

Kentucky Court records are filled with invaluable history about our state's past, its inhabitants, and its event. This guide will illustrate the various courts that have existed throughout that history and the methods of access for the records they have created documenting this history.

Kentucky Court Records Research Guide

County, Circuit, and Higher
Courts of Kentucky

Created by Jessica Herrington (KDLA) / 2023

Contents

| | |
|--|-----------|
| County Court Records | 2 |
| County Court Background Information: | 2 |
| Bibliography / Further Reading: | 3 |
| Accessing County Court Records: | 4 |
| Where to Start/ What you need to know: | 5 |
| Circuit Court 1803-present | 6 |
| Researching Civil Court Cases | 6 |
| Civil Case Background Information: | 6 |
| Bibliography / Further Reading:..... | 8 |
| Accessing Civil Case Records:..... | 9 |
| Civil Courts Summary:..... | 10 |
| Researching Criminal Court Cases | 12 |
| Criminal Case Background Information: | 12 |
| Bibliography / Further Reading:..... | 14 |
| Accessing Criminal Case Records: | 15 |
| Criminal Courts Summary: | 16 |
| Higher Courts in Kentucky | 18 |
| Court of Appeals 1795-1976 & 1977-present: | 18 |
| Court of Appeals Background Information: | 18 |
| Accessing Court of Appeals Records: | 19 |
| Other State Courts..... | 19 |
| Court of Oyer and Terminer 1790s | 19 |
| Old District Courts 1795-1802..... | 19 |
| General Courts 1795-1851 | 20 |
| Superior Court 1880s | 20 |
| Supreme Court 1977-present | 20 |
| Federal Courts | 22 |
| Federal Courts Background Information: | 22 |
| Bibliography / Further Reading: | 22 |
| Accessing Federal Court Records..... | 23 |

County Court Records

County Court Background Information:

Before 1776, there was no formal court system in the Kentucky territory. In 1776, Virginia granted Kentucky county status, which allowed the establishment of two local courts, the County Court and the Court of Quarter Sessions. The County Court was primarily responsible for administrative and financial matters, probate and estate settlements, and the Court of Quarter Sessions handled more serious civil or criminal cases. Because of the emphasis on limited government, most of all government work was done at the county level.

In 1780, Kentucky County was divided into Jefferson, Fayette, and Lincoln counties, under the Kentucky District, each with their own local courts. Several more counties were created before 1792, and each county established their own set of local courts.

After becoming a state in 1792, Kentucky kept most of the same court structure as Virginia, but with final authority now residing with Kentucky. Going forward, the entire judicial system would go through many widespread changes, but changes to the county court were typically more focused on the offices than the duties they were assigned. In the early years, new counties were created because settlers found it hard to reach the county seat to conduct business in a timely manner, typically within one day travel from home. But new counties also meant new county seats and new government positions, which could mean benefits to a town and surrounding landowners. By the 1830s, politicians and entrepreneurs had begun to influence county formations, looking for more economic or political power.

The county court handled most administrative and financial matters. This included jurisdiction over probate court, orphans and apprentices, bastardy cases, administering poor laws, establishing ferries and roads, ferry rates and road maintenance, set county levy, collecting both county and state taxes, pay county bills, and settle minor civil or criminal issues.

Until 1850, county court was made up of several justices of the peace, who held the local political power and handled government business. Each county had about 15 justices, appointed by the governor. However, empty positions were usually filled based on the recommendations of the county court justices, allowing them to control the transfer of power. Most other government positions were appointed by the county justices, and selling offices was common. It wasn't required to have a representative for every part of the county, and because the county court could be controlled by the opposite political party than most of the county, there was often friction between government decisions and popular opinions. Also, since a majority of justices had to be present for all major business, it could sometimes take months to gather enough justices for a quorum. Proceedings were usually very informal, as most justices lacked any legal training and refused to spend much time learning, and mistakes were common.

In 1850, Kentucky's third constitution made several changes to how county court and government was organized. Almost all county positions were made elective, decided by popular vote. Each county was divided into districts, each with a justice of the peace, and the county judge position was created to oversee the entire county. The county judge took over most responsibilities from the justices, probating wills, hearing petty civil and criminal cases, and supervising the judicial business of county court. Justices

kept a more limited position, usually on the court of claims, setting local taxes, paying any county bills, and supervising construction and maintenance of roads and public buildings. However, even elected officials were not guaranteed to be more competent than appointed.

The 1890 Constitution placed restrictions on the formation of additional counties and limited the amount of debt a county could hold. Many critics also believed that Kentucky had too many counties, establishing over 100 counties by the 1850s. Smaller counties had a smaller tax base, leading to problems with inadequate tax assessment and collection, and poor fiscal management. While there was strong resistance to any attempts to reduce the number of counties and the number of counties continued to rise to the current 120, the rate did slow as counties settled into the boundaries in existence today.

Some other optional changes for counties included abolishing the assessor position (later replaced by the property valuation administrator), merging the commonwealth and county attorney positions, merging jailor and sheriff positions, and adopting a commission form of government. However, there was no official head of all county government, only influential political leaders, and most officers continued to perform inconsistently.

In the 1960s, there was an attempt to replace the 1890 Constitution, as complaints about the judicial system were common. Issues included: 1) the Court of Appeals was several years behind the trial courts, 2) the circuit courts lacked uniformity, 3) the county judge position was over politicized with both administrative and judicial duties, and 4) the lower courts were decentralized and unsupervised.

