

USING COUNTY AND LOCAL GOVERNMENT RECORDS

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Local government records vary widely from state to state. In states like New York, for example, some records kept elsewhere by county are city records. (We have books on doing research in Chicago and New York.) For local records of each state is Alice Eichholz, ed., Ancestry's Red Book. For addresses of county offices see Elizabeth Petty Bentley, County Courthouse Book. This book does not include addresses of county archives where county records not needed for the day to day county business are kept. Alabama has several county archives including for Blount, Cullman, Lawrence, and Madison counties. For definitions of legal terms found in county records see Black's Law Dictionary and Mellinkoff's Dictionary of American Legal Usage on our ready reference shelf.

Most state archives have microfilm of at least their most important early county records. Researchers frequently find working with county records microfilm at state archives to be easier than visiting individual courthouses. (Even when visiting a county, the researcher should check the county's public library for microfilm/published abstracts of county records before visiting the court house. On microfiche we have the Locality Catalog, a list of the records microfilmed by the Genealogical Society of Utah that can be borrowed through LDS branch libraries. We have on microfilm a list of county records microfilm at the Virginia State Library and Archives that we can borrow for you. Also see John Vogt and T. William Kethley, Jr., Will and Estate Records in the Virginia State Library: A Researcher's Guide.)

We have books of abstracts of county records for several states, although many counties have or none of their county records in print. On microfilm we have early county records for Blount, Cullman, and Marshall counties in Alabama; Carroll and Meriwether counties in Georgia; and several middle Tennessee counties.

Property Transference Records

Property deeds, mortgages, powers of attorney, deeds of gift, etc. are kept in different county offices depending upon the state. In Alabama such records are kept in the Probate Court while in Georgia they are part of the Superior Court. Such records are never complete as some instruments were never brought to the courthouse for recording. Some deeds and other instruments were not recorded until many years after they were written. Indexes to deed books are notoriously incomplete and sometimes deliberately excluded from the indexes were powers of attorney, mortgages, etc. Most counties have at least a grantor or seller or direct index and a grantee or buyer or reverse index to their deed books. Alabama counties also have tract books showing the initial grantees of Federal lands. We have these on microfilm and some as printed books.

Tax Records

County tax records can supplement deed records as well as serve as "people finders." Sometimes published tax lists are misleadingly titled as census records. We have at Wallace several books of statewide compilations of county tax lists including: Netti Schreiner-Yantis and Florence Speakman Love, The 1787 Census of Virginia (includes Kentucky and West Virginia); Bicentennial Edition 1790 Census for Virginia (actually various tax lists for 1782-1785); Augusta B. Fothergill and John Mark Naugle, Virginia Tax Payers 1782-87 Other Than Those Published by the United States Census Bureau; Clarence E. Ratcliff, North Carolina Taxpayers (two volumes, various counties 1679-1790); Pollyanna Creekmore, Early East Tennessee Taxpayers (we have many Tennessee tax lists on microfilm); Ruth Blair, Some Early Tax Digests of Georgia; R. J. Taylor, Jr. Foundation, An Index to Georgia Tax Digests (five volumes, various counties, 1789-1817); Frank Parker Hudson, A 1790 Census for Wilkes County, Georgia (includes forty percent of Georgia's population); Ronald Verne Jackson, Alabama 1810 Census Index; idem., Alabama 1811-1819 Decennary Census Index; idem., Alabama 1820-1829 Decennary Census Index; idem., Alabama 1831-1839 Decennary Census Index; idem., Mississippi 1810 Census Index; idem., Arkansas Tax Lists 1819-1829; and idem., Arkansas Tax Lists 1830-1839. We have several Texas "census" books that may be tax lists and others from throughout the country, some to the 1600s, on microfiche and on computer cd-rom.

Estate or Probate Records

Estate records generally include *administration* of estates of persons dying without wills (intestate); *execution* of wills (persons dying testate); and guardianship of *property* of persons legally not responsible for their affairs, such as minors and legal incompetents. See Carole Shammas, Inheritance in America.

Not everyone leaves estate records and most people who do, did not leave wills. Some people had no property to leave, sometimes having given away all that they had before death by a deed of gift. Sometimes heirs amicably divided property and saw no reason for formally probating an estate at the courthouse. Estates were sometimes probated in counties where the deceased never lived, for the convenience of the administrators or executors.

Today almost all estate matters are dealt with in the county probate court. However, many states gave this court different names at different times. Alabama's Probate Court originally was called the Orphan's Court, even though it handled all types of estates. Georgia's Probate Court has been called the Ordinary Court and the Inferior Court for Ordinary Purposes.

