7 conspires to do so, permanently disables or disfigures the  
8 animal, or causes serious bodily injury to or the death of the  
9 animal. Forty-four states and one territory have laws that  
10 protect law enforcement animals that include police dogs, police  
11 horses, and fire dogs. The legislature finds that it is now  
12 time for Hawaii to join this group to protect the animals that  
13 work hard every day to keep our community safe.

14 The purpose of this Act is to protect law enforcement  
15 animals in the line of duty by including law enforcement animals  
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18 SECTION 2. Section 711-1109.4, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§711-1109.4 Causing injury or death to a service**  
21 **dog[-] or law enforcement animal.** (1) A person commits the

1 offense of causing injury or death to a service dog or law  
2 enforcement animal if:

3 (a) The person recklessly causes substantial bodily injury  
4 to or the death of any service dog or law enforcement  
5 animal while the service dog or law enforcement animal  
6 is in the discharge of its duties; ~~for~~

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7 (b) The person is the owner of a dog and recklessly  
8 permits that dog to attack a service dog or law  
9 enforcement animal while the service dog or law  
10 enforcement animal is in the discharge of its duties,  
11 resulting in the substantial bodily injury or death of  
12 the service dog or law enforcement animal. ~~;~~ ~~or~~

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13 ~~(c) The person recklessly causes injury to or death of any~~  
14 ~~law enforcement dog; provided that the law enforcement~~  
15 ~~animal shall be performing its duties as a law~~  
16 ~~enforcement animal while under the control of a sworn~~  
17 ~~law enforcement officer.~~

18 (2) Subsection (1) shall not apply to:  
19 (a) Accepted veterinary practices;  
20 (b) Activities carried on for scientific research governed  
21 by standards of accepted educational or medicinal  
22 practices; or

1 | (c) Cropping or docking as customarily practiced and  
2 | permitted by law.

3 | ~~[(2)]~~ (3) Any person who commits the offense of causing  
4 | injury or death to a service dog or law enforcement animal shall  
5 | be ~~[punished as follows:~~

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6 | ~~(a) For a first offense by a fine of not more than \$2,000,~~  
7 | ~~imprisonment of not more than thirty days, or both,~~  
8 | ~~and~~

9 | ~~(b) For a second or subsequent offense by a fine of not~~  
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12 | ~~[(3)]~~ (4) ~~[Any]~~ In addition to any other penalties, any  
13 | person who is convicted of a violation of this section shall be  
14 | ordered to make restitution to:

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15 | (a) The ~~[person with a disability who has custody or~~  
16 | ~~ownership]~~ owner of the service dog or law enforcement  
17 | animal, for any veterinary bills and out-of-pocket  
18 | costs incurred as a result of the injury to the  
19 | service dog or law enforcement animal; ~~and~~

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20 | (b) The person, entity or organization that incurs the  
21 | cost of retraining or replacing the service dog or law  
22 | enforcement animal, for the cost of retraining or

1 replacing the service dog or law enforcement animal,  
2 if it is disabled or killed ~~f. ];~~ ~~or~~

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3 ~~(c) The law enforcement agency or whoever owns the law~~  
4 ~~enforcement animal for the following costs:~~  
5 ~~(i) Veterinary bills and other medical costs;~~  
6 ~~(ii) Costs to replace the law enforcement animal if the~~  
7 ~~animal is killed, disabled, or destroyed;~~  
8 ~~(iii) Lost wages for the law enforcement animal's handler;~~  
9 ~~and~~  
10 ~~(iv) Any other costs related to the violation of this~~  
11 ~~section.~~

12 ~~(5) For a law enforcement animal, it shall be an~~  
13 ~~affirmative defense that the law enforcement animal was not~~  
14 ~~handled in accordance with recognized national animal handling~~  
15 ~~procedures or was handled in a manner contrary to the law~~  
16 ~~enforcement or correction agency's handling policies and~~  
17 ~~procedures.~~

18 ~~— [(4)] (65) As used in this section, "service"~~  
19 ~~— "Law enforcement animal" means any dog, horse, or other~~  
20 ~~animal used by law enforcement, corrections agencies, or courts~~  
21 ~~and trained to work in areas of tracking, suspect apprehension,~~

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1 ~~crowd control, or drug or explosive detection for law~~  
2 ~~enforcement purposes.~~

3 ~~"Service~~ dog" shall have the same meaning as in section  
4 347-2.5."