While the constitutional reform failed in the 1960s, there was continued pressure to create a more efficient and unified system of courts. After several studies, and a massive campaign, a Constitutional Amendment was passed in 1975. The first action in 1976 would establish a new Supreme Court, a new intermediate Court of Appeals, and revise the existing Circuit Courts.

The next step began in 1978, with the creation of new District Courts under the Circuit Court, with district judges, trained in law, to handle smaller cases. The District Courts replaced the overlapping jurisdictions of the lower courts: the Justices Courts, Police Courts, and Quarterly Courts. All judicial duties were removed from the Justices and the County Judge, and the position was renamed County Judge/Executive to reflect its administrative and fiscal duties instead. The County Clerk is responsible for all legal, fiscal, and county records, while the Circuit Clerk took responsibility for any old court records and current District and Circuit court records.

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- Ireland, Robert M. *The County in Kentucky History* (Lexington: University Press of Kentucky, 1976). History of county government before 1976.
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Development of Kentucky's judicial system up to 1850, focusing on understanding and using the court records generated during that time.
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- *Duties and Functions on Kentucky County Government*. (Louisville: Historical Records Survey, 1938).
Duties and structure of all offices and courts in the state of Kentucky in 1938, based on the 1891 Constitution and any relevant statutes of the time.
- Metzmeier, Kurt X. *Kentucky Legal Research Manual* (Lexington: UK/CLE, 2005).
History and operations of the Kentucky legal system, including resources and references for further research.
- Metzmeier, Kurt X. *United at Last: The Judicial Article and the Struggle to Reform Kentucky's Courts*. (Frankfort: Kentucky Court of Justice, 2006).
Historical perspective on the constitutional amendment of 1976 reforming Kentucky's court system, including more recent changes up to early 2000s.
- Lockwood, Evelyn M. *Index to Kentucky Legal History*. (Frankfort: Administrative Office of the Courts, 1983).
Index on Kentucky legal history before 1900, including legal events, places, court cases, and persons, providing bibliographic information for further research. Does not index periodicals.

Accessing County Court Records:

County Court records are typically available for most counties since their founding, barring a fire or disaster. Records created prior to a county's creation would still be retained by the parent county.

County records are typically focused on administration or fiscal duties, particularly the ownership of property, the taxation of property, and determining how county money is spent. Listed below are several notable record types that are often of interest to researchers.

- County Court Order Books: records all actions of the court
- Election records: poll books, voter registration books (only up to 1935)
- Marriage records: registers, bonds, licenses, etc.

- Bastardy records: declaration from a woman who delivered a baby out of wedlock, naming the father, to get financial support from him
- Lunatic Inquests: judicial examination to determine mental condition of a person; also called idiot or feeble-minded
- Probate records: wills, inventories, appraisements, sale bills, estate settlements, guardianship, etc. Most counties did not create a “probate case” and researchers will need to piece the information together from multiple records or books.
- Coroner’s Inquests: investigates deaths under questionable or suspicious circumstances
- Deeds or land records
- Surveyor’s or ProceSSIONER’S books: establish boundary lines in disputed land cases
- Commissioner’s Deeds: deeds issued after a court ordered sale of a foreclosed property; might be Circuit Court records in some counties
- Apprenticeship records: a child bound to serve a master until age 18
- Chattel Mortgage records: pledge personal property as security for debt, which could include slaves (only up to 1866, when Emancipation Proclamation took effect)
- Militia records: lists of members of militia for the county
- Miscellaneous Books: document miscellaneous items in which there are no specific books created; does not include deeds or mortgages

County records are typically available on microfilm, but originals could be stored at either KDLA or the County Clerk’s office. Records are often indexed individually, though some counties created indexes that cover multiple years and books. Indexes are the best way to begin a search, but they may not always be available. Records are arranged chronologically. If the date of a record is known, it is possible to browse by date to attempt to locate a record. Check with Research Room staff to determine the records available in each county at KDLA.

While the County Court would sometimes hear lesser civil disputes before 1977, KDLA does not have any case files from these disputes. The only records are likely to be in the County Court Order Books of the time.

Where to Start/ What you need to know:

County government in Kentucky was complex and often inefficient throughout the state's history, and as a result, the records can be difficult to navigate. Before beginning research, it is important to try to determine the location, time period, and type of record, as there are often multiple types of books where information could be recorded.

Some records are not indexed or may not exist. In this case, locating county court order books can provide a summary of any administrative actions or decisions of the court. Typically, these include indexes and can be searched by name to find any court orders given out by the judge.

Circuit Court 1803-present

Researching Civil Court Cases

Civil Case Background Information:

Before 1776, there was no formal court system in the Kentucky territory. In 1776, Virginia granted Kentucky county status, which allowed the establishment of two local county courts, the County Court and the Court of Quarter Sessions. The County Court was primarily responsible for administrative and financial matters, probate and estate settlements, and the Court of Quarter Sessions handled civil disputes.

In 1780, Kentucky County was divided into Jefferson, Fayette, and Lincoln counties, under the Kentucky District, each with their own local courts. Several more counties were created before 1792, and each county established their own set of local courts. Virginia also established a Supreme Court for the District of Kentucky with jurisdiction over all civil cases, particularly those involving land titles. However, the only way to appeal a judge's decision was to travel in person to Virginia and present the case to the Virginia Court of Appeals, making it difficult and expensive for most people. This was one of the primary arguments made for Kentucky statehood.

