

LUNACY, LITIGATION & LOVE GONE BAD – OH MY, WHAT YOU WON'T FIND IN THE COURTHOUSE



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In this talk, I am going to concentrate on the records typically created and maintained in the county level courthouses. And, remember, the names I will use for various courts and official offices may differ in the state you are interested in. My experience is in Ohio, and I will generally use the terms that I am most familiar with. When I talk about the “Probate Court,” for example, in Pennsylvania it is the “Orphan’s Court;” in Georgia it is the “Ordinary Court;” in New Jersey, it is the “Chancery Division;” and in California it is the “Superior Court.”

What is a Courthouse?

When I talk about the “courthouse,” it is not simply a building. It is more a concept: the place where county records are created, maintained and stored. It may be “*the*” county courthouse. It may be a county office building; it may be a justice center, it may be a city hall or any combination of these. Whatever it is called, it is the place where you will find the records that will help you with your genealogy.

County Courthouse Records

A county is generally responsible for creating, recording, and maintaining:

1. Probate Records.
2. Civil court records.
3. Criminal court records.
4. Divorce court records.
5. Juvenile court records.
6. Real estate records.
7. Coroners’ Inquest records.
8. Soldiers’ and Sailor’s military discharge records.
9. Other miscellaneous records.

RECORDS YOU MIGHT FIND:

Vital Records (Birth, Death, and Marriage).

The maintenance of these records has been mandated by law, in every state. But, the dates that these records began being kept, varies from state to state and even from county to county sometimes. These records are generally maintained by either the Probate Court, a Bureau of Vital Statistics, or by a County Health Department.

The first vital records typically maintained were marriage records. In earlier times, a couple could only have a Christian marriage by a reading the Banns. The Banns records were kept by the church. As state governments began to form in the U.S., a couple could apply for and receive a license to marry, typically granted by the Probate Judge. For a time, a dual system was in place, so not all marriages were memorialized by a marriage license. When the government realized they were missing out on potential revenue, all marriages required an official license to be a legal marriage. Consequently, these records were maintained in most counties from an early date.

Birth and death registrations, began in New England, where the records were kept by the town clerk. In the west, these records were maintained, generally starting sometime in the 1800's. In Ohio, the county level maintenance of birth and death records was not required until 1908, although most counties started in 1867, and a few counties started in the 1840's. There are also Delayed or Corrected Birth Certificates, which might also be in a courthouse; and maybe in the courthouse of the county they were living in, not the county of actual birth.

Probate Court Records.

Regardless of what name the "Probate Court" carries in your particular county, probate proceedings occur in every county in the United States, and if you ask which court handles probate matters, you will be directed to the correct court.

Probate proceedings commonly consist of the handling of the estates of decedents, whether there was a will or not; guardianships, where the court appoints another person to handle the affairs of a minor child who has typically inherited property, or an elderly person who is no longer competent to handle their own affairs; and other specialized matters which may include (a) the commitment of lunatics or insane persons, (b) adoptions, (c) name changes, and a few other more esoteric matters.

Estates. The case file of each probate estate case contains the original papers filed in the court during pendency of the matter; such as the original Will, when it is proved, the inventory of all of the deceased person's property, and an accounting of the disbursement of the proceeds of deceased person's estate when the proceedings are completed.

There are two types of probate estates - testate and intestate. Testate means there is a valid Will executed by the decedent, and intestate means that there was no will and that the estate descends according to the state's law of "descent and

distribution.” In a testate estate, where there is a will, typically an Executor or Executrix has been named, and the court will appoint that person to marshal the assets, pay the bills and then distribute the net proceeds according to the Will. In an intestate estate, the court appoints an Administrator or Administratrix to carry out the same responsibilities except the estate will be distributed according to the law, not a will. A probate case can generate a lot of records including, but not limited to, the will and possibly a codicil, the estate’s inventory, a listing of all the heirs and next of kin of the decedent, one or more accounts, etc, which can have a significant amount of genealogical value.

Guardianships. There are often guardianship proceedings when a decedent with distributions to minor children not be made until they reach age 21; but in the case of intestacy, that situation will require that a guardian be appointed by the court to manage the property and money of the child until the age of majority. These cases some property or money leaves behind minor children. Many old wills provide that can have significant genealogical value since, typically, the new spouse of the widow, the child’s mother was the one to be named guardian.

Guardianships of adults can also be of genealogical interest. The applications and the proceedings will allege and prove the basis for the appointment – usually the mental or physical incompetence of the subject.

Both types of guardianship case files will have the same general types of papers: an application, a finding by the court and the appointment of the guardian, an inventory of the ward’s assets, and periodic accountings to the court by the guardian.

Insanity or lunacy proceedings might include an admission record at an insane asylum, and an application containing the names of all next of kin. Read court orders either in the case file or in the court’s Journal Entry or Order Books for clues to other records.

