

A primer on your rights at a music festival - AvvoStories

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From drug-addled EDM fans to violent metalheads, popular images of music festival attendees are rarely flattering, even if they are usually without foundation. Like all stereotypes, those images can lead to unfair treatment, so if a music festival is on your calendar, you need to know your rights, even – and especially – if you're only there for the beats.

What cops can do

Popular culture is filled with myths that can get you into real trouble. For example, you will often hear that undercover police must tell the truth if asked directly. The reality is, you do not have a right to the truth. Police can and will lie to you in the course of an investigation.

It's disconcerting to think that people whose job is to maintain law and order are permitted to be dishonest in the course of their work. But courts recognize that undercover investigations are impossible if officers are required to reveal their true identities when asked, and interrogations are more effective when suspects don't have a complete picture of what law enforcement knows.

Also contrary to Hollywood depictions, police can arrest you without reading your Miranda rights. Miranda rights only protect you from providing evidence against yourself. Whether you remain silent or not, if the physical evidence against you is strong, you can be arrested and convicted without ever hearing the cinematic words, "You have the right to remain silent."

In most states, police do not need a warrant to search your car – all they need is probable cause. Probable cause can include visible drugs or paraphernalia, the smell of marijuana (though there are variances based on its legality within a particular state), or a cue from a drug-sniffing dog. Police often place heavy patrols on roads leading to festivals and use minor traffic infractions as "rolling probable cause."

Personal searches, meanwhile, are an inevitable part of concert-going. Every ticket-holder expects to be searched by security at the entrance to a festival. Property owners and festival organizers have a right and responsibility to prevent people from bringing dangerous and illegal items onto festival grounds. Living in a state where marijuana is legal or possessing a medical marijuana card does not give you the right to bring marijuana into a festival venue. Festival organizers and venue owners have the right to ban marijuana from their event or property, just as they can ban cigarettes and flash photography – and those aren't federally classified Schedule I drugs – which marijuana still is.

What you can do about it

Your rights at a festival may not be as strong as you thought, but you do still have rights. Music festivals are not Constitution-free zones yet. There are limits to the lies that law enforcement can tell, but as shown by the 2014 case of Adrian Thomas, who was acquitted of the murder of his infant son after police told him his confession could save the already dead child's life, police have to go pretty far before their interrogation tactics cross the line.

If you are arrested without being told of your Miranda rights, things you say while under arrest cannot be used as evidence in a trial against you.

You will be searched upon entry to a festival, but [implied consent waivers](#) – language on tickets or signs claiming that by entering the venue you agree to be searched – do not negate the [Fourth Amendment's protection against unreasonable searches](#). Courts have confirmed that venues have a right to conduct limited, not invasive, searches for weapons. (Drug searches are a more complicated matter; a [lawyer](#) would have to examine the specific circumstances to determine the legality of a drug search conducted by festival personnel.) Random searches inside the venue or [invasive searches](#) upon entry are not legal.

Outside the venue, police have a lot of leeway in determining probable cause and until recently, police used drug-sniffing dogs without permission and without probable cause during traffic stops. [Rodriguez v. United States](#) determined that police may no longer extend a traffic stop to perform a sniff-search, and supported the need for probable cause. Having a music festival as your destination, happily, does not constitute probable cause.

Individuals have a [right to film law enforcement](#) in the course of their public duties as long as doing so is not interfering with that work. People working in a public capacity who are not breaking any rules should not have a problem with this, but there are many examples of this right being [ignored by police](#). You may choose to comply rather than face false arrest, but at least try to capture the order to stop recording before actually turning off your cell phone or camera.

What you should do

It should go without saying that the best course of action is to obey all laws and to leave at home any materials banned by venues. But even if you do, it's important to know and protect your rights, because profiling of festival-goers does happen.

If police or security stop you for any reason:

1. Remain calm and respectful at all times.
2. Ask, "Am I being detained?" and if the answer is no, say thank you and walk away. If the answer is yes, ask why and refuse to answer any questions without a [lawyer](#) present.
3. Decline – politely – any requests to submit to a search except at the festival gate. At the gate, do not consent to invasive searches.
4. Even though you will be told to put your phone or camera away, attempt to document the encounter.

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