

# Using Court Records to Reveal Your Family History

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Many family historians rarely use court records. These records require learning about the judicial structure of different states (sometimes counties) and are the most likely to require page-by-page scanning of record books. However, most male ancestors appear in court records of various sorts during their lives. "Court Day" was quite the social event in many counties until after World War II.

## Information in Court Records

- Jury Lists
- Road Orders
- Probate Records (next time)
- Depositions revealing relationships
- Naturalizations
- Adoptions
- Apprenticeships
- Dates of residence
- Insight into personalities
- Vital records
- Occupations
- Delinquent taxes
- Crimes
- Appointment to public office
- Debts
- Licenses
- Divorce

Three types of cases: violations of law that harm individuals, violations of law that can harm society, and disputes between individuals (equity/chancery). Other courts may serve administrative functions as well.

## Court Jurisdictions

- Colonial Courts
- Territorial Courts
- U. S. Courts
- State-level Courts
- County-level Courts
- Lower-level Courts

Most information relevant to genealogy involve equity cases in court records at the county level or below. There still may be information worth searching at the state level, but federal courts mostly deal with cases of law.

## Information About U. S. Courts

A good place to get basic information and history of federal and courts is the FamilySearch Wiki for United States Court Records. You can also find state court information in the Wiki under the individual states. You will get pointers about what is available and where to find information:

[https://www.familysearch.org/wiki/en/Category:United States Court Records](https://www.familysearch.org/wiki/en/Category:United_States_Court_Records)

## **Two Examples: Primary Court Records for Missouri and Virginia**

### **Missouri**

[https://www.familysearch.org/wiki/en/Missouri\\_Court\\_Records](https://www.familysearch.org/wiki/en/Missouri_Court_Records)

Missouri's 1820 first constitution set up only a Supreme Court, Chancery Court, and Circuit Courts. Lower courts were to be established as needed by the General Assembly.

County Courts were always primarily executive bodies of the counties, and not judicial except for very local matters and sometimes probate. They became designated "County Commissions" in 1983 (Missouri Section 49.010). You will find road orders, licenses, delinquent tax lists, settlement of minor disputes, and similar information in the minutes.

Circuit – civil and criminal actions, both trial and appellate; 2 from 1815-20; 4 from 1820-1831; increased to 44 today.

Common Pleas Courts dealt mainly with probate and civil matters. Missouri phased these out by 1980, with the last two in Cape Girardeau and Hannibal.

Chancery (1820-1822)

Probate [next session]

Justice of the Peace (until 1945) – records are sporadically available for some counties; check Missouri State Archives or FamilySearch

Original records are in county courthouses, annex, or county archive. Contact local officials for specifics.

To find whether county, circuit, or other court records have been microfilmed, see County Records on Microfilm (<https://www.sos.mo.gov/archives/resources/county/croll>).

Two other searchable sites with county and state-level information are provided by the Missouri State Archives: Missouri Judicial Records database (<https://s1.sos.mo.gov/records/archives/archivesdb/JudicialRecords/>) and the Missouri Supreme Court Case Records (a number with digital case files): <https://s1.sos.mo.gov/Records/Archives/ArchivesDb/supremecourt/>

### **Virginia**

Virginia courts have a complex history! (See: [https://www.familysearch.org/wiki/en/Virginia\\_Court\\_Records](https://www.familysearch.org/wiki/en/Virginia_Court_Records) )

A few major types of courts at various times:

County courts. These courts were originally monthly courts (1618-34) and later courts of the shire or county courts. These courts handled minor civil and criminal cases and

equity, probate, and orphan matters. Circuit Courts assumed the county courts' duties in 1902.

District (1788-1808) – non-capital crimes, major civil cases, equity cases.

Circuit (1851-date) – successor of superior courts of law and chancery.

High courts of Chancery (<http://www.virginiamemory.com/collections/chancery/>) – courts of equity, tried cases in which a plaintiff alleged unfair treatment, as opposed to cases involving law.

Order books can be especially useful for Virginia research, but if there are no indices, will have to be visually scanned page-by-page.

### **Steps of a typical civil case**

All of these documents are in a complete case file, and indexed court minutes:

- Plaintiff's Declaration
- Writ of Summons
- Attachment Bond
- Defendant's Judgment Bond
- Notice of Deposition
- Deposition of Witness(es)
- Appeal Bond

### **What types of records are generated by different types of cases?**

- Indexes (Plaintiff, Defendant, less commonly Every Name)
- Dockets
- Minutes
- Orders
- Judgments
- Case Files

### **Where are the Records?**

- Online (FamilySearch, Local Societies, Archives, Other Resource Pages)
- Published Transcriptions (Libraries)
- Minutes books
  - Indices
  - Page-by-page Search
  - Importance of keeping good transcriptions, copies, or downloads
- Case Files
  - Film
  - Online
  - Courthouse
  - Archive
- Was there an appeal?
  - Repeat for higher court

### **Notes on Naturalizations**

Prior to September 27, 1906, any court of record (municipal to federal) could grant citizenship. Usually an immigrant traveled to the closest court to be naturalized, so check locally first. Most pre-1906 naturalizations are at the county level. Records for

naturalizations in federal courts are in the National Archives branch serving the state where the person was naturalized (<https://www.archives.gov/research/immigration/naturalization>).

