CALIFORNIA STATE ASSEMBLY ***SUPPORT AB 1820***

FLOOR ALERT

AB 1820 PROTECTS INDIVIDUAL PRIVACY

AB 1820 (Quirk) will prohibit law enforcement from using drones absent a data retention policy that is to be adopted at a regularly scheduled public meeting by local legislative bodies. The bill also requires that the policy not be adopted unless there is opportunity for public comment — an essential component of democracy. The policy must also be posted on the agency's website. AB 1820 specifies that department drone policies must include the rules, procedures, and circumstances that drones may be used in, along with who may access information obtained during drone operation, and safeguards to prevent unauthorized access to footage and information.

AB 1820 PRESERVES CONSTITUTIONAL RIGHTS

Furthermore, AB 1820 properly upholds the Constitutional rights of Californians by requiring law enforcement to obtain a search warrant based on probable cause before flying drones over private property, or gathering footage or images outside of the agency's jurisdiction.

AB 1820 BALANCES INDIVIDUAL RIGHTS w/ NEEDS OF LAW ENORCEMENT

The warrant requirements contained in AB 1820 are not absolute. These requirements may be waived by gaining permission from the property owner, or in exigent and hot pursuit situations.

OPPOSITION ARGUMENTS ARE WITHOUT MERRIT

Arguments that public comment would hinder the adoption of appropriate policies and procedures precludes the basic tenet of republican democracy — that the power of elected representatives ultimately rests with the people in the communities they serve. Denying the public a voice in the policy-making process is to circumvent the democracy and the First Amendment. Therefore, this argument fails.

Other opponents, such as the American Civil Liberties Union (ACLU), have confusingly argued that drone usage "must be subject to the controls of a search warrant." (Asm. Com. P & C.P., Analysis of Asm. Bill 1820 (2015-2016 Reg. Sess.) as amended Apr. 11, 2016, p. 7.) This argument is non sequitur because AB 1820 does, in fact, contain warrant requirements. The ACLU has cites *Kyllo v. United States* (2001) 533 U.S. 27, 40 where the Supreme Court ruled that a police officer's use of a thermal imaging device to detect the heat registers where marijuana was being grown indoors constituted an unreasonable search under the Fourth Amendment absent a warrant. Again, this argument is a nonstarter since AB 1820 contains reasonable warrant requirements.

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