In the
Missouri Court of Appeals
Western District

STATE OF MISSOURI,	)	
	)	
Respondent,	)	
	)	**WD87365**
v.	)	**OPINION FILED:**
	)	**MAY 12, 2026**
IVAN D. MOCK,	)	
	)	
Appellant.	)	

Appeal from the Circuit Court of Jackson County, Missouri
The Honorable Bryan Round, Judge

Before Division Four: Anthony Rex Gabbert, Chief Judge, Presiding, Alok Ahuja, Judge, and Thomas N. Chapman, Judge

Ivan Mock appeals his convictions after jury trial in the Jackson County Circuit Court for murder in the second degree and armed criminal action. Mock was sentenced to consecutive sentences of thirty years' and ten years' imprisonment. In his first point on appeal, Mock claims the trial court plainly erred when it permitted the State to question his post arrest silence. In his second point on appeal, Mock claims the trial court abused its discretion when it admitted the record of his jail phone calls. The judgment is affirmed.

Facts

Ivan Mock was charged with one count of the class A felony of felony murder, two counts of the unclassified felony of armed criminal action, and one count of the class A

felony of unlawful use of a weapon. The charges stemmed from events in April 2020. The matter proceeded to jury trial in January 2024, and the following evidence was presented:[1]

On April 12, 2020, D.W. ("Victim"), V.W. ("Victim's Ex-Wife"), J.W. ("Victim's Brother"), and T.C. ("Friend") were driving around Kansas City. Victim's Ex-Wife was driving, Victim was in the front passenger seat, and Victim's Brother and Friend were in the rear seats. Between 2:00 and 3:00 a.m., Victim's Ex-Wife parked the vehicle on the street in front of her residence. While there, Ivan Mock, who had been in an on-again and off-again relationship with Victim's Ex-Wife, opened the driver's side front door and hugged Victim's Ex-Wife. A verbal dispute began between Victim and Mock.

As the verbal dispute escalated, Mock pulled out a gun and fired five shots into the vehicle. Two of the bullets struck the front passenger seat. Three of the bullets struck Victim in the head and neck. Victim's Brother tried to stop Victim's bleeding, and Victim's Ex-Wife drove the vehicle toward the hospital. Friend called 911 on her cell phone and stated that Mock shot Victim. Victim's Ex-Wife saw a police vehicle in a parking lot and pulled into the parking lot for help. When officers approached the vehicle, Victim was deceased.

[1] All statutory references are to RSMo 2016, as supplemented, unless otherwise indicated. All witnesses and others who are not parties are referred to by their initials or by other non-identifying references in accordance with the redaction requirements of § 509.520 and Supreme Court Operating Rule 2.02(c) to not provide the names of any non-party witnesses. "We state the facts and all reasonable inferences derived therefrom in a light most favorable to the verdict, and we reject all contrary evidence and inferences." *State v. Foster*, 591 S.W.3d 518, 520 n.1 (Mo. App. W.D. 2019) (internal quotation marks omitted).

Forensics showed that all five shots originated from the driver's side of the vehicle. Victim's Ex-Wife, Victim's Brother, and Friend all identified Mock as the person who shot Victim. None of the witnesses reported seeing a second individual at the time of the shooting. Cell phone evidence was consistent with Mock being in the area of the shooting at the time of the shooting. Mock was arrested a couple weeks after the shooting, after being located at a hotel in Kansas under a false name.

At trial, Mock testified that he and Victim's Ex-Wife had made plans for him to spend the night at her house the night of the shooting. Mock's brother ("Mock's Brother") drove Mock to Victim's Ex-Wife's house. When they arrived, they saw Victim's Ex-Wife's vehicle there. Mock opened the driver's door, hugged Victim's Ex-Wife, and then got into a verbal dispute with Victim. The dispute escalated. Mock testified that Mock's Brother suddenly pushed Mock out of the way and fired several shots into Victim's Ex-Wife's vehicle. After Mock's Brother fired the shots, the two of them got into Mock's Brother's vehicle and drove to Kansas. Mock denied having a gun the night of the shooting and denied shooting Victim.[2]

Phone calls Mock made from jail were introduced into evidence during his trial. The contents of the phone calls suggested that Mock called several witnesses to intimidate them, encourage them not to testify at trial, and to help him make up an alibi.