After becoming a state in 1792, Kentucky kept most of the same court structure as Virginia, but with final authority now residing with Kentucky. The legislature established a statewide criminal court, the Court of Oyer and Terminer, and a supreme court over all cases, the Court of Appeals. In each county, minor civil matters could be settled by a Justice of the Peace in Justice's Court, while larger civil matters were handled in the Court of Quarter Sessions. Appeals from Justice's Courts were handled by either the County Court or the Court of Quarter Sessions. The Court of Appeals handled all land title cases, as well as all appeals from the Court of Quarter Sessions, or the old Supreme Court for the District of Kentucky.

The court structure created in 1792 was short-lived. In 1795, the judicial system was reorganized, shifting original jurisdiction from the Court of Appeals to the new District Courts. The District Courts handled most major civil and criminal cases, as well as all land disputes within their district. This was soon followed by the creation of the District General Court, which handled cases against public officers or judges, new or difficult questions of law, or matters involving non-residents. The General Court could also try land dispute cases, if both parties agreed.

Kentucky's second constitution was adopted in 1799, and the years following were full of social, political, and economic upheaval, as well as more changes for the state's judicial structure. The lower County Court and Justice's Courts remained essentially unchanged, but the District Courts were replaced in 1802 by a new system of Circuit Courts and a new General Court, phasing out the Court of Quarter Sessions. The Circuit Courts held the same jurisdiction as the former District Courts and Court of Quarter Sessions. Each Circuit Court covered multiple counties, replacing the Court of Quarter Session in the primary county. The General Court held the same jurisdiction as the old General Court, as well as land dispute cases from the District Courts. In 1804, the General Assembly dissolved the multi-county Circuit Courts, creating separate Circuit Courts in every county and abolishing the remaining Courts of Quarter Sessions.

The political upheaval of the time would have the greatest impact on the Court of Appeals. A national depression in 1819 led to increased debts and foreclosures. Kentucky legislators passed debt relief laws, but these were challenged by creditors in the Court of Appeals and determined to be unconstitutional. The outraged legislature abolished the old Court of Appeals, establishing a new Court of Appeals with new judges. However, the old Court of Appeals refused to give up its power, leading to confusion and arguments being made in both courts by different parties. The Old Court-New Court struggle held for two years, until a new legislature in 1826 abolished the "new" Court of Appeals and declared its decisions null and void.

In 1850, Kentucky adopted its third constitution, resulting in further changes to judicial organization. Each county was divided into justices' districts, and Justices' Courts handled the smallest civil cases. The Quarterly Court was re-established as a court below the Circuit Court. Similar to the old Court of Quarter Sessions, it shared jurisdiction with the Justices' Court and Circuit Court over lesser civil cases. The Circuit Court handled major civil matters. Appeals from the Justices' Court were handled by the County Court or the Circuit Court. However, the Court of Appeals had a rapidly growing backlog of cases. The Superior Court was established in 1882 as an intermediate court between the Circuit Court and the Court of Appeals to help lessen the workload.

The fourth constitution was adopted in 1890, altering the court system again, and though it would be the final constitution of the state, it would not be the final change to impact the courts. The Superior Court was abolished, and the Court of Appeals was established again as the only appellate court. To reduce the workload, the Court was allowed to organize into two divisions, as well as restricting the jurisdiction to larger cases and only those in certain categories.

Other changes were put into effect in order to make the judicial system more uniform and equal in every county. Prior to 1890, individual counties had pushed for special legislative laws or exceptions, creating jurisdictions (and even courts) that varied by county. As an example, before 1890, Police or City Courts had existed in some larger cities already. The 1890 Constitution determined the same jurisdiction for all such courts based on city size, and some in larger cities had similar jurisdictions over small civil matters as a Justices' Court. In general though, not every county established, or continued, the various types of possible courts going forward.

In the 1960s, there was an attempt to replace the 1890 Constitution, as complaints about the judicial system were common. Issues included: 1) the Court of Appeals was several years behind the trial courts, 2) the circuit courts lacked uniformity, 3) the county judge position was over politicized with both administrative and judicial duties, and 4) the lower courts were decentralized and unsupervised.

While the constitutional reform failed in the 1960s, there was continued pressure to create a more efficient and unified system of courts. After several studies, and a massive campaign, a Constitutional Amendment was passed in 1975. The first action in 1976 would establish a new Supreme Court, a new intermediate Court of Appeals, and revise the existing Circuit Courts. The Supreme Court became the highest court of appeal, the Court of Appeals could handle more appeals by doubling the number of judges, and the Circuit Courts would handle all major civil matters.

The next step began in 1978, with the creation of new District Courts under the Circuit Court to handle lesser civil matters. The new District Courts replaced the overlapping jurisdictions of the lower courts: the Justices Courts, Police Courts, and Quarterly Courts. The Administrative Office of the Courts was

established to handle the fiscal and administrative side of the court system, including personnel, budgeting, education, facility management, and pretrial releases. The Circuit Court Clerk was designated the official record keeper of the court and was responsible for the court records previously held by county clerks and city clerks. With the large volume of records, many Circuit Clerks took the opportunity to transfer many of the older records to KDLA. Currently, (2023) the Circuit Clerk is responsible for managing the records of Circuit and District court for their county.

