

Criminal Evidence Workshop
Mini-problem B
Business Records

After we finish trial problem #2 every student must be prepared to introduce a business record using FRE 803(6). The witness will be a custodian of records for Southern Bell Telephone Co. The custodian has been subpoenaed to appear with the telephone toll records for William Smith from January 1, 2015 to July 1, 2015. I will play the witness. Every student will ask the proper questions for introducing these documents into evidence.

Formulating the questions to establish the foundation for introduction of a business record is easy. Just use the words of FRE 803(6) to guide you. If necessary you can look at this section in Weinstein's Evidence or another source.

803(6) Records of regularly conducted activity:

A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record or data compilation, all as shown by the testimony of the custodian or other qualified witness, or by certification that complies with Rule 902(11), Rule 902(12), or a statute permitting certification, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.