[2] Mock's Brother was deceased at the time of trial.

The jury found Mock guilty of one count of felony murder and one count of armed criminal action. The jury found Mock not guilty of the remaining charges. He was sentenced, as a prior offender, to consecutive sentences of thirty years and ten years imprisonment.

This appeal follows.

Point I

In his first point on appeal, Mock claims the trial court plainly erred when it permitted the State to question his post arrest silence. He asserts that the State's improper questions forced Mock to rationalize the exercise of his *Miranda*[3] right to remain silent while in custody. Mock asserts this resulted in manifest injustice and deprived him of his right to a fair trial.

During his direct examination, Mock testified that his brother was the shooter. He stated:

> [DEFENSE COUNSEL]: Who fired the shots?
>
> [DEFENDANT]: My brother fired the shots.
>
> [DEFENSE COUNSEL]: You seem hesitant to answer that question, Mr. Mock?
>
> [DEFENDANT]: Yes.
>
> [DEFENSE COUNSEL]: Why?
>
> [DEFENDANT]: I don't want to tell on my brother. I don't want to be a snitch. I don't want to be known as a snitch.

[3] *Miranda v. Arizona*, 384 U.S. 436 (1966).

Mock's first point on appeal is premised on this line of questioning that occurred when the prosecution cross-examined Mock:

> [PROSECUTING ATTORNEY]: So, since 2021 until today, you've been sitting in jail for a murder that you claim you didn't commit?
>
> [DEFENDANT]: Yes.
>
> [PROSECUTING ATTORNEY]: And it was committed by a person who presumably cares for you, would that be fair? He's your brother.
>
> [DEFENDANT]: Yes. Yes. Yes.
>
> [PROSECUTING ATTORNEY]: And on your behalf, he shot [Victim]?
>
> [DEFENDANT]: What do you mean on my behalf?
>
> [PROSECUTING ATTORNEY]: Well, you're saying today that you initiated this confrontation with [Victim] at the car?
>
> [DEFENDANT]: Yes.
>
> [PROSECUTING ATTORNEY]: And you were trying to convince him to get out of the car. And you were telling him you wanted to fight. And you were telling him, 'get out of the car'. And you were standing there until he would get out of the car. And then, when he wouldn't, your brother, according to your statements, came in and pushed you out of the way to shut him down? Is that what you're saying?
>
> [DEFENDANT]: He pushed me out of the way and he fired in car.
>
> [PROSECUTING ATTORNEY]: *And then for approximately three years at this point, on and off- four years on and off, you've sat in the jail and never told anyone that your brother-*
>
> [DEFENSE COUNSEL]: Judge, can I approach?
>
> [THE COURT]: Come up.

(The following bench conference was held outside the hearing of the jury panel)

[DEFENSE COUNSEL]: Judge, I object. He's under no obligation to tell anyone and this is a comment on his exercising his 5th Amendment right to remain silent. I object to this. This is out of line, I object under the defendant's rights to due process and a fair trial and the 5th Amendment right to remain silent and the right to counsel under the 5th, 6th, and 14th Amendments to the U.S. Constitution and Article 1, Sections 10 and 19A of the Missouri Constitution and I believe it is the 17th of the Missouri Constitution as well.

[PROSECUTING ATTORNEY]: I'm asking him- this goes directly to his credibility that he is saying that he has sat there for four years and never raised this issue for another person's freedom.

[DEFENSE COUNSEL]: Does she want him to say that he told his attorney? What does she want him to say?

[PROSECUTING ATTORNEY]: No.

[DEFENSE COUNSEL]: That gets into the right to counsel-
…
[PROSECUTING ATTORNEY]: No, I'm saying that he is suggesting that he is sitting in that jail cell just silently suffering and I can rephrase the question, but that's what I'm asking.