Bibliography / Further Reading:

- *Historical Development of Kentucky's Courts* (Frankfort: Legislative Research Commission, 1958). Report on the history of Kentucky's court system up to 1958.
- Richardson, William C. *An Administrative History of Kentucky Courts to 1850*. (Frankfort: Kentucky Department for Libraries and Archives, 1983). Development of Kentucky's judicial system up to 1850, focusing on understanding and using the court records generated during that time.
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Index on Kentucky legal history before 1900, including legal events, places, court cases, and persons, providing bibliographic information for further research. Does not index periodicals.

Accessing Civil Case Records:

Civil cases are legal disputes between two or more people or organizations. Civil court records include divorces, land disputes, contested estate settlements, and mental inquests, among others. Records of civil cases include Circuit Court Order Books and Case Files.

- Case Files: Case files are loose papers produced in the course of a trial and may include depositions and exhibits that provide valuable information about a person or location that can help establish relationships between individuals.
 - Equity/Chancery: remedial justice for cases where the rights or claims of one individual conflict with another and there is no adequate remedy at law; determination of equitable rights: trusts, estates, mortgages, enforcement of liens, disputes over real estate, constitutionality of laws, divorce, child custody, adoptions, termination of parental rights, etc.
 - Common Law: actions of one person against another involving personal injury, property damage, libel, slander, breach of contract, etc.
- Circuit Court Order Books: Order Books are like the journal of the courts. The clerk used the book to record the decisions and actions of the court. They can be particularly useful to help determine the dates when a case was heard to help location the more detailed case files.

Civil cases are typically only available in original form. Older records will likely be in the Archives Center. For more recent years, civil cases may be stored at the State Records Center, or still be held at the Circuit Clerk's office in the county. Check with Research Room staff to determine the years available by county at each location, or the inventory of Circuit Court Records for records available at KDLA.

Where to Start/ What you need to know:

The Kentucky court system has changed numerous times throughout the state's history, and as a result, the records can be difficult to navigate. Before beginning research, it is important to try to determine the location, time period, and type of case in which you want to locate civil records from, before beginning research, as there are often overlapping court jurisdictions where a case could have been heard.

Be prepared with the following information:

- Approximate year of trial
- County, or most likely counties where the trial was held
- Names of Plaintiff and/or Defendant

Pre 1977

For cases prior to 1977, researchers can use a combination of indexes, electronic databases, microfilm indexes, or print lists to attempt to find a case number, drawer number, or docket number associated with the case in question. Indexes are searchable by defendant or plaintiff.

- Judicial Index: This digital index is available in-house on Research Room computers. Not all counties have digital indexes, and the years available varies. Researchers can search using the last name of either plaintiff or defendant, but it may be necessary to try multiple spellings.
- Microfilm Guide: A list of microfilm available at KDLA, researchers can search for available indexes or case files for each county.
- Print Index: If there are no microfilm or digital indexes available, it is possible that original indexes could be available. Ask a Research Room staff member for assistance with these types of records.

Post 1978

To locate a specific case file for any case after 1978, the Circuit Court Clerk must be consulted. KDLA does not have indexes for these cases and cannot otherwise locate them without the information provided by the clerk's office. The Clerk will facilitate access to the case on your behalf or can request that the case be made available in the Research Room of KDLA for your personal review.

Tips and Tricks

Some records are not indexed or may not exist. In this case, locating circuit court civil order books can provide a summary of the case and decisions. Typically, these include indexes and can be searched by the name of either the plaintiff or defendant to find any court orders given by the judge for the case. If the case files do exist, but are not indexed, it is also possible to use the year and term of court for the final judgement to help locate the case file.

Civil Courts Summary:

Pre-1792 Supreme Court of the State of Virginia, Kentucky District (RG 2686) order books, etc.

Lower Courts:

1780s-1777 Justice of the Peace Courts (aka Magistrate Courts) minor civil cases

1790s-1804 Courts of Quarter Sessions civil cases; replaced by Circuit Courts

1790s-1777 Police Courts (aka City Courts) minor civil cases usually in larger cities; replaced by district courts 1978

1795-1802 Old District Courts districts: Nelson, Franklin, Mason, Bourbon, Lincoln, Fayette; Logan added 1798 (see maps) also land cases pending in Court of Appeals 1795-1799

1803-Present Circuit Courts (aka Ordinary/Common Pleas, Equity/Chancery, Civil) also, all records transferred from old Court of Quarter Sessions

1850-1777 Quarterly Courts minor civil cases; replaced by district courts 1978

1860s-1890s Common Pleas Courts same as Circuit Court

1978-Present New District Courts
smaller civil cases; replaced Quarterly, Police, & J.P. Courts, below Circuit Court

Intermediate Courts:

1790s Court of General Session (aka District General Court)
district courts meeting together

1799-1851 General Court
above Circuit Courts; also, all records transferred from District Courts and old General Court

1880s Superior Court
appeals between Circuit & Court of Appeals

Higher Courts:

1792-1976 Court of Appeals
appeals, land disputes also, appeals from/pending in Virginia Court of Appeals 1792-1795

1976-Present Court of Appeals
appeals

1976-Present Supreme Court
highest court of appeal in KY

Researching Criminal Court Cases

Criminal Case Background Information:

Before 1776, there was no formal court system in the Kentucky territory. In 1776, Virginia granted Kentucky county status, which allowed the establishment of two local county courts, the County Court and the Court of Quarter Sessions. The County Court was primarily responsible for administrative and financial matters, probate and estate settlements, and the Court of Quarter Sessions handled misdemeanors. A special Examining Court could be held by a justice of the peace to determine the validity of criminal charges. However, no court in Kentucky had jurisdiction to try capital offenses until 1780.