5 SECTION 3. Section 711-1109.5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§711-1109.5 **Intentional interference with the use of a**  
8 **service dog[-] or law enforcement animal.** (1) A person commits

9 the offense of intentional interference with the use of a  
10 service dog or law enforcement animal if the person, with no

11 legal justification, intentionally or knowingly ~~+~~

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12 ~~(a) Harms] strikes, beats, kicks, cuts, stabs, shoots, or~~  
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16 ~~animal;~~

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17 while the service dog or law enforcement animal is in the  
18 discharge of its duties ~~+~~ ~~or the law enforcement animal is~~

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19 ~~performing its duties as a law enforcement animal while under~~  
20 ~~the control of a sworn law enforcement officer.~~

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12                    animal, for any veterinary bills and out-of-pocket  
13                    costs incurred as a result of the injury to the  
14                    service dog or law enforcement animal; and

15 (b) The person, entity or organization that incurs the cost of  
16 retraining or replacing the service dog or law enforcement  
17 animal ,for the cost of retraining or replacing the service dog  
18 or law enforcement animal, if it is disabled or killed

19        [~~3~~] (45) Nothing in this section is intended to affect  
20 any civil remedies available for a violation of this

21 section. ~~In addition to any other penalty, any person who is~~  
22 ~~convicted of a violation of this section shall be ordered to~~

1 ~~make restitution to be paid to the law enforcement agency or~~  
2 ~~whoever owns the law enforcement animal for the following costs:~~

- 3 ~~(a) Veterinary bills and other medical costs;~~
- 4 ~~(b) Costs to replace the law enforcement animal if the~~  
5 ~~animal is killed, disabled, or destroyed;~~
- 6 ~~(c) Lost wages for the law enforcement animal's handler;~~  
7 ~~and~~
- 8 ~~(d) Any other costs related to the violation of this~~  
9 ~~section.~~

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16 ~~[(4)] (6) As used in this section, "service":~~

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17 ~~"Law enforcement animal" means any dog, horse, or other~~  
18 ~~animal used by law enforcement, corrections agencies, or courts~~  
19 ~~and trained to work in areas of tracking, suspect apprehension,~~  
20 ~~crowd control, or drug or explosive detection for law~~  
21 ~~enforcement purposes.~~

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2 | 347-2.5."

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5 | begun before its effective date.

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7 | amended by adding a new definition to be appropriately inserted  
8 | and to read as follows:

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10 | animal used by law enforcement or corrections agencies and  
11 | trained to work in areas of tracking, suspect apprehension,  
12 | victim assistance, crowd control, or drug or explosive detection  
13 | for law enforcement purposes."

14 | ~~SECTION 56.~~ Statutory material to be repealed is  
15 | bracketed and stricken. New statutory material is underscored.

16 | SECTION ~~67.~~ This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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



KIRK W. CALDWELL  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE DC-MM

March 14, 2013

The Honorable Henry J.C. Aquino, Chair  
and Members  
Committee on Public Safety  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Aquino and Members:

Subject: Senate Bill No. 635, S.D 1, Relating to Animal Cruelty

I am Darren Chun, Captain of the Specialized Services Division, Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports Senate Bill No. 635, S.D. 1, Relating to Animal Cruelty, but prefers the terminology in proposed H.D. 1 written by the Department of the Prosecuting Attorney, City and County of Honolulu.

The proposed H.D. 1 is similar to S.D. 1 in that it is no longer a stand-alone bill. It also expands the offense of causing injury or death to a service dog to include content from the initial animal cruelty bill under Senate Bill No. 635, which strengthens and clarifies the offense for both service and law enforcement animals.

Canines of the Specialized Services Division accompany our officers during high-risk, critical incidents. These canines face the same, if not a higher, degree of risk when assisting our officers in the apprehension of dangerous criminal offenders. We agree that the protections provided by Senate Bill No. 635, S.D. 1, proposed H.D. 1, are needed to shield our law enforcement animals from harm while they work hard to keep Hawaii's communities safe.

Thank you for the opportunity to testify. I urge your committee to support and pass Senate Bill No. 635, S.D. 1, proposed H.D. 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren Chun", written over a horizontal line.

DARREN CHUN, Captain  
Specialized Services Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoa", written over a horizontal line.