[THE COURT]: Well isn't the door open now by virtue of him saying that he didn't kill him and his brother did. Isn't that fair game in light of the fact that nobody has known about this until today?

[DEFENSE COUNSEL]: I think the idea of whether anyone knew it before today, that is potentially valid for the State to get into, but in asking it in such an expansive way, what it's doing is it's commenting on his right to counsel and his right to remain silent.

[THE COURT]: Well you can't get into why he didn't tell anybody or conversations he's had with his attorney or to the police.

[PROSECUTING ATTORNEY]: Okay, like I said, I can-

[THE COURT]: If you want to rephrase the question, go ahead.

[PROSECUTING ATTORNEY]: Okay. That's what I'll do then.

(The following proceedings were held in open court, and cross examination of Mr. Mock resumes)

[PROSECUTING ATTORNEY] *So, Mr. Mock, for all of that time, you sat silently suffering, in there for something that you were present for but someone else did? That's your testimony?*

[DEFENDANT]: That's true.

Defense counsel did not object to this rephrased question. Mock concedes this point on appeal is not preserved and requests plain error review.

> [A]n appellate court confronted with a request to grant relief applying plain error review may resolve the claim in one of five ways under the Rule 30.20 framework:
>
> 1. Declining plain error review when an appellant fails to facially establish substantial grounds that the circuit court committed plain error, *i.e.*, evident, obvious, and clear error;
>
> 2. Declining plain error review when an appellant fails to facially establish substantial grounds that the circuit court committed an error affecting substantial rights;
>
> 3. Declining plain error review when an appellant fails to facially establish substantial grounds that any alleged error the circuit court committed resulted in manifest injustice or miscarriage of justice;
>
> 4. Declining to exercise its discretionary authority to review for plain error; or
>
> 5. Determining an appellant facially established substantial grounds that the circuit court committed plain error affecting substantial rights resulting in manifest injustice or miscarriage of justice, warranting exercise of the appellate court's discretion to review and grant relief.

State v. Jones, 725 S.W.3d 577, 585 (Mo. banc 2025). "There is no requirement that an appellate court consider these alternatives in any given order, but an appellate court should not review and cannot grant relief pursuant to Rule 30.20 unless the court finds plain error affecting substantial rights and manifest injustice or miscarriage of justice resulted." *Id*.

"We are generally hesitant to convict a trial court of failure to intervene *sua sponte*, particularly during witness examination." *State v. Cothran*, 715 S.W.3d 603, 622 (Mo. App. E.D. 2025) (internal quotation marks omitted). "Uninvited interference by the trial judge in trial proceedings is generally discouraged, as it risks injecting the judge into the role of a participant and invites trial error." *Id*. (internal quotation marks omitted).

"The State may not use an accused's silence, at the time of arrest and after receiving *Miranda* warnings, for impeachment purposes." *State v. Chambers*, 330 S.W.3d 539, 542 (Mo. App. E.D. 2010) (citing *Doyle v. Ohio,* 426 U.S. 610, 618, 96 S.Ct. 2240, 49 L.Ed.2d 91 (1976)). "However, the United States Supreme Court has held that, in the absence of the sort of affirmative assurances embodied in the *Miranda* warnings, a State does not violate due process of law by cross-examining a defendant as to his [post-arrest] silence when that defendant chooses to take the stand." *Id*. at 542-43 (internal quotation marks omitted). "The Court reasoned that a State is entitled, in such situations, to leave to the judge and jury under its own rules of evidence the resolution of the extent to which [post-arrest] silence may be deemed to impeach a criminal defendant's own testimony." *Id*. at 543 (internal quotation marks omitted).