In 1780, Kentucky County was divided into Jefferson, Fayette, and Lincoln counties, under the Kentucky District, each with their own set of local courts. Several more counties were created before 1792, and each county established their own set of local courts. Virginia also established a Supreme Court for the District of Kentucky with jurisdiction over all criminal cases, particularly those involving capital punishment. However, the only way to appeal a judge's decision was to travel in person to Virginia and present the case to the Virginia Court of Appeals, making it difficult and expensive for most people. This was one of the primary arguments made for Kentucky statehood.

After becoming a state in 1792, Kentucky kept most of the same court structure as Virginia, but with final authority now residing with Kentucky. The legislature established a statewide criminal court, the Court of Oyer and Terminer, and a supreme court over all cases, the Court of Appeals. In each county, misdemeanors and minor criminal matters could be settled by a Justice of the Peace in Justice's Court, or in the Court of Quarter Sessions. Special Examining Courts could be held by Justices to determine if criminal charges were valid and the accused needed to be held in county jail until the next Court of Quarter Sessions, or state jail until the next Court of Oyer and Terminer. The Court of Oyer and Terminer held statewide criminal jurisdiction over all cases, and all decisions were final, with no option for appeal.

The court structure created in 1792 was short-lived. In 1795, the judicial system was reorganized, creating several District Courts, and replacing the Court of Oyer and Terminer with the Franklin District Court. Soon after, all District Courts were granted criminal jurisdiction. The District Courts handled most major civil and criminal cases. This was soon followed by the creation of the District General Court, which handled cases against public officers or judges, new or difficult questions of law, or matters involving non-residents.

Kentucky's second constitution was adopted in 1799, and the years following were full of social, political, and economic upheaval, as well as more changes for the state's judicial structure. The lower County Court and Justice's Courts remained essentially unchanged, but the District Courts were replaced in 1802 by a new system of Circuit Courts and a new General Court, phasing out the Court of Quarter Sessions. The Circuit Courts held the same jurisdiction as the former District Courts and Court of Quarter Sessions. Each Circuit Court covered multiple counties, replacing the Court of Quarter Session in the primary county. The General Court held the same jurisdiction as the old General Court, as well as land dispute cases from the District Courts. In 1804, the General Assembly dissolved the multi-county Circuit Courts, creating separate Circuit Courts in every county and abolishing the remaining Courts of Quarter Sessions.

The political upheaval of the time would have the greatest impact on the Court of Appeals. A national depression in 1819 led to increased debts and foreclosures. Kentucky legislators passed debt relief laws, but these were challenged by creditors in the Court of Appeals and determined to be unconstitutional. The outraged legislature abolished the old Court of Appeals, establishing a new Court of Appeals with new judges. However, the old Court of Appeals refused to give up its power, leading to confusion and arguments being made in both courts by different parties. The Old Court-New Court struggle held for two years, until a new legislature in 1826 abolished the "new" Court of Appeals and declaring its decisions null and void.

In 1850, Kentucky adopted its third constitution, resulting in further changes to judicial organization. Each county was divided into justices' districts, and Justices' Courts handled misdemeanors. The Quarterly Court was re-established as a court below the Circuit Court. Similar to the old Court of Quarter Sessions, it shared jurisdiction with the Justices' Court and Circuit Court over lesser criminal cases. The Circuit Court handled major criminal matters. Appeals from the Justices' Court were handled by the County Court or the Circuit Court. Before 1854, there was no appeal for felony cases. The Criminal Code of 1854 allowed convicted felons to appeal their case for the first time in Kentucky history. However, the Court of Appeals had a rapidly growing backlog of cases, and this only added to the case load. The Superior Court was established in 1882 as an intermediate court between the Circuit Court and the Court of Appeals in order to help lessen the workload.

The fourth constitution was adopted in 1890, altering the court system again, and though it would be the final constitution of the state, it would not be the final change to impact the courts. The Superior Court was abolished, and the Court of Appeals was established again as the only appellate court. To reduce the workload, the Court was allowed to organize into two divisions, as well as restricting the jurisdiction to larger cases and only in certain categories.

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While the constitutional reform failed in the 1960s, there was continued pressure to create a more efficient and unified system of courts. After several studies, and a massive campaign, a Constitutional Amendment was passed in 1975. The first part in 1976 would establish a new Supreme Court, a new intermediate Court of Appeals, and revise the existing Circuit Courts. The Supreme Court became the highest court of appeal, the Court of Appeals would handle more appeals with double the number of judges, and the Circuit Courts would handle all major criminal matters.

The next step began in 1978, with the creation of new District Courts under the Circuit Courts to handle misdemeanors and lesser criminal matters. The District Courts replaced the overlapping jurisdictions of the lower courts: the Justices Courts, Police Courts, and Quarterly Courts. The Administrative Office of the Courts was established to handle the fiscal and administrative side of the court system, including personnel, budgeting, education, facility management, and pretrial releases. The Circuit Court Clerk was designated the official record keeper of the court and was responsible for the court records previously held by county clerks and city clerks. With the large volume of records, many Circuit Clerks took the opportunity to transfer many records to KDLA. Currently (2023), the Circuit Clerk is responsible for managing the records of Circuit and District Courts for their county.

