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February 24, 2017

## Press Release - For Immediate Release

Defendant's Name: Cheri Toepete  
Age: 44  
City and State of residence: Alcester, SD  
Criminal File Number: 16-389  
Offense Date: August 19, 2016  
Indictment Date: November 2, 2016  
Offenses Charged: Ct.1: Ingestion of a Schedule 1 or 2 Controlled Substance, (F5)  
Arraignment Date: November 18, 2016  
Change of Plea Date: January 23, 2017  
Convicted of: Ct.1: Ingestion of a Schedule 1 or 2 Controlled Substance, (F5)  
Sentencing Date: January 23, 2017  
Officer: Chief Chris Doty – Alcester PD  
Officer Dylan Nelson – Alcester PD  
Officer Brian Ewoldt – Alcester PD  
Defense Attorney: Jeff Myers  
Prosecutor: Alexis A. Tracy & Jerry A. Miller

### Case Synopsis:

On August 19, 2016, law enforcement was called to address a report that Cheri Toepete was involved in the theft of another person's credit card. While investigating TOEPETE, law enforcement suspected that TOEPETE was high on a controlled substance. TOEPETE was asked to provide a urine sample which she agreed to provide. TOEPETE's urine sample that tested positive for amphetamine at 626 ng/ml and methamphetamine at 1,655 ng/ml. The State filed charges against TOEPETE after receiving the test result back from the lab.

After TOEPETE was arrested and while she was awaiting trial. TOEPETE had a clean lab sample. TOEPETE claimed that she was not a methamphetamine user and that she was intimate with a person who she believed to be a methamphetamine user. TOEPETE claimed that she ingested a bodily substance from this person which must have resulted in her urine testing positive for methamphetamine. The State conferred with the SD Health Lab. The State's experts referred to their training and experience and to various studies which would suggest that a person would have to consume multiple gallons of a person(s) bodily substance in order for a person to have a significant positive result in the subject's urine test.

Prior to trial, TOEPETE had another positive result which was conducted as a term of monitoring her sobriety as a term of bond. Once this test showed continued methamphetamine use, TOEPETE was faced with a plea agreement to plea to one count on ingestion of a schedule 1 or 2 controlled substance if the state was to drop the second felony offense.

### Sentencing Synopsis:

On January 23, 2017, the Court addressed the class 5 felony charge of ingestion of a schedule 1 or 2 controlled substance. The Court considered the arguments of the State and the Defense, the Court being satisfied that the ends of justice and the best interests of the public as well as the

Defendant will be served by the Court exercising judicial clemency and issued a Suspended Imposition of Sentence to TOEPETE. The Court further ordered that TOEPETE be placed on supervised probation for a term of two-years. The Court ordered that TOEPETE serve 10 days in the Union County Jail and gave TOEPETE credit for the 10 days that TOEPETE spent incarcerated prior to sentencing. TOEPETE was ordered to pay the following monetary obligations: \$104 in Court Costs; \$10 in prosecution costs; and \$45 in fees to the SD Drug Fund. BRYANT was further ordered to pay \$439.00 in Court-Appointed Attorney Fees.

**Criminal History Synopsis:**

This is TOEPETE's first career felony offense which will be wiped from her record if she is successful throughout her probation.