In *State v. Santillan*, 1 S.W.3d 572, 579 (Mo. App. E.D. 1999), the prosecutor asked the defendant on cross-examination if his direct testimony was "the first time" the defendant had told "this story" in "six years." On appeal, the defendant argued that the trial court plainly erred by allowing the prosecution to comment on the defendant's post-arrest silence. *Id*. The Eastern District noted that "the State may not make use of a criminal defendant's post-arrest silence where that silence is the result of an exercise of defendant's constitutional right." *Id*. (citing *Doyle,* 426 U.S. 610). "Where a State has induced silence by implicitly assuring through the *Miranda* warning that a defendant's silence would not be used against him, it is fundamentally unfair for the state to refer to that silence." *Id*. "However, where a defendant's post-arrest silence is not based upon a *Miranda* warning, or by an express assertion of the Fifth Amendment right to silence, a defendant's due process is not violated where he voluntarily takes the stand and is subject to cross-examination." *Id*. "In these situations, the judge and jury under its own rules of evidence are left to resolve the extent to which post-arrest silence may impeach a criminal defendant's own testimony." *Id*. at 580. "Therefore, the state is only expressly prohibited from the use of silence at the time of arrest and after receiving *Miranda* warnings." *Id*. (internal quotation marks omitted).

In *Santillan*, the court stated that there was "no showing that Defendant's silence was in any way related to receiving his *Miranda* warnings." *Id*. "Instead, the Prosecutor asked broad questions, which were not confined to Defendant's post-arrest silence but addressed Defendant's failure to tell his story during the six years following the murder."

Id. "Moreover, the Prosecutor's questions were not restricted to what Defendant told state officials, but encompassed whether Defendant had told anyone his story of self-defense." *Id*. "In fact, the Prosecutor's questions merely suggested that Defendant's explanation for shooting Victim was a recent fabrication because he failed to previously mention his self-defense explanation to anyone." *Id*.

In *State v. Hill*, 823 S.W.2d 98, 100 (Mo. App. E.D. 1991), the defendant argued on appeal "that the trial court erred in allowing the state to cross-examine him about whether he informed the police subsequent to his arrest that he was with his girlfriend at the time of the robbery." The defendant claimed this "questioning was an impermissible reference to his [post-arrest] silence which violated his constitutional right against self-incrimination and allowed the jury to draw an impermissible inference of an admission of guilt by silence and implication." *Id*. The appellate court found that "[t]he nature of defendant's alibi claim raises a reasonable expectation that he would have related it to police to avoid suspicion that he was the person who committed the robbery in question." *Id*. at 101. "Also, since defendant was on probation at the time of the arrest, there is a reasonable expectation that he would have informed the police of this exculpatory information, if it were true, in order to avoid the risk of a probation revocation." *Id*. The appellate court found that the "trial court did not err in allowing the state to cross-examine [defendant] on the fact he had not advised police of his alibi." *Id*. It further found that "the state's brief reference to this matter in its closing argument did not prejudice defendant." *Id*.

In this case, Mock had not claimed that his brother was the shooter before trial. The question at issue was not probing at Mock exercising his right to remain silent. Instead, the question attacked the believability of Mock's claim that his brother was the shooter. *See, e.g., State v. O'Keefe*, 681 S.W.3d 615, 636 (Mo. App. E.D. 2023) ("The … statement that O'Keefe and Wife had 'over a year to rehearse' his self-defense claim for trial was not necessarily an improper comment on O'Keefe's right to remain silent, but instead could be construed as a permissible argument that O'Keefe's self-defense claim was 'rehearsed' and consequently not credible."); *State v. Chambers*, 330 S.W.3d 539, 544 (Mo. App. E.D. 2010) ("[T]he nature of Defendant's claim that he found [the victim's] money on the sidewalk raises a reasonable expectation that he would have related that information to the police to avoid suspicion that he committed the robbery in question. As a result, Defendant's silence was probative of inconsistencies in his testimony. We therefore find that the use of Defendant's previous silence for impeachment purposes was proper, and the trial court did not err in overruling his objection." (internal citations omitted)).

