



INTERNATIONAL ASSOCIATION FOR CHEMICAL TESTING, INC.

Position of the IACT, Inc. on the Source Code of Evidential Breath-Alcohol Analyzers

The IACT, Inc. is in agreement with the position adopted by the National Safety Council's Committee on Alcohol and Other Drugs on February 16, 2009.

The issue involves defendants in driving-under-the-influence-of-alcohol cases who have made discovery demands for the Source Code of the computer software of the evidential breath-alcohol analyzers with which they had been tested. The IACT agrees that the majority of trial and appellate court decisions on Source Code issues to date have denied the defense access to the Source Code, chiefly on the grounds that it is not material or necessary to the challenge of the evidential breath-alcohol analyzer and/or the results yielded by that device, or that the state has no duty to disclose information not in its control, custody, or possession. The litigation has been costly in terms of effort, time, and money and has caused substantial delays in resolving the underlying cases, without useful outcomes. Therefore, the IACT, Inc. has in the best public interest, from a forensic science and technological perspective adopted this position.

A copy of the CAOD position is attached.

May 6, 2009