



Written by [Jack Kenny](#) on May 26, 2011

## Philadelphia Police Charge Man in Open-Carry Handgun Incident

Fiorino, identified in the story as a 25-year-old "suburban Philadelphia IT worker," was released after his arrest in February and says the charges were not filed until after he had placed an [audio recording](#) of the incident on the Internet. The posting has "gone viral," and police can be heard on the recording issuing profanity-laden verbal barrages at Fiorino, including a threat to "f—n' shoot ya" from an officer who apparently was pointing a gun at him and accusing him of giving the officer "lip." Fiorino's trial is scheduled for July.



"The police department and assistant district attorney are coming after me, in my opinion, to make an example of me because I stood up to them and exposed them for their lack of knowledge," said Fiorino, calling the trial "absolutely inappropriate and a waste of taxpayer money." The incident occurred as Fiorino, wearing a gun on his hip, was walking to an auto parts store in northeast Philadelphia. A policeman can be heard calling out to Fiorino, addressing him as "Junior."

"Junior!" Fiorino repeated in apparent indignation. Fiorino then can be heard nervously asking: "Excuse me, why are, why are you... Why are you pointing your gun at me, officer? Why are you pointing your gun at me, officer?" he repeated.

The officer can be heard saying something about a "firearm."

"So you're threatening me with lethal force — "

"I'm not threatening you," the officer replied.

"You're pointing a weapon at me."

"I don't know who you are."

"Would you like to see my license to carry firearms and my driver's license?... All right now, look, look: I'm going to show you my license to carry firearms."

"Keep you hands right where they are.... I don't know who you are," the officer repeated.

"Get down on your knees," he ordered.

"Excuse me?"

"Get down on your knees."

"Sir, I'm more than happy to..."

"Get on your knees or I'm gonna f—n' shoot ya!"

"I'm standing here peacefully!" Fiorino protested. "I'm speaking to you peacefully!"



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"Keep your hands right where they are. I don't know who you are. Why do you have a gun on you?"

"Because I carry a firearm for self defense purposes.... Because that's the way I feel most comfortable carrying it. I have a license to carry firearms and that makes it legal to open carry."

"Stay there 'til I get a backup here," the officer said.

"Sure, calm down," Fiorino said. "I'm not going to argue with you. I'm explaining to you —"

"Do you know you can't openly carry here in Philadelphia?" the officer said.

"Yes, you can if you have a license to carry to carry firearms," Fiorino said. "It's Directive 137, officer. It's your own internal directive."

"I don't know you are," the officer said once again. "Are you gonna give me lip?"

"I'm not giving you lip, officer," said Fiorino. He then asked the officer his name and the policeman identified himself as Sergeant Dougherty. *Fox News* identified him as Sergeant Michael Dougherty.

"Don't move your hands!" he warned.

"It's kind of disrespectful to ask me to get on my knees," Fiorino objected.

"You're going to stay there 'til I get backup," Dougherty told him. "Keep you hands right where they're at," he said as the sound of police sirens can be heard on the recording.

"Keep your hands right where they're at!" Dougherty repeated.

"I'm happy to do that, officer," Fiorino said. "Sir, I am no crim—"

"Get on the f—n' ground!" Dougherty screamed.

"Why are you threatening me with a gun?... I'm on the ground!" Fiorino said. "This is not necessary gentlemen," he said when the backup arrived.

"Shut the f— up!" he was told.

"I'm tryin' to tell this man this is not an open carry state," Dougherty said to the other officers.

"I've got a license to carry firearms," Fiorino repeated.

"That don't mean nothin'; it has to be concealed!" Dougherty insisted.

"You f—n' come in here lookin' for a f—n' problem?" one of the other officers asked. "Where do you live?"

"I'm sorry, gentlemen, if I'm under arrest, I have nothing left to say to you," Fiorino said.

"Shut the f— up!" he was told again.

"When a f—n' cop tells you to show your hands, you show 'im your hands!" an officer shouted. "That's how you lose your license."

"I had my hands out!" Fiorino said.

"You had your hands in your pocket!" Dougherty replied. "I said, 'Get on your knees' and you said, 'Why do I have to get on my knees?' I'm bein' disrespectful to ya."

As Fiorino was being searched, the officers discovered his audio recorder.

"Now that's against the law," one of them said.



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"You did this on purpose, didn't ya?" one of the officers said.

"I'm in public," Fiorino said, "speaking with public officers acting in the public—"

"You're tryin' to set us the f— up, that's what the f— you're doin'."

Fiorino was taken to the station, where police checked with the department's attorney and learned he had been acting within his rights, *Fox News* reported. Though the voices grow faint at that point on the recording, phrases heard at the police station include "license to carry" and "in our city" and then something about someone "being uncooperative." In a statement e-mailed to *Fox News*, a spokesman for the District Attorney's office said Fiorino had been "belligerent and hostile" during his questioning by police. While prosecutors respect the right of citizens to lawfully carry firearms, Tasha Jamerson said, a permit to carry "does not mean that a permit holder can abuse that right by refusing to cooperate with police."

Acting as spokesman for Police Commissioner Charles H. Ramsey, Lt. Raymond Evers said the department is investigating incident, but told *Fox News* the commissioner took exception to the language used and the lack of knowledge of the law, but not to the stop itself.

"We weren't as up on that crime code as we should have been," Evers conceded. Officers, he said, are being reeducated on open carry, which is legal in all but seven states. Incidents of open carry are rare in Philadelphia, said Evers, who told the news channel that police will continue to stop people they see carrying guns and may order an armed citizen to lie on the ground while police search for the permit or license for the weapon. Evers stressed the precautions are necessary in a city where several police officers have been killed in the past few years.

Fiorino also cited the incidence of violent crime as his reason for openly carrying a weapon. Some of his friends have been held up at gunpoint, he said, and he did not want to appear as easy prey. He said he studied Pennsylvania law for a year before he began carrying a gun. The February incident was the third time since last July that Philadelphia police have stopped to question him about his openly displayed gun, he said, and each time he had an audio recorder on him. The police confiscated his gun during one of the stops, he said, and held it for five months.

Evers said Fiorino was inviting trouble by secretly recording his encounters with police.

"If you put everything together, it was more than him walking down the street to go to an auto parts store — without a jacket in the middle of winter," the lieutenant told *Fox News*.

In an interview with the news channel, Jamerson denied the charges against Fiorino stem from his posting the recording on the incident on the Internet. "This office only charges people with offenses that we think we can prosecute," she said. "We just don't willy-nilly charge a person with a crime as retaliation for an incident." But Fiorino's attorney, Joseph Valvo, argues the police and prosecutors are conspiring to send an unlawful message.

"It's my position," he said, "that this entire prosecution is an effort by Philadelphia authorities to send a message to legitimate gun owners that open carry as a practice is not welcome in Philadelphia despite the fact that it's constitutionally protected behavior and that's offensive to me as a citizen and as a lawyer."

Jan Pierce, co-founder of OpenCarry.org also claimed police are trying to send a message on open carry. The message, said Pierce is, "Even if it's legal, we can punish you financially and by disruptions in your life."



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