Cases finding a *Doyle* violation cited by Mock in his brief are distinguishable because they involve the defendant's silence while being questioned by police. *See, e.g., State v. Hough*, 675 S.W.3d 214, 217 (Mo. App. S.D. 2023) ("The State proposes in its brief that Defendant waived his right to remain silent by answering certain interrogation questions and, therefore, the prosecutor was free to comment on instances when Defendant was 'selectively' silent. We disagree."); *State v. Zindel*, 918 S.W.2d 239, 243

(Mo. banc 1996) ("They get downtown and advise him of his rights again.... Then he says what, I don't think I'm going to talk anymore unless I have an attorney and have an attorney before I talk to you any more."); *State v. Brooks*, 304 S.W.3d 130, 133 (Mo. banc 2010) ("Brooks was questioned, but repeatedly avoided answering.").

In order to constitute plain error, an error must be "'facially evident, obvious, and clear'"; "[b]y their very definition," such errors "are plainly erroneous, inherently self-evident, discernible, and undeniable." *Jones*, 725 S.W.3d at 583 (citation omitted). Given the caselaw discussed above, we cannot say that the circuit court's failure to find a *Doyle* violation, on its own motion, constituted such a flagrant mistake. Even if it did, the violation was not a plain error resulting in manifest injustice. "Once a *Doyle* violation has been found, this Court has discretion to review the violation or violations in the context of the entire record." *State v. Mason*, 420 S.W.3d 632, 640 (Mo. App. S.D. 2013) (internal quotation marks omitted). "The proper standard of review, when the error is preserved, is the harmless-beyond-a-reasonable-doubt standard." *Id*. (internal quotation marks omitted). "Harmless beyond a reasonable doubt means that no reasonable doubt exists that the admitted evidence failed to contribute to the jury's verdict." *Id*. (internal quotation marks omitted).

"In the context of an alleged *Doyle* violation, the factors used in an analysis of a preserved error violation pursuant to the harmless-beyond-a-reasonable[-]doubt standard are the same as those used to determine whether a non-preserved violation is plain error resulting in manifest injustice." *State v. Billings*, 522 S.W.3d 276, 282–83 (Mo. App.

S.D. 2016) (internal quotation marks omitted). "The Court must consider: (1) whether the state made repeated *Doyle* violations, (2) whether the trial court made any curative effort, (3) whether the defendant's exculpatory evidence is transparently frivolous, and (4) whether the other evidence of the defendant's guilt is overwhelming." *Id*. at 283.

Mock argues on appeal that the State made three references to Mock's silence: (1) the first question that defense counsel objected to; (2) the second question that is the issue of this appeal; and (3) a remark during closing argument. During closing argument, the prosecutor stated:

> What happened is, he sat here through the trial and the evidence and he came up with the only story he could think of to try and wriggle out of this. And that was to pin this on a person who is not here to defend himself or corroborate his story. That's mighty convenient. Use your reason and common sense.

Mock also argues that the testimony from the three eyewitnesses identifying Mock as the shooter is not overwhelming evidence of his guilt because the eyewitnesses were intoxicated and it was dark and rainy when the shooting occurred. He also emphasizes that there was not a confession in this case and that he took the stand and provided an alternate suspect. Mock claims the alleged *Doyle* violation had a decisive effect on the jury.

We disagree. The references were brief; they comprise just a few lines in a trial transcript that is over five hundred pages long and occurred in a trial that was multiple days long. The closing argument statement did not mention Mock's silence at all. Mock did not request a curative effort from the court. Moreover, the evidence of Mock's guilt

was overwhelming. Mock has failed to establish substantial grounds that any alleged error the trial court committed resulted in manifest injustice or miscarriage of justice.

The point is denied.

Point II

In his second point on appeal, Mock claims the trial court abused its discretion when it admitted the record of his jail phone calls pursuant to the business records exception to hearsay. He states that the exhibit, affidavit, and corresponding testimony was from an unqualified witness and this lacked foundation and contained hearsay. Mock asserts the records were kept and maintained by a private company and not the jail or witness. Accordingly, he argues the records were inadmissible and prejudicial to Mock's defense.