LOUIS M. KEALOHA  
Chief of Police

*Serving and Protecting With Aloha*



**ALAN M. ARAKAWA**  
MAYOR

OUR REFERENCE  
YOUR REFERENCE

# **POLICE DEPARTMENT**

## **COUNTY OF MAUI**

**55 MAHALANI STREET**  
**WAILUKU, HAWAII 96793**  
**(808) 244-6400**  
**FAX (808) 244-6411**



**GARY A. YABUTA**  
CHIEF OF POLICE

**CLAYTON N.Y.W. TOM**  
DEPUTY CHIEF OF POLICE

March 13, 2013

The Honorable Henry J.C. Aquino, Chair  
And Members of the Committee on Public Safety  
House of Representatives  
Hawaii State Capitol  
Honolulu, HI 96813

**RE: Senate Bill No. 635, SD1 - RELATING TO ANIMAL CRUELTY**

Dear Chair Aquino and Members of the Committee:

The Maui Police Department **SUPPORTS** the passing of Senate Bill No. 635, SD-1, with amendments. This bill establishes the offenses of cruelty to a law enforcement animal in the first and second degrees and adds a definition for "law enforcement animal."

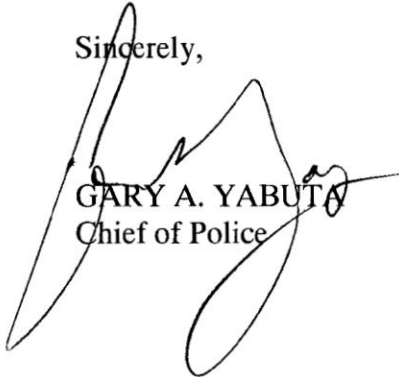
The Maui Police Department supports this measure as it will help to protect law enforcement service animals that work hard to prevent drugs from entering our community. We would also like to show our support for these courageous and hard working members of police department that tirelessly work to support our goals to protect and serve our community.

We also ask that you consider amending this bill to reflect requested language changes to be proposed by the Honolulu Prosecuting Attorney's Office.

The Maui Police Department again asks for your **SUPPORT** to S.B. No. 635, SD1.

Thank you for the opportunity to testify.

Sincerely,

  
**GARY A. YABUTA**  
Chief of Police

**TESTIMONY OF THE HAWAI'I POLICE DEPARTMENT**

**SENATE BILL 635, D1**

**RELATING TO ANIMAL CRUELTY**

BEFORE THE COMMITTEE ON PUBLIC SAFETY

DATE : Thursday, March 14, 2013

TIME : 9:30 A.M.

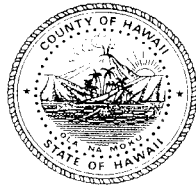
PLACE : Conference Room 309  
State Capitol  
415 South Beretania Street

PERSON TESTIFYING:

Police Chief Harry S. Kubojiri  
Hawai'i Police Department  
County of Hawai'i

(Written Testimony Only)

**William P. Kenoi**  
*Mayor*



**Harry S. Kubojiri**  
*Police Chief*

**Paul K. Ferreira**  
*Deputy Police Chief*

## **County of Hawai'i**

**POLICE DEPARTMENT**  
349 Kapiolani Street • Hilo, Hawai'i 96720-3998  
(808) 935-3311 • Fax (808) 961-8865

March 13, 2013

Representative Henry J. C. Aquino  
Chairperson and Committee Members  
Committee on Public Safety  
415 South Beretania Street, Room 309  
Honolulu, Hawai'i 96813

**RE: SENATE BILL 635, D1, RELATING TO ANIMAL CRUELTY**

Dear Representative Aquino:

The Hawai'i Police Department supports the intent of Senate Bill No. 635, which includes law enforcement animals under the offenses of causing injury or death to a service dog and intentional interference with the use of a service dog.

We would, however, prefer the terminology in proposed House Draft 1 as proposed by the Department of the Prosecuting Attorney of the City and County of Honolulu.

We believe canines, whether in service to individuals with disabilities or law enforcement, are worthy of the additional protection that will be afforded by HD 1 as proposed.

For these reasons, we urge this committee to support Senate Bill 635, SD1, proposed HD1 legislation. Thank you for allowing the Hawai'i Police Department to testify on Senate Bill No. 635.

Sincerely,

HARRY S. KUBOJIRI  
POLICE CHIEF