The least used but often the most important estate records in a county's probate court are the minute books. Some estates have no other records than what are recorded in the minutes and sometimes minute books include brief personal information not copied into other records. Other records such as **letters** (petitions) for probate, **sales** of estate property, property **bonds** for performance in probating estates, and annual **returns** (reports) on estates are kept in separate volumes or jumbled together in miscellaneous books with such records as wills. Some states, such as North and South Carolina, have large collections of loose original estate records in their respective state archives, including documents never copied in books of record. *When researching in estate records, always check to see if there is a general index to all of the county's estate records.*

Most of the time, when the deceased left a will, no inventory was recorded. Conversely, usually when the deceased left no will but an inventory was filed, the administrator did not bother recording the exact disbursement of the estate to the heirs. Several special features of estates should be noted. When the deceased left no viable will, the deceased died intestate and has a male administrator or female administratrix. The chief creditor of the deceased may insist on being an administrator or administratrix. When a person leaves a will, that person dies testate and is a testator. The person who carries out a will is called an executor if male or an executrix if female. The words *du bonis non* means that the court appointed the administrator or executor. A guardian is appointed for the **property** of a person not legally responsible for their own affairs such as a person (a "child") under the age of legal responsibility (usually under age twenty-one). For example, a probate court can appoint a father as guardian of his children's property inherited from a grand parent. Prior to 1868, married women in the United States had no rights to property and when a widow with children remarried, typically a probate court would appoint a guardian to watch over property left to her children from their deceased father. See Marylynn Salmon, Women and the Law of Property in Early America.

Many early southern states and colonies divided real estate under the laws of primogeniture, which gave all real estate of the deceased not specifically granted by a will to the eldest son, or the brother of the deceased if no eldest son existed, with the widow allowed to control a share during her lifetime. Consequently, a man had no particular reason to mention his wife or his eldest son in his will nor was there any reason to list his heirs if he died without a will. See Shammas, Inheritance in America, 32-3. With the end of primogeniture, usually in the mid-1780s, many Americans became heirs to equal shares of estates where before they would receive nothing. Consequently, many persons in migration states like Georgia sent agents back to states like Virginia in the 1790s-1800s to claim such estates. Hundreds of genealogically valuable powers of attorney from such people have been found in deed books of counties where the agents left and counties where they went, although too often such instruments are not indexed when recorded in deed books.

We have several state-wide indexes to wills and estate records. Because county records can vary widely, even from county to county, no such book can be considered complete. Also, many counties have lost their records in courthouse fires. Our collection of estate indexes includes: Clayton Torrence, Virginia Wills and Administrations 1632-1800 (the Virginia State Library and Archives has card catalog supplements to this index); Betty Couch Wiltshire, Mississippi Index of Wills, 1800-1900; Thornton W. Mitchell, North Carolina Wills: A Testator Index, 1665-1900; Byron and Barbara Sistler, Index to Tennessee Wills & Administrations 1779-1861; Mary B. Warren, South Carolina Wills: 1670-1850 (we have typescripts of many of most of these wills on microfilm and several books of marriages implied from South Carolina estates that serve to cross-reference to estate records); R. J. Taylor, Jr. Foundation, Index to Probate Records of Colonial Georgia 1733-1778 (kept on our new books shelf); Ted O. Brooke, In the Name of God Amen: Georgia Wills 1733-1860; and a list of Alabama wills.

Marriage Records

Civil marriages records (not parish registers, newspaper reports, or Bible records) are usually kept in the Probate Court. A marriage **bond** is a record of security that if the marriage takes

place that the marriage official will not be held legally liable. A bond contains the name of the potential groom, the potential bride, and the name of the person posting security for the bond, frequently a relative of the bride such as her father. A **license** is a record of the marriage that includes the name of the marriage official and usually the date that the marriage occurred. Most counties have indexes to marriage licenses although are often only to the grooms and frequently are incomplete.

Marriage records are usually recorded in the county where the bride resides. Each state began recording civil marriages at different times. Georgia began civil registrations in 1805 while South Carolina did not begin until 1911. (However, we have several books of lists of South Carolina marriages implied in estate records.) Many marriage records have not survived due to courthouse fires; couples refusing civil registrations on religious grounds; and officials neglecting to return or record marriage records. See S. N. D. North Marriage Laws in the United States, 1887-1906. Mary B. Warren, Georgia Marriages 1811 Through 1820 and our published lists of Tennessee marriages are very good while our collection of marriages on computer cd-rom disks for Alabama, Arkansas, Georgia, Kentucky, Louisiana, Illinois, Indiana, Maryland, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Texas, and Virginia are very incomplete.