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Thorough guide to legal research in Kentucky, including modern and historical overviews of the judicial system, and additional resources.

- Lockwood, Evelyn M. *Index to Kentucky Legal History*. (Frankfort: Administrative Office of the Courts, 1983).
Index on Kentucky legal history before 1900, including legal events, places, court cases, and persons, providing bibliographic information for further research. Does not index periodicals.

Accessing Criminal Case Records:

Criminal cases are charges brought by the Commonwealth against a person, for situations that affect the public or society. Criminal charges could include misdemeanors or more serious criminal charges, such as assault or murder. Punishments range from small fines up to felonies with long prison time or the death penalty. Records of criminal cases include Circuit Court Order Books and Case Files.

- Case Files: Case files are loose papers produced during a trial and may include depositions and exhibits that provide valuable information about a person or location that can help establish relationships between individuals. Transcripts were not often kept unless the case was appealed. A case file may only include an indictment and a subpoena or bench warrant.
- Circuit Court Order Books: Order Books are like the journal of the court. The clerk used the book to record the decisions and actions of the court. They can be particularly useful to help determine the dates when a case was heard to help locate the more elaborate case files.

Criminal cases are typically only available in original form. Older records will likely be stored on-site at KDLA in the Archives Center. For more recent years, criminal cases may be stored off-site at the State Records Center, or still be held at the Circuit Clerk's office in the county. Check with Research Room staff to determine the years available by county at each location, or the inventory of Circuit Court Records for records available at KDLA.

Where to Start/ What you need to know:

The Kentucky court system has changed numerous times throughout the state's history, and as a result, the records can be difficult to navigate. Before beginning research, it is important to try to determine the location, time period, and severity of the crime so that you might identify which courts' records should be reviewed, as there are often overlapping court jurisdictions where a case could have been heard.

Be prepared with the following information:

- Approximate year of trial
- County, or most likely counties, trial was held
- Names of defendants
- Charge, or severity of crime

The name of the victim is not enough information for a search. Cases can only be located with the name of the defendant charged with a crime. It may be useful to locate articles or court reports from local newspapers of the time for more information on the name of the person who was arrested, charged, or convicted for a specific crime. KDLA has a very small collection of newspapers, but they are not indexed.

Researchers will need specific dates to search. The University of Kentucky has a much larger newspaper collection that could also be helpful for researchers.

Pre 1977

For cases prior to 1977, researchers can use a combination of indexes, electronic databases, microfilm indexes, or print lists to attempt to find a case number, drawer number, or docket number associated with the case in question. Indexes are best searched by defendant, as the plaintiff will always be listed as Commonwealth and can be numerous.

- **Judicial Index:** This digital index is available in-house on Research Room computers. Not all counties have digital indexes, and the years available varies. Researchers can search using the last name of either plaintiff or defendant, but it may be necessary to try multiple spellings.
- **Microfilm Guide:** An in-house list of microfilm available at KDLA, researchers can search for available indexes or case files for each county.
- **Print Index:** If there are no microfilm or digital indexes available, it is possible that original indexes could be available. Ask a Research Room staff member for assistance with these types of records.

Post 1978

To locate a specific case file for any case after 1978, the Circuit Court Clerk must be consulted. KDLA does not have indexes for these cases and cannot otherwise locate them without the information provided by the clerk's office. The Clerk will facilitate access to the case on your behalf or can request that the case be made available in the Research Room of KDLA for your personal review.

Tips and Tricks

Some records are not indexed or may not exist. In this case, locating circuit court criminal order books can provide a summary of the case and decisions. Typically, these include indexes and can be searched by the name of the defendant to find any court orders given by the judge for the case. If the case files do exist, but are not indexed, it is also possible to use the year and term of court of the final judgement to help locate the case file.

Case files may not include all the details from a trial. Transcripts weren't always kept unless the case was appealed, even for murder cases. It may be useful to locate local newspapers from the time for articles or court reports that may have additional information as a trial progressed.

When researching old criminal records, it is also possible to search prisoner registers for the state prisons. These registers can include the prisoner's name, crime, original county, and even a brief description. These records are not typically indexed, so it is necessary to know the specific time period that a prisoner was held at a particular institution in order to locate them in these lists. More recent prisoner records requests should be sent to the Department of Corrections as an Open Records Request.

Criminal Courts Summary:

Pre-1792 Supreme Court of the State of Virginia, Kentucky District (RG 2686)
order books, etc.

