



JUNE 22, 2015

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City of Los Angeles v. Patel

The U. S. Supreme Court holds that a municipal ordinance that requires hotel operators to make their registries available to police on demand is facially unconstitutional under the Fourth Amendment

In *City of Los Angeles v. Patel*, No. 13-1175 (June 22, 2015), the City of Los Angeles required hotel operators to record and keep specific information about their guests on the premises for a 90-day period. Specifically, the ordinance provided that these records must be available for inspection at a time and in a manner that minimizes any interference with the operation of the business. The failure to make such records available subjects the hotel operator to misdemeanor punishment (maximum 6 months in jail; \$1000.00 fine). A group of hotel operators brought a facial challenge to the ordinance on Fourth Amendment grounds. The federal district court found that the group lacked a reasonable expectation of privacy in their records. An en banc Ninth Circuit Court reversed and the Supreme Court granted certiorari.

In a 5-4 decision, the Court affirmed. First, the Court found, facial challenges under the Fourth Amendment are not categorically barred or especially disfavored. To succeed, a plaintiff must establish that a law is unconstitutional in all of its applications. When addressing a facial challenge to a statute authorizing warrantless searches, the proper focus of the inquiry is on searches that the law actually authorizes, not those which could proceed irrespective of whether they are authorized by the statute (e.g. where exigent circumstance, a warrant, or consent to search exist).

The Court found that under this test, the ordinance was unconstitutional. First, the Court noted, search regimes where no warrant is ever required may be reasonable where special needs make the warrant and probable cause requirement impracticable and where the “primary purpose” of the search is distinguishable from the general interest in crime control. The Court assumed that searches under this particular ordinance served such a special need because they ensured compliance with the record-keeping requirements of the ordinance, which in turn, deterred criminals from operating on the hotel’s premises. These types of searches are referred to as “administrative searches.” Thus, the Court stated, it would consider whether the ordinance fell within the administrative search exception to the warrant requirement.

State Prosecution Support Division



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The Court found that it did not. In order for an administrative search to be constitutional, the subject of the search must be afforded an opportunity to obtain pre-compliance review by a neutral decisionmaker. But here, a hotel owner who refuses to give an officer access to his or her registry can be arrested on the spot. Thus, since the ordinance does not afford hotel operators any opportunity whatsoever for precompliance review, it is facially invalid under the Fourth Amendment. In so holding, the Court rejected the contention that the ordinance is facially valid under the more relaxed standard of review for “closely regulated” industries.

Nevertheless, the Court stated, its holding is only that the hotel owner be afforded the *opportunity* to have a neutral decisionmaker review an officer’s demand to search the registry before he or she faces penalties for failure to comply. Thus, searches under the ordinance would be constitutional if they were performed pursuant to an administrative subpoena because the hotel owner could move to quash the subpoena before any search took place. Furthermore, the Court held, “nothing in our decision today precludes ... an officer [who] reasonably suspects the registry would be altered, from guarding the registry pending a hearing on a motion to quash.” Finally, hotel operators remain free to consent to searches of their registries and law enforcement officers can compel them to turn them over if they have a proper administrative warrant – including one that was issued ex parte – or if some other exception to the warrant requirement applies (e. g. exigent circumstances).