

Arrest, Search and Investigation

[Los Angeles v. Patel](#), 576 U.S. ____ (June 22, 2015). (1) In this case where a group of motel owners and a lodging association challenged a provision of the Los Angeles Municipal Code (LAMC) requiring motel owners to turn over to the police hotel registry information, the Court held that facial challenges under the Fourth Amendment are not categorically barred. With respect to the relevant LAMC provisions, §41.49 requires hotel operators to record information about their guests, including: the guest's name and address; the number of people in each guest's party; the make, model, and license plate number of any guest's vehicle parked on hotel property; the guest's date and time of arrival and scheduled departure date; the room number assigned to the guest; the rate charged and amount collected for the room; and the method of payment. Guests without reservations, those who pay for their rooms with cash, and any guests who rent a room for less than 12 hours must present photographic identification at the time of check-in, and hotel operators are required to record the number and expiration date of that document. For those guests who check in using an electronic kiosk, the hotel's records must also contain the guest's credit card information. This information can be maintained in either electronic or paper form, but it must be "kept on the hotel premises in the guest reception or guest check-in area or in an office adjacent" thereto for a period of 90 days. LAMC section 41.49(3)(a) states, in pertinent part, that hotel guest records "shall be made available to any officer of the Los Angeles Police Department for inspection," provided that "[w]henver possible, the inspection shall be conducted at a time and in a manner that minimizes any interference with the operation of the business." A hotel operator's failure to make his or her guest records available for police inspection is a misdemeanor punishable by up to six months in jail and a \$1,000 fine. The respondents brought a facial challenge to §41.49(3)(a) on Fourth Amendment grounds, seeking declaratory and injunctive relief. As noted, the Court held that facial challenges under the Fourth Amendment are not barred. (2) Turning to the merits of the claim, the Court held that the challenged portion on the LAMC is facially unconstitutional because it fails to provide hotel operators with an opportunity for precompliance review. The Court reasoned, in part:

[A]bsent consent, exigent circumstances, or the like, in order for an administrative search to be constitutional, the subject of the search must be afforded an opportunity to obtain precompliance review before a neutral decisionmaker. And, we see no reason why this minimal requirement is inapplicable here. While the Court has never attempted to prescribe the exact form an opportunity for precompliance review must take, the City does not even attempt to argue that §41.49(3)(a) affords hotel operators any opportunity whatsoever. Section 41.49(3)(a) is, therefore, facially invalid. (citations omitted)

Clarifying the scope of its holding, the Court continued, "As they often do, hotel operators remain free to consent to searches of their registries and police 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, including exigent circumstances." The Court went on to reject Justice Scalia's suggestion that hotels are "closely regulated" and that the ordinance is facially valid under the more relaxed standard that applies to searches of that category of businesses.