

# Law and Order: Using Court Records in Your Family History Research

## *Class 2: Civil and Criminal Court Records*

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### **State and Local Courts**

- Within each state, local county and district courts and a state supreme court exist.
- The jurisdiction over a set geographical boundary is determined for each court. This boundary may have changed historically based on the county location or splits that may have occurred.
- The historic names of the various courts and their roles have changed over time in each state.
- **Trial Court** – disputes among litigants are resolved. Each party will present their own evidence, which will be evaluated by a judge and/or jury to reach a decision and resolution.
- **Appellate Court** – when a party decides to seek a review of their case by a different court after a trial court's ruling. The appeals made to this court do not involve a new trial, and typically do not introduce new evidence.

### **U.S. Federal Courts**

- United States Federal District Courts were setup in each existing state starting in 1789. Depending on the state some established more than one district.
- Currently there are nearly 90 districts in the United States. These courts originally dealt with civil and equity cases until 1866. Later Federal District courts would also handle trade, bankruptcy, admiralty, naturalization, and land seizure cases.

### *Example: Brief History of Massachusetts Courts*

#### **Superior Court**

The origin of the Superior Court in Massachusetts began in 1636 with the Quarterly County Court system which remained until 1692. In 1692 split up into Quarter Courts of General Sessions (which existed until 1827), and the Inferior Courts of Common Pleas until 1859. In 1859 the Superior Court was established, as well as an Appellate Division in 1943 which exists to this day.

#### **Quarterly County Courts**

- This was an inferior court to handle criminal misdemeanors and civil matters dealing with small sums.
- Some have been published such as the Quarterly Courts of Essex County. These courts also recorded vital records such as births and marriages.



### **Court of Assistants (1630-1692)**

- This court dealt with matters that were tried with a jury present at the time.
- The Court of Assistants also heard appeals from lower county courts.

### **Court of Common Pleas (1685-1870s)**

- In 1821 this court became a mid-level court for criminal and civil cases.
- CCP Misc. records often include Depositions, Revolutionary War Pensions and Proprietor Records
- After 1821 smaller police courts, justices of the peace held trials, and municipal courts were created for small matters. This lasted until the 1870s when replaced by District Courts.

### **Superior Court of Judicature (1692-1789)**

- Highest Trial and Appeals Court
- Capital Criminal Trials (Salem Witchcraft Trials)
- Matters regarding Equity
- Larger Civil Cases
- After the Revolutionary War this became the Supreme Judicial Court of Massachusetts.
- Superior Court handled both civil and criminal cases; juvenile; law and equity; divorces; jury lists; prison records; murder indictments; and bastardy bonds.

### **Supreme Judicial Court (1780 -)**

- Court records on file at the Massachusetts State Archives.
- These records and those of the earlier courts are under the jurisdiction of the SJC Archivist.
- Decisions of the SJC since 1804 are published in a series called *Massachusetts Reports*.

### **Civil Court Cases**

Civil Court cases are heard relating to matters that occur harm to a person's individual rights. Some of these examples include slander, damage to someone's personal property or trespassing on the land of an individual.

- **Torts:** Court cases that handle negligence, slander, libel, and nuisance.
- **Family:** Court cases dealing with adoption, custody, name changes, paternity, guardianships, conservatorships, and divorce.
- **Property:** matters dealing with disputes over ownership of land and tenant / landlord disputes.
- **Commercial:** disputes with contracts, goods and services, or debt collection.
- **Equity:** cases which are heard when there is a dispute or argument between two individuals which does not involve violations of the law. Equity cases generally are limited to probate, land, and settlement of estates.

Examples of Published Civil Cases:

- Land
- Work Related
- Debt Repayment
- Jury Lists
- Indentures & Guardianships
- Sales of Enslaved Individuals
- Theft and Search Warrants

## Criminal Court Cases

Criminal Courts deal with more serious matters but on occasion you will find criminal cases in civil court records. This varies depending on the colony or state and when the records were kept.

- Federal courts will try criminal cases involving violations of the U.S. Constitution or federal statutory law.
- State courts will try both criminal and civil cases involving a state's constitution, laws, and statutes.
- Criminal Court Charges
  - **Felonies:** Most serious of all crimes (ex. Burglary, arson, rape, or murder). The punishment is generally more than a year in prison or death.
  - **Misdemeanors:** Less serious crimes which are often issued a fine or a short term of prison.
  - **Admiralty:** These are cases in which smuggling, piracy, whaling, and salvage at sea are brought to criminal court. Federal Courts replaced the state cases of Admiralty since 1789.