"This court reviews the admission of evidence at trial for abuse of discretion." *State v. Nytes*, 711 S.W.3d 898, 906 (Mo. App. E.D. 2025). "The trial court has broad discretion to exclude or admit evidence at trial." *Id*. (internal quotation marks omitted). "A trial court will be found to have abused its discretion when a ruling is clearly against the logic of the circumstances then before the court and is so arbitrary and unreasonable as to shock the sense of justice and indicate a lack of careful consideration." *Id*. (internal quotation marks omitted). "When an evidentiary principle or rule is violated, a circuit court commits error." *Id*. (internal quotation marks omitted). "Such error requires reversal upon a showing of prejudice, or in other words, if such error deprives the accused of a fair trial." *Id*. (internal quotation marks omitted). "Prejudice occurs when

the error so influenced the jury that, when considered with and balanced against all of the evidence properly admitted, there is a reasonable probability that the jury would have reached a different conclusion without the error." *Id*. (internal quotation marks omitted).

"Proper admission of evidence requires that a document meet a number of foundational requirements including: relevancy, authentication, the best evidence rule, and hearsay." *Id*. (internal quotation marks omitted). "Hearsay is an out-of-court statement offered to prove the truth of the matter asserted and depends on the statement's veracity for its value." *Id*. (internal quotation marks omitted). "Hearsay statements are inadmissible unless the statements fall under a recognized exception to the rule against hearsay." *Id*. (internal quotation marks omitted). "Missouri law provides an exception to the rule against hearsay for the admission of business records that would otherwise be inadmissible hearsay if the custodian or other qualified witness testifies to its identity and the mode of its preparation." *Id*. at 906-07. "Trial courts have broad discretion to determine whether parties complied with the Business Records Act and whether records are admissible under it." *Le v. Le*, 638 S.W.3d 583, 595 (Mo. App. E.D. 2021).

C.W. ("Captain"), a Captain at the Jackson County Detention Center, testified at trial. Captain was in the Office of Information Management. He was in charge of maintaining and providing records, among other things. Captain oversaw the system by which inmates could communicate with individuals outside of the jail.

From April 2020 through July 2023, there was a system in place for inmates to make telephone calls from the jail. Under that system, inmates are assigned a personal

identification number ("PIN") that they have to enter prior to placing a call. Calls are recorded and can be tracked by the inmate's PIN. If inmates do not want their calls to be tracked, they have a common practice of using another inmate's PIN.

Captain oversees the jail call system at the Jackson County Detention Center. He pulled records of all phone calls made to a specific telephone number. The State sought to admit the records of all phone calls made to that number. It attached a business records affidavit to the records. Captain was the affiant on the business records affidavit.[4] Captain testified that he was the custodian of records or qualified person who maintains the records and that the records were a fair and accurate copy of all the records of phone calls made to that particular phone number.

Defense counsel objected, arguing that the records were secured, maintained, and managed by a private company ("Company"), not the jail, making the witness unqualified. Defense counsel also objected that the business record affidavit was missing statutorily required language that the records were kept by the jail in the regular course of business. The trial court stated, "it appears that [Company] is only the system and that

[4] In their briefs, the parties state that the jail calls were Exhibit 105 and that Exhibit 105 was admitted pursuant to Captain's business records affidavit, which was Exhibit 104. This does not appear to be consistent with the legal record available to this court. Call logs were admitted via two different exhibits. First, the court admitted State's Exhibit 105, which had a business record affidavit sworn to by Captain. Later, during the testimony of a different witness, the court admitted State's Exhibit 104, which had a business record affidavit sworn to by J.R. Defense counsel objected to both exhibits, and those objections were overruled. The appellant's brief is clear that Mock is arguing that Exhibit 105 was erroneously admitted into evidence because Captain's testimony and affidavit did not satisfy the requirements of § 490.680. This is the focus of our analysis in this point on appeal.

the records that are kept by the jail, so that would make [Captain] a proper Custodian and again, I'm going to find that this affidavit substantially complies with the requirements of the statute."

