

A child porn possession charge lodged against a Department of Industrial Accidents investigator fired for having smut on his state-issued laptop has been dismissed because experts concluded he was unwittingly spammed.

"The overall forensics of the laptop suggest that it had been compromised by a virus," said Jake Wark, spokesman for Suffolk District Attorney Daniel Conley.

Nationally recognized computer forensic analyst Tami Loehrs told the Herald Michael Fiola's ordeal was "one of the most horrific cases I've seen."

"As soon as you mention child pornography, everybody's senses go out the window," she said.

Loehrs, who spent a month dissecting the computer for the defense, explained in a 30-page report that the laptop was running corrupted virus-protection software, and Fiola was hit by spammers and crackers bombarding its memory with images of incest and pre-teen porn not visible to the naked eye.

Two forensic examinations conducted by the state Attorney General's Office for the prosecution concurred with that conclusion, Wark said. Still, Fiola, 53, whose wife, Robin, described as "computer-illiterate," wants his day in court. He intends to sue the DIA for "destroying our lives." "Our lives have been hell," said Fiola, a former state park ranger now living in Rhode Island. "I hope to recover my reputation, but our friends all ran."

DIA spokeswoman Linnea Walsh confirmed Fiola "was terminated," but declined to say if any internal discipline has been meted out as a result of his name being cleared in court.

"We stand by our decision," she said. Fiola's attorney Timothy Bradl is at a loss to understand why. "Imagine this scenario: Your employer gives you a ticking time bomb full of child porn, and then you get fired, and then you get prosecuted as some kind of freak," he railed. "Anybody who has a work laptop, this could happen to," he said. "Mike Fiola is a hunt-and-peck kind of computer guy. He can barely get on the Internet."

Fiola's troubles began in November 2006 when, seven years into a job probing workers' compensation fraud, DIA gave him a replacement laptop for one that was stolen. Months later, DIA information technology officials noted that the data usage on Fiola's Verizon wireless bill was 4 1/2 times greater than his colleagues'. After discovering the child porn, Commissioner Paul Buckley fired him on March 14, 2007.

DIA turned the matter over to state police who, after confirming "an overwhelming amount of images of prepubescent children engaged in pornographic poses" were stored on the laptop, persuaded Boston Municipal Court to issue a criminal complaint against Fiola in August 2007. After poring over the laptop, Loehrs reported to the court "with 100-percent certainty that the laptop was compromised by numerous viruses and trojans, and may have been hacked by outside sources."

"There is no evidence to support the claim that Michael Fiola was responsible for any of the pornographic activity," she wrote.

All the porn, she said, was located in the laptop's cache, a computer feature that stores copies of Web pages. Consistently, Loehrs' findings noted, there was "no apparent origin or user interaction preceding the pornographic activity," some of which was downloaded "fast and furious."

Wark said Fiola's case was officially expunged from the court Tuesday.

**CAPTION: TARNISHED REPUTATION:** Michael Fiola, described as 'computer-illiterate' by his wife, Robin, was fired in March 2007 after child pornography was found on his computer. An investigation exonerated him of any wrongdoing, but the Department of Industrial Accidents is standing by the decision.



Photo by Matthew Healey

Michael Fiola, with the forensics report that exonerated him tucked under his arm, poses with his wife Robin Fiola at their home last week.