Court, Divorce, and Naturalization Records

Court records are the last great frontier for genealogical research. Too often the records do not survive, especially for minor courts, or the records are inaccessible, such as old court case files, or are inadequately indexed for genealogical research. Personal information of genealogical value found nowhere else is in court records although many people lived long lives without appearing in any court record, even as a juror. Each county has a court, sometimes officially called the superior or circuit court, although also confusingly called the state court.

Divorce, as a matter of record, begins in the county court as a civil law suit. As with all county records, different states began allowing divorces in different years. Georgia granted its first divorce in 1797 while South Carolina did not allow divorce until the 1920s. Alabama and Tennessee had divorce from their beginnings. Until the late 1830s, most southern states that granted divorces also required that any divorce be approved by the state legislature. Georgia's divorces approved before the legislature are published in Robert S. Davis, Jr., Georgia Black Book II. We have the Tennessee divorces in print and the Alabama divorces approved by the legislature in our vertical files.

Murder, as a matter of record, begins as a criminal case brought before the county court as an indictment by a grand jury. The indictment will usually be recorded in the minutes, with the name of the murder victim and the date of death. However, in any criminal case, the plaintiff is listed and indexed as "The State" and not by the name of the victim. Details and testimony of court cases were almost never recorded before the 1880s and then only in the loose court case files or in special evidence books.

Until paperwork requirements became very strict in 1906, the genealogically valuable naturalizations of foreign born citizens frequently occurred in almost any court of record,

including city and county courts. After 1906, few courts except the Federal courts were willing to handle the red tape involved in naturalizations. See our handout on naturalization.

When county court records show a person sentenced to prison or committed to a state insane asylum, the state records should be sought at the state's archives. For Georgia records as an example see Robert S. Davis, Jr., The Georgia Black Book II, pp. 1-8.

Not all courts are county courts. Most states had state supreme courts for purposes of appeals by the 1840s. The cases of those courts have been abstracted and published. Records of state supreme and appeals courts should be sought in state archives.

Prior to 1865, Federal courts largely dealt with civil suits over debts, where the creditor lived in a different state; smuggling; and some naturalizations. Starting after the Civil War, Federal courts also had to deal with cases of unlicensed tobacco and alcohol, as well as civil rights violations. Such records can contain personal information although the chances of a person appearing in Federal court are even less than for the county and state court. Federal and Confederate court records are kept at their respective regional branches of the National Archives. The records for Kentucky and the southeastern United States are in the National Archives Southeast Branch, 1557 St. Joseph Avenue, East Point, Georgia 30344, phone: (404) 763-7477. We have on microfilm early Federal court records for Georgia and Tennessee.

Birth and Death Records

Civil registrations of vital records (not church or parish registers) vary widely from state to state on when they were first kept and none are complete, even today. Birth and death records were being kept in New England in the 1600s. Alabama was keeping vital records on the county level starting in the 1880s and at a state board of vital records in 1909. Georgia officially began keeping these records in 1919 although many Georgia counties ignored the law as late as the 1920s. See our microfiche copy of Guide to Public Vital Statistics Records in Georgia.

Typically a birth or death certificate will give you the names of the parents (including the mother's maiden name) and the data on the birth of the individual. Death certificates can lead you to such records as social security applications (starting 1938) and funeral notices in newspapers. See our handouts on death certificates and social security records.

Birth certificates are usually heavily restricted but death certificates are generally open to the public. Vital records are recorded on the local level with copies usually sent to a state office of vital records. Usually local courthouses require you to write to their state office (in Alabama the birth and death records, 1880s-1908 can only be found in the county probate court, however). Some cities have vital records in their local health departments that were kept before state registrations of vital records. For addresses of state vital records offices see Thomas Jay Kemp, International Vital Records Handbook. We have on microfilm indexes to Alabama deaths, 1908-1959, marriages, 1936-1969, divorces, 1950-1959; Georgia deaths, 1919-1993, marriages 1964-1994, and divorces 1965-1994; Kentucky births, deaths, and marriages, 1852-1932; Mississippi deaths, 1912-1943, marriages, 1809-1926; Tennessee births, 1908-1912, and deaths, 1908-1940; and Texas births and deaths, 1903-1976.

The Family and Regional History Program at Wallace State is headquartered on the fifth floor of the college library. The college is located near Cullman, Alabama, and is on Highway 31, a few miles east of Interstate-65 (take the Hanceville-Highway 91 Exit), only one hour from Birmingham, Gadsden, and Huntsville. Our extensive and growing collection of research materials includes books, periodicals, microfilm, microfiche, cd-rom disks, computer programs, family folders, and much more. The hours are 8 to 8, Monday through Thursday; and 8 to 4PM on Friday. The collection is completely open to the general public. The Program also offers college credit courses in genealogy and research field trips to other libraries across the South. Persons over age sixty pay no tuition.