The parties conducted a voir dire examination of Captain. Captain testified that Company is the vendor for the telephone system. Captain has access to Company's database and can pull records. Captain does not maintain Company's database. The database is run, administered, and maintained by Company. The jail's management software interacts with Company to send PINs and create the records.

The trial court admitted the records into evidence. Captain testified about numerous calls made to the specified phone number. Calls to that number came from Mock's PIN and from the PINs of other inmates. Mock's phone privileges were suspended for a period of time, rendering him unable to call the specified number under his PIN. Captain listened to the phone calls and testified that the voice on the calls was the same regardless of the PIN the call was made under.

On cross-examination, Captain testified that he has been trained on how to interact with Company's system on the server end; he does not have training on how the system stores data. Captain can download the records but does not personally keep the information. He does not have personal knowledge of how the information is collected. Captain does not create the records. The records are owned by the Jackson County Detention Center.

On re-direct examination, Captain testified that the records are all automated. Company set up the system for the Jackson County Detention Center and then the Jackson County Detention Center utilizes the system to track and keep a record of the calls made by inmates. Captain has access to all of the records. Defense counsel renewed his objection to the business records. The trial court denied the objection, stating, "I think it's even more clear that he is the proper custodian, that they're the Jackson County Department of Corrections records."

Section 490.680 states:

> A record of an act, condition or event, shall, insofar as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the sources of information, method and time of preparation were such as to justify its admission.

"[P]ersonal knowledge as to the mode of preparation of the documents is not necessarily required for their admission." *C & W Asset Acq., LLC v. Somogyi*, 136 S.W.3d 134, 139 (Mo. App. S.D. 2004). "To be a 'qualified witness' who can lay the foundation for a business record pursuant to § 490.680, [the witness] must have sufficient knowledge of the business operation and methods of keeping records of the business to give the records probity." *CACH, LLC v. Askew*, 358 S.W.3d 58, 64 (Mo. banc 2012). "A qualified witness need only be someone with knowledge of the procedure governing the creation and maintenance of the type of records sought to be admitted." *State v. King*, 705 S.W.3d 650, 659 (Mo. App. E.D. 2024).

Captain testified at length about his role with respect to the phone records. He stated that he was the custodian of records or qualified person who maintains the records and that the records were a fair and accurate copy of all the records of phone calls made to that particular phone number. Captain has access to Company's database and can pull records. Captain testified that he has been trained on how to interact with Company's system on the server end. Captain can download the records. The records are all automated. Company set up the system for the Jackson County Detention Center and then the Jackson County Detention Center utilizes the system to track and keep a record of the calls made by inmates. Captain has access to all of the records.

Captain testified to the records' identity and mode of preparation. The records were made in the regular course of business. Captain's testimony met the requirements of § 490.680. *Contrast Nytes*, 711 S.W.3d at 907 (testifying police officer was not records custodian from county jail and could not lay a proper foundation for the admission of call logs because there was "no evidence that the police officer worked at the Warren County jail or that he knew how these call logs were originated, prepared, or stored" and because "[t]he police officer could not testify that the call logs were 'made in the regular course of business, at or near the time of the event that it records.'"); *CACH, LLC*, 358 S.W.3d at 64 (witness was not a "qualified witness" where the witness lacked sufficient knowledge of when or how the exhibit was prepared).

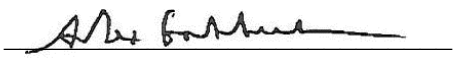
"[T]he bottom line regarding the admissibility of the business records is the discretionary determination by the trial court of their trustworthiness." *C & W Asset*

Acq., LLC, 136 S.W.3d at 138 (internal quotation marks omitted). After Captain's extensive testimony, the trial court denied defense's objection, stating, "I think it's even more clear that he is the proper custodian, that they're the Jackson County Department of Corrections records." This was not an abuse of discretion.

The point is denied.

Conclusion

The judgment is affirmed.



Anthony Rex Gabbert, Chief Judge

All concur.