### **Recommended Research Strategy for Court Records**

1. Study history of the court system in the state (and sometimes county) of interest to determine which courts are most likely to involve your ancestors (local more likely than state and federal)
2. Examine transcribed or abstracted records for the time and place of interest, if they exist (library)
3. Many cases required publication of legal notices in local newspapers. Check to see if those are digitized or accessible to search
4. If not, start with index books (earlier ones are by plaintiff only, many after 1840 also have defendant indices). Some are in FamilySearch or elsewhere online, others require working with a local researcher or in a county courthouse or archive
5. If your ancestor appears, search for an index to court records (or verify published versions against the original) to find a case file number
6. Access the case file (some are on FamilySearch or digitized elsewhere, others are microfilmed, and many are only available as originals)
7. Examine docket book entries using the dates for beginning and closing from the case file to determine if there are other entries/documents you need to check
8. If you cannot find a case file reference, search the bound volumes of documents. Depending on the state, these may be minute books, order books,
9. If there is no index, you will have to search page-by-page for the case in the minute, order, settlement, or other book
10. Be alert for evidence of appeal to a higher court or settlement by arbitration

### **Courthouse Research: A Reminder**

- Call in advance
- Determine what records are available and where
- Contact a local researcher or society for pointers
- Determine if copies/photos be made
- Ask about hours and restrictions
- Ask about parking and security restrictions
- Remember the staff is not there to help you with research
- Prepare to get dirty and work in less than ideal settings

### **Examples**

Insight into history of a family (Gearhart)  
 Scan of Virginia Order Books (Dever, Byrd, Townsend families)  
 Relationships (John Dever family)  
 Insight into intra-familial relationships (John Dunn heirs case)

### **Further Reading**

Black, Henry Campbell. *Black's Law Dictionary 4<sup>th</sup> Edition*, Eagan, Minnesota: West Publishing Co., 1951 (1968 reprint). [Suggest looking for a used copy.]

Eakle, Arlene H. "Court Records," chapter 7, in Loretto Dennis Szucs and Sandra Luebking, eds., *The Source*, 3d ed. (Provo, Utah : Ancestry, 2006).

Eichholz, Alice (editor). *Red Book: American State, County, and Town Sources*. 3<sup>rd</sup> Edition, Provo, Utah: Ancestry, 2004.

Elliott, Wendy Bebout, *Genealogy at a Glance: Court Records Research*. Baltimore, Maryland: Genealogical Publishing Company, 2014.

Greenwood, Val. "Court Records and Family History," Chapter 22, *The Researcher's Guide to American Genealogy*, 4<sup>th</sup> edition, p. 547-574. Baltimore, Maryland: Genealogical Publishing Company, 2017.

National Genealogical Society. "Research in the States Series," (<https://www.ngsgenealogy.org/ris/>: accessed November 12, 2020), National Genealogical Society, 2020.

Rapaport, Diane. *New England Court Records*. Dexter, Michigan: Quill Pen Press, 2006.

Virginia Genealogical Society. *The Virginia Court System: A Genealogist's Guide to Early Court Records*. (Richmond: Virginia Genealogical Society), 2007.

### **Web Sites**

Family Search. Research Wiki, Category: United States Court Records, ([https://www.familysearch.org/wiki/en/Category:United States Court Records](https://www.familysearch.org/wiki/en/Category:United_States_Court_Records): accessed July 18, 2021), 2020.

The President and Fellows of Harvard University, Harvard Law School, Case Law Access Project (<https://case.law/search/#/>: accessed July 18, 2021), 2020. [Very focused searches can locate some information, but full access requires login information]

Philibert-Ortega, Gena. GenealogyBank Blog, "Genealogy 101: Researching Court Records," (<https://blog.genealogybank.com/genealogy-101-researching-court-records.html>: accessed July 18, 2021); GenealogyBank.com, 2020

### **Videos**

Russell, Judy. "Using Court Records to Tell the Story of Our Ancestors' Lives," Legacy Family Tree Webinars, 30 October 2013; [https://familytreewebinars.com/download.php?webinar\\_id=163](https://familytreewebinars.com/download.php?webinar_id=163)