Lower Courts:

1780s-1977 Justice of the Peace Courts (aka Magistrate Courts)
misdemeanors, minor criminal cases

- 1792-1809 Examining Courts
power to determine if criminal charges should be dismissed or the accused held for trial in next session of either Court of Quarter Sessions or Court of Oyer and Terminer
- 1790s-1804 Courts of Quarter Sessions
criminal cases, except felonies; replaced by Circuit Courts
- 1790s-1977 Police Courts (aka City Courts)
misdemeanors, minor criminal cases usually in larger cities; replaced by new district courts 1978
- 1795-1802 Old District Courts
Franklin district only at first; then other districts allowed to try criminal cases: Nelson, Franklin, Mason, Bourbon, Lincoln, Fayette; Logan added 1798 (see maps)
all crimes & misdemeanors, except breaches of penal law
- 1803-Present Circuit Courts (aka Criminal/Commonwealth)
also, all records transferred from old Court of Quarter Sessions
- 1850-1977 Quarterly Courts
misdemeanors, minor criminal cases; replaced by new district courts 1978
- 1978-Present New District Courts
smaller criminal cases; replaced Quarterly, Police, & J.P. Courts, below Circuit Court

Intermediate Courts:

- 1880s Superior Court
appeals between Circuit & Court of Appeals

Higher Courts:

- 1790s Court of Oyer and Terminer
only heard criminal cases, highest purely criminal court
- 1792-1976 Court of Appeals
appeals, also, appeals from/pending in Virginia Court of Appeals 1792-1795
- 1976-Present Court of Appeals
appeals
- 1976-Present Supreme Court
highest court of appeal in KY

State Prison Registers:

- 1825-1952 Kentucky State Penitentiary (Frankfort)
- 1885-1930 Kentucky State Penitentiary (Eddyville)
- 1909-1953 Kentucky State Reformatory (LaGrange)

Higher Courts in Kentucky

The following guide provides an overview of the various courts above the Circuit Court in the state of Kentucky. While not comprehensive, researchers can use this guide to better understand these courts and their records.

Court of Appeals 1795-1976 & 1977-present:

Court of Appeals Background Information:

Established in 1792, the Court of Appeals was the highest court for the state of Kentucky, responsible for civil appeals and land disputes. It also took over any appeals from or pending in the Virginia Court of Appeals between 1792 and 1795. In 1795, land dispute cases and cases from the Virginia Supreme Court for the District of Kentucky were transferred to the newly created District Courts, and major civil appeals became the sole jurisdiction of the Court of Appeals. Appellate jurisdiction to review judgements from the Virginia Supreme Court was returned to the Court of Appeals in 1796.

Financial and political upheaval led to the Old Court-New Court struggle in the 1820s, the largest upset in the history of the Court of Appeals. With an economic depression taking hold after the War of 1812, the Kentucky legislature began passing debt relief laws in 1817. However, when the bills were challenged in the Court of Appeals, the judges decided that they were unconstitutional, provoking outrage from the legislature.

In 1824, a law was passed “reorganizing” the Court of Appeals, which essentially abolished the Old Court, and established a New Court with judges appointed by the legislature. The New Court took possession of papers and records from the office of the Court of Appeals and attempted to hold court and conduct business. Despite this, the Old Court continued to hold court as well, and for two years, both the Old Court and New Court heard cases. Adding to the confusion, opposing parties in a lawsuit sometimes even appealed to different courts. In 1826, supporters of the Old Court were able to take back control of the legislature, and the New Court was abolished, and all its judgements declared null and void.

In 1854, a new Criminal Code allowed convicted felons to appeal their case for the first time in Kentucky history. Before this, there were no appeals for felony cases. Unfortunately, this only added to the Court of Appeals rapidly growing backlog, meaning massive delays for many cases. In 1882, the Superior Court was established as an intermediate court between the Circuit Court and the Court of Appeals to help lessen the workload.

The fourth constitution was adopted in 1890, abolishing the Superior Court and reestablishing the Court of Appeals as the only appellate court. To reduce the workload, the Court was allowed to organize into two divisions, as well as restricting the jurisdiction to larger cases and only those meeting certain criteria. Unfortunately, the workload continued to grow and by the 1960s, the Court of Appeals was still several years behind the lower trial courts.

Though complaints about the judicial system were common in the 1960s, attempts at constitutional reform failed. But with continued pressure, several studies, and a massive campaign, a Constitutional Amendment was passed in 1975. The 1976 Amendment established a new Supreme Court, a new intermediate Court of Appeals, revised the existing Circuit Courts, and then later created new District

Courts below the Circuit to handle lesser legal matters and establishing the Administrative Office of the Courts.

Accessing Court of Appeals Records:

Records can include case files, materials related to administrative matters, wills, inventories, powers of attorney, and other probate documents. Case files may include trial transcripts and other legal documents generated in the lower courts, such as briefs for appellant and appellee, petitions for rehearing, supplemental briefs, opinions of the court, court orders, circuit court transcripts, supplemental transcripts, and exhibits.

KDLA has records for the Court of Appeals for 1790-2007. Case files prior to 1864 were destroyed by a fire in the clerk's office. Summaries for some cases may be found in Kentucky Reports in the Research Room. Indexes to case files are available on microfilm for 1864-1977. For cases after 1977, researchers will need to contact the Clerk of the Court of Appeals for a case number to locate the record. Case files for 1860-1997 are available either on microfilm or as original records. Case files for 1998-2000 are digitized. Other records from the Court of Appeals are unprocessed and can be difficult to access and search. Ask a KDLA staff member for assistance accessing and navigating these records.

Case Files:

- 1780-1864 lost in fire; summaries available in Kentucky Reports
- 1860-1977 on microfilm or original records; microfilm indexes available
- 1977-1997 on microfilm; contact Clerk of Court of Appeals for case number
- 1998-2000 digital: ask Research Room staff for assistance
- 2001-2007 original records at KDLA
- 2008-2014 original records at State Records Center
- 2015-present contact the Court of Appeals

Other State Courts

Court of Oyer and Terminer 1790s

The Court of Oyer and Terminer was established in 1792 as the only court of criminal jurisdiction. Three judges presided over the court, held in Lexington. It was replaced in 1795, first by the Franklin District Court, then the District Court system soon after.