**TIP: Jail records often refer to when and where sentencing occurred**

## Basics for Searching the Records

**TIP: Occasionally criminal cases can be found in Civil Court records**

- U.S. District Court Jurisdictions:  
[https://www.familysearch.org/en/wiki/United\\_States\\_District\\_Court\\_Jurisdictions](https://www.familysearch.org/en/wiki/United_States_District_Court_Jurisdictions)
- Court Records from American Ancestors
  - Middlesex County, MA: Abstracts of Court Records, 1643-1674.  
(<https://www.americanancestors.org/search/databasesearch/432/middlesex-county-ma-abstracts-of-court-records-1643-1674>)
  - Plymouth County, MA: Plymouth Court Records, 1686-1859.  
(<https://www.americanancestors.org/search/databasesearch/213/plymouth-county-ma-plymouth-court-records-1686-1859>)

- Using FamilySearch.org to locate court records. <https://www.familysearch.org/search/catalog>
- Federal Court Finder: <https://www.uscourts.gov/federal-court-finder/search>
- Salem Witch Trials (1692-1693)
  - Salem Witch Trials: Documentary Archive and Transcription Project (<https://saalem.lib.virginia.edu/home.html>)
  - Massachusetts State Archives – Vol. 135 - Witchcraft Volume (<https://www.familysearch.org/ark:/61903/3:1:3Q9M-C9YP-P9M6-G?mode=g&cat=1055547>)

## Criminal Records

- Sentenced Criminals - overview of jail records.
  - Ancestry: U.S., 1880 Federal Census Schedules of Defective, Dependent, and Delinquent Classes (<https://www.ancestry.com/search/collections/1634/>)
  - Washington, U.S., U.S. Penitentiary McNeil Island, Photos and Records of Prisoners Received, 1887-1939 (<https://www.ancestry.com/search/collections/1253/>)
  - California, U.S., Alcatraz Federal Penitentiary, Prisoner Index, 1934-1963 (<https://www.ancestry.com/search/collections/34666/>)

**TIP: Not all persons listed as “inmate” in the census are imprisoned.**

- Ancestry: U.S., F.B.I. Deceased Criminal Identification Files, 1971-1994 (<https://www.ancestry.com/search/collections/60578/>)
- Fold3: F.B.I. Case Files 1908-1922 (<https://www.fold3.com/publication/74/us-fbi-case-files-1908-1922>)

## Published Resources

Arons, Ron Arons, *Wanted! U.S. Criminal Records: Sources & Research Methodology*. (Oakland, CA: Criminal Research Press, 2009).

Drake, Samuel Gardner, *Annals of Witchcraft in New England and Elsewhere in the United States* (Boston, MA: New England Historic Genealogical Society, 2013). Available for purchase from AmericanAncestors.org at <https://shop.americanancestors.org/products/annals-of-witchcraft-in-new-england>.

Hinton, Derek, *The Criminal Records Manual: The Complete National Reference for the Legal Access and Use of Criminal Records*. (Tempe, AZ: Facts on Demand Press, 2004).

Menand, Catherine S., *A research guide to the Massachusetts courts and their records*. (Boston: Supreme Judicial Court Archives and Records Preservation, 1987). (<https://archive.org/details/researchguidetom00mena>)

Rapaport, Diane, *New England Court Records. A Research Guide for Genealogists and Historians*. (Burlington, MA: Quill Pen Press, 2006).

Rose, Christine, *Courthouse Research for Family Historians: Your Guide to Genealogical Treasures* (San Jose, Calif.: CR Publications, 2019).

Simons, D. Brenton, *Witches, Rakes, and Rogues: True Stories of Scam, Scandal, Murder, and Mayhem in Boston, 1630-1775*. (Beverly, MA: Commonwealth Editions, 2006). Available for purchase from AmericanAncestors.org at <https://shop.americanancestors.org/products/witches-rakes-and-rogues-true-stories-of-scam-scandal-murder-and-mayhem-in-boston-1630-1775-hardcover>