Adoption. Adoptions typically are administered by the Probate Courts. And while these records are kept in the courthouse, in most states, these records are sealed after the adoption is completed. These records are rarely available to the everyday genealogist. An adopted person, the birth parents, and the adoptive parents, however, may obtain the original birth certificate and other identifying information only by following the procedures set out by the state where the adoption occurred. Non-identifying information may often be obtained directly from the adoption agency involved.. For more information go to the website: dnaadoption.com

Civil Court Records

Civil cases consist of the litigation or lawsuits between two or more individuals. These cases may involve contracts, personal injuries, property disputes, and a variety of other semi-interesting matters.

Journal Entries, Judgment Entries and Orders are made when a court issues an order and they are recorded in special books. These documents are normally in

chronological order by the court term and date. They can contain the monetary judgments, orders requiring people to do or not do certain acts; orders transferring property in lieu of a deed; processing of probate cases; entering of soldier pension information; notations of county level appointments and commissions; etc.

Bond books record an assortment of bonds (a financial agreement between a person and the court that something will or will not happen). In the case of a marriage bond, usually the groom and another person provide a bond that the marriage can legally take place and will take place.

Jury registers record the names of those who were summoned for jury duty.

Court Transcripts. Transcripts are the written words that the witnesses in a trial actually said in court. Transcripts can contain a plethora of genealogical information, such as when the lawsuit involves a family matter or a family property.

Criminal Court Records. Criminal cases arise when the state charges an individual with the commission of a crime; a violation of a criminal statute.

Divorce Court Records. These cases will typically include not only divorce and legal separation orders, but also child custody and support orders, and property division agreements.

Juvenile Court Records. These will include juvenile delinquency and truancy, and bastardy and illegitimacy. Many of these records will be sealed, by law. Every state is different.

Divorce Records. Divorces can provide case files full of genealogical and family information. Typically the details of the marriage, and the birth of all children of the marriage are included, and the details of the reasons for the divorce can provide insight into your ancestor.

Real Estate Records.

These will include deeds, mortgages, easements, leases, oil and mineral interests, and various liens that affect real estate: mechanics' liens. Tax liens; security agreements on crops, etc.

A deed, or an indenture, is a written instrument of a sale or conveyance. Typically, it is used to convey land, but it can apply to any property, real or personal. Deed books can contain Patents; surveys; plat books; powers of attorney; foreclosure deeds; sales of slaves; mortgages (sometimes called deeds of trust), of land, crops, and livestock; apprenticeship and indentured servant's records; etc. The indexes are usually called Grantor and Grantee Indexes or they can also be called Direct and Indirect indexes. In some counties there are even tract indexes where you can see at a glance the entire history of one particular tract of land.

Lien Record Books. In most states, all liens or encumbrances that might affect the title to land must be recorded in the same office as the deeds are recorded.

Other Miscellaneous Records

Tax Records are created by laws governing the taxation of real estate, collection of taxes on goods for sales taxes, personal property taxes, poll taxes, levies, etc. Tax records are usually maintained by the office that levies the taxes, generally the Assessor's Office, or Auditor's Office. And the payment records for these taxes are generally maintained by the office that collects the taxes, usually the Treasurer's Office.

Coroner Reports are issued when an inquest is held to investigate the circumstances surrounding a death. They might include the cause of death, autopsy findings, testimony about the circumstances existing at the time of death and the findings of the coroner's jury. Using a jury to determine the cause of death was far more common 100 years ago than it is now.

Soldiers' and Sailor's military discharge papers. The most important paper related to a Soldier or Sailor's military service is his discharge paper. It is necessary for him to produce it in order to show his entitlement to any pension or other benefit provided by the government to veterans. As a result, most states provide for the recording of these discharge papers so there is a permanent record of service. These are generally filed in either the County Clerk's or County Recorder's Office. There are many other **Miscellaneous Records** you might find, depending on the time period and place where you are researching:

Estray Books recorded records of animals that went astray and ended up in someone else's pasture.

Brand Books record the owners of brands, and possibly the image, used to brand animals.

Bounty Records. When an area is infested with animals that are dangerous to humans or livestock, the County will provide a monetary bounty for the killing of these animals. The records of the payment of these can be found in many county **Licenses (Dog, Boat, Bicycle, Stud (horse)) Records.** These recorded the owner's name, a description of the item licensed and the amount of the license or the tax.

Peddler's, Theatrical Exhibitions, Taverns, and Retailers licenses recorded the licensing of these businesses.

Professional Licenses and Registers provide information on or licenses for physicians, nurses, lawyers and other professionals .
to vote.

Voter Registration Records were used to enumerate those persons eligible

Naturalization Records provide for the naturalization of those persons of foreign birth. Before 27 Sep 1906, naturalizations could be completed in any court of record. After that date, by law, naturalizations were regulated by the Immigration and Naturalization Service (now known as the United States Citizenship and Immigration Services). While most Naturalizations occurred in the Federal District Courts, it was not uncommon for an immigrant to file his Declaration of Intent in his local county court.

Other records you might locate in a courthouse are:

1. Militia Rolls
2. Election Results
3. Oaths of Allegiance
4. Pension Records
5. County Correspondence
6. Oaths of County Officials
7. Fictitious Name Recordings
8. County Land Maps and Plats
9. Probation and Parole Records
10. County Commission Records

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