

**REDACTED**

COUNTY OF NASSAU  
DISTRICT ATTORNEY' S OFFICE  
Inter-Departmental Memo

To: Notification Group - MOB

From: ADA Breazier

Date: January 16, 2012

Subject: Capano Investigation - Interview of [REDACTED]

DOB: [REDACTED]

On January 10, 2012, ADA Mitch Benson conducted an interview with [REDACTED] a pharmacist who was present at the scene of the fatal shooting of ATF Agent John Capano, on Saturday, December 31, 2011. Also present at the interview were NCPD Homicide Squad Detectives Garry, Dipietro, and Sgt. Roden. ADA Bena Varughese and ADA Katie Breazier were also present. The interview was recorded and began at 2:35 p.m.

[REDACTED], (hereinafter "[REDACTED]"), is employed as a pharmacist. [REDACTED] received a bachelor's of science in pharmacy from [REDACTED]. On December 31, 2011, [REDACTED] was employed and working at Charlie's Pharmacy in Seaford. [REDACTED] has been a pharmacist there for almost 10 years. 3 to 4 other pharmacists are employed at Charlie's Pharmacy. [REDACTED] normally works at the pharmacy 5-6 days a week, and always works on Saturdays.

During the afternoon of December 31, 2011, [REDACTED] was working as the only pharmacist in Charlie's Pharmacy with [REDACTED] (hereinafter "[REDACTED]" and [REDACTED] (hereinafter "[REDACTED]"). Between 1:30-2:00 p.m., [REDACTED] recalls he took a meal break. He and [REDACTED] had just ordered food and had began to eat, and at that time, [REDACTED] heard [REDACTED] call out to him from the front of the store. [REDACTED] heard [REDACTED] call his name.

On the Merrick Road side of Charlie's Pharmacy, there is a pharmacy entrance door for customers. There is a customer exit at the rear of the pharmacy. The front customer door opens onto the sidewalk onto north side of Merrick Road, and the back door opens into a parking lot.

The pharmacy counter at Charlie's Pharmacy is located in the back of the store. There is a small office/bathroom behind the pharmacy counter, which is approximately 12 x 15 feet in size. There is an opening to get behind the pharmacy counter for the employees. Sometimes employees invite a customer back behind the counter, but that area behind the pharmacy counter is generally not for the public. There are cash registers located at the pharmacy counter. Behind the pharmacy counter, there is the employee office.

When [REDACTED] was eating lunch, he was eating with [REDACTED]. [REDACTED] was at the register area at the pharmacy counter. When [REDACTED] called [REDACTED] name, [REDACTED] immediately went to see

why [REDACTED] called, and when [REDACTED] left the office, he was presented with McGoey who had a handgun. [REDACTED] knew he was being robbed at that time.

█████ stated that █████ called his name in a voice █████ would not normally use, that it was a stressful voice. When █████ approached the counter, █████ was still in the office behind him. █████ did not know McGoe, who he described as a white male.

When █████ came out to the pharmacy counter, McGoe immediately demanded drugs, (schedule II narcotics), and told █████ to “give me the opiana, give me the oxy.” █████ observed McGoe’s right hand on a gun in the waistband of McGoe’s pants. McGoe’s gun was in his waistband and McGoe never took out the gun from his waistband.

When █████ first saw McGoe, there were no other customers in the pharmacy. █████ went to the drawer where the narcotics were, and said “it’s all right here.” █████ pulled drawers out of a cabinet where the drugs were stored and poured the drugs into a plastic bag that McGoe have given him. Within a few seconds, McGoe said “give me the cash too,” and █████ proceeded to empty out the two cash registers at the pharmacy counter, and put cash in the plastic bag.

As this was happening, when █████ looked over at the public area of the pharmacy, he recognized John Capano, (hereinafter “Capano”), at the counter with his hands up. Capano was not there when the robbery first started. Capano entered the pharmacy from the rear entrance from the parking lot. █████ knew that Capano was an ATF agent. Capano was in plainclothes at that time. █████ had no communication with Capano when Capano entered the pharmacy, and in fact, had no communication with Capano at all that day.

As the robbery was being completed and McGoe was proceeding outside of the private pharmacy area, Capano lowered his hands and █████ went out through the rear employee door in the office. █████ does not remember Capano saying “get down.” █████ went out of store before █████, and █████ was pushing █████ out of the pharmacy. █████ does not know what direction █████ went when they exited.

█████ then proceeded southbound down the alley towards Merrick Road. This alley is between the pharmacy and another store and is about 15-20 feet away from the pharmacy exit. █████ wanted to assist Capano, that is why █████ went towards the front of the pharmacy. █████ had a 9mm semi automatic handgun on his ankle. █████ took the weapon out of the ankle holster when he was midway down the alley. The gun was loaded. █████ intention was to assist Capano.

As █████ was proceeding up the alley towards Merrick Road, █████ did not hear any gunshots. When █████ reached the sidewalk on Merrick Road, █████ observed Capano and McGoe chest to chest in a struggle. Capano was on top and McGoe was on his back on the ground. █████ could not see a weapon. █████ could not see McGoe’s handgun that he had displayed earlier in the pharmacy. █████ had his weapon drawn and pointed at both Capano and McGoe. The only thing that █████ could hear was a voice that he presumed to be McGoe’s, because █████ is familiar with Capano’s voice. █████ heard McGoe say “I’ve got your gun, I’ve got your gun, I’m going to shoot you.”

█████ called out to Capano several times, “John, what do I do?” Capano did not respond and it did not appear Capano even heard what █████ was saying because Capano seemed focused on McGoe. Shortly after, █████ observed █████ (spelling?)

(hereinafter “[REDACTED]”), jump on top of the pile, on top of Capano. [REDACTED] works at the deli a few doors down from the pharmacy, and [REDACTED] had met [REDACTED] before. [REDACTED] was not sure what direction [REDACTED] came from. [REDACTED] has no recollection of anyone coming past him in the alleyway.

█████ chest was on Capano's back, in an attempt to assist with the struggle. █████ displayed a revolver type handgun in his right hand. █████ observed █████ take the revolver, put it to the back of Capano, and fire one round. █████ did not hear █████ say anything. After that shot was fired, █████ knew Capano had been shot, but did not know Capano's status.

█████ immediately told █████ that he had shot the wrong man by stating to █████ "no █████, wrong guy." █████ responded by turning his head and looking at █████, and asking █████ "who is the bad guy?" █████ pointed at McGoeys and said "no, that guy." █████ again looked back and said "which guy?" and █████ continued to point at McGoeys and say "that guy."

The first shot █████ heard that day was the one █████ fired. █████ heard shots shortly after █████ shot, but █████ had already turned away and retreated down the alley about 10 feet. █████ did not see who fired those shots or who was being hit by those shots. █████ then again came back to the sidewalk and observed McGoeys, who he assumed to be dead. █████ then asked █████ to hold his gun, so █████ took █████ revolver and put it in his back left pocket, and observed █████ trying to perform first aid on Capano.

█████ assumed that McGoeys was dead because he was not moving at that point. █████ was conscious of another law enforcement officer being at the scene, but not fully aware at that time. █████ was not aware of other people being in the area.

Interview ended at approximately 3:03 p.m.