

India: Information Technology Act, 2000

Section 65B: Admissibility of Electronic Records

Section 65B of the Indian Evidence Act, 1872 (as amended by the Information Technology Act, 2000), is the cornerstone for the admissibility of electronic records in Indian courts. It provides the legal framework for producing "computer output" as evidence.

Core Requirement: The 65B Certificate

To ensure that electronic records are admissible, a certificate must be provided by a person occupying a responsible official position in relation to the operation of the relevant device. This certificate must confirm the following:

- **Proper Functioning:** The computer or device was operating correctly during the period in which the information was produced.
- **Ordinary Course of Business:** The information was generated or stored in the ordinary course of the activities of the individual or organization.
- **Integrity:** No unauthorized alterations or deletions were made to the data during the period of storage or generation.

Common Pitfall

Data indicates that a significant percentage of digital evidence is excluded in Indian courts due to the absence or improper drafting of 65B certificates. It is critical that the certificate be obtained **at the time of evidence collection**, rather than retrospectively after the analysis has been completed.

Best Practices for Forensic Practitioners

- **Proactive Documentation:** Secure the 65B certificate immediately upon evidence acquisition to ensure compliance.
- **Verification:** Ensure the person signing the certificate has appropriate knowledge and oversight of the specific system from which the data was extracted.
- **Consistency:** Maintain a standardized template for 65B certificates to minimize errors during high-pressure incident response scenarios.

Adherence to Section 65B is mandatory for any forensic investigation involving digital evidence intended for use in Indian legal proceedings. Failure to provide this certificate often results in the summary rejection of the digital evidence, regardless of its forensic value.

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