Few records exist for the Court of Oyer and Terminer. There is a partial order/minute book for 1794-1795 available as an original record at KDLA. The book includes lists of those indicted and their crimes, jury lists, and narrative summaries of the trials.

Old District Courts 1795-1802

Established in 1795, the District Courts divided Kentucky into several geographic areas, with jurisdiction over most major civil cases. Land disputes in the Court of Appeals were removed to the District Court where the land was situated. For a short time, the District Courts also had appellate jurisdiction to review judgements from the Virginia Supreme Court for the District of Kentucky, until it was returned to the Court of Appeals in 1796.

The Franklin District Court also replaced the Court of Oyer and Terminer as the only criminal court with statewide jurisdiction, due to the lack of local jails and prisons. By 1796, criminal jurisdiction was expanded to the other District Courts too. However, this power was rarely used because of the difficulty

of detaining the accused for long periods of time until the next session. In 1802, the District Courts were replaced by a new system of Circuit Courts.

Districts:

- Nelson District: Jefferson, Nelson, Washington, Hardin, Logan, Green counties
- Franklin District: Shelby, Franklin, Woodford counties
- Mason District: Mason & Campbell counties
- Bourbon District: Bourbon & Harrison counties
- Lincoln District: Lincoln & Mercer counties
- Fayette District: Fayette, Scott, Clark, Madison counties
- Logan District: added 1798, Logan, Christian, Warren counties

Records for the old District Courts are scattered and can be difficult to navigate. Some records may be included in General Court records, or even in the Circuit Courts. Ask a Research Room staff member for assistance when trying to locate records from this time.

General Courts 1795-1851

The District General Court (or Court of General Sessions) was first established in 1795, as a coordinating body for all District Courts. It held jurisdiction over claims against the public treasury, cases against public officers or judges, new or difficult questions of law, or matters involving non-residents. The General Court could also hear land dispute cases if both parties agreed.

In 1802, the District Courts and General court were replaced by a system of Circuit Courts and a new General Court. The General Court was the coordinating body for the Circuit Courts and held the same jurisdiction as before. Records and cases from the old General Court, as well as the District Courts, were transferred to the new General Court. In 1850, the General court was abolished by the third constitution.

Case file indexes are available digitally for 1797-1850. Case files are arranged by case number and are available as original records. Order books are also available as original records for 1797-1851.

Superior Court 1880s

Established in 1882, the Superior Court was intended to reduce the backlog of cases in the Court of Appeals. The state was divided into three districts with three judges and met in Frankfort. It had jurisdiction over most appeals from lower courts, excluding felonies, validity of statutes, or civil cases over \$3,000. It was abolished with the 1890 Constitution.

The Clerk of the Court of Appeals was also the clerk for the Superior Court. Researchers should search Court of Appeals records first for any cases heard in the Superior Court.

Supreme Court 1977-present

The Kentucky Supreme Court was established in 1976. It replaced the Court of Appeals as the highest court of appeals for the state of Kentucky. Cases that involve the death penalty or imprisonment for 20 years to life are appealed directly from the Circuit Court to the Supreme Court for review. After a decision by the state Supreme Court, a case can only be appealed to the United States Supreme Court in Washington, D.C. It is the final interpreter of state law in Kentucky and establishes rules of practice,

procedure, and conduct for the entire Kentucky Court of Justice, including judges, lawyers, and all state court officials.

Researchers should contact the Clerk of the Supreme Court for case numbers before beginning their search. Case files are organized by case number and are available as original records.

Case Files:

- 1976-2010 original records at KDLA
- 2010-2014 original records at State Records Center
- 2015-present contact the Court of Appeals

Federal Courts

The following guide provides an overview of the federal courts for the state of Kentucky, as well a brief introduction to how they fit into the federal court system. While not comprehensive, researchers can use this guide to better understand these courts and their records.

Federal Courts Background Information:

The United States Court for the District of Kentucky was established in 1789. At the time, the United States had three Circuit Courts and 13 District Courts, one for each 11 states that had ratified the constitution and two for the remote districts of Maine and Kentucky. Additional districts were added as states entered the Union. Federal courts have jurisdiction over federal crimes, admiral or maritime cases, land laws, and revenue cases, for conflicts between states, between citizens of different states, and between states or citizens and the federal government. Bankruptcy cases are also federal cases.

Kentucky federal court had both circuit and district status until 1807. The name changed several times through those years, but it remained the same court. In 1807, it was divided, establishing a new 7th Circuit Court and a District Court, each with separate records. In 1901, the District Court was divided into eastern and western districts for Kentucky.

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Accessing Federal Court Records

KDLA does not hold any federal records. All cases originate in federal District Court. Older records from the Federal Courts are held by the National Archives in Atlanta. However, bankruptcy cases are located at the National Archives in Kansas City. More recent records are held by the court clerk for the district. Appeals from federal district courts are heard by the 6th District Court of Appeals in Cincinnati. For more information of federal court records, go to <https://www.uscourts.gov/> or contact the court clerk in the district where a case was heard.