

## ACCESS TO BREATH TEST INSTRUMENT SOURCE CODE

### Source code not discoverable

- Arizona: State v. Bernini, 218 P.2d 1064 (Ariz. App. 2009)
- Connecticut: State v. Burnell, unpublished opinion (Conn. Superior Court, 1/18/07)
- Florida: Moe v. State, 944 So.2d 1096 (Fla. App. 2006)  
State v. Bastos, 985 So.2d 37 (Fla. App. 2008)
- Georgia: Hills v. State, 663 S.E. 2d 265 (Ga. App. 2008)  
State v. Smiley, (Ga. App. 2009) (make a record!)  
Yeary v. State (Ga. App. 2/10/2010)
- Kentucky: Commonwealth v. House, N.E.2d (August 27, 2009)
- Nebraska: State v. Kuhl, 741 N.W. 2d 701 (Neb. App. 2007),  
affirmed 755 N.W.2d 389 (Neb. 2008)
- New York: People v. Robinson, 860 N.Y.S. 2d 159 (App. Div. 2008)  
Crandall v. Brovetto, 2010 NY App. Div. LEXIS 435 (2010)  
(writ of mandamus)
- North Dakota: City of Fargo v. Levine, 747 N.W. 2d 130 (N.D. 2008)

### Source code discoverable upon sufficient showing of relevance

- Minnesota:  
Underdahl v. Comm'r of Public Safety, N.W. 2d (Minn. 2009)  
Underdahl v. Comm'r of Public Safety, 735 N.W. 2d 706 (Minn. 2007)

In re Minnesota Intoxilyzer 5000EN Source Code Litigation, 2010 Minn. LEXIS (2010)  
(appointment of source code judge)

### Remand for source code review in the context of Alcotest reliability hearing

State v. Chun, 191 N.J. 308 (2007)