

Guide to Court Records at the BC Archives

The BC Archives is the repository for court records created by provincially administered courts in BC and selected for permanent retention. They include case files, transcripts, orders and judgments, cause books, plaint and procedure books, minute books and registers. They may also include documents submitted to the courts, such as writs or petitions, affidavits, and depositions.

The selection and transfer of these records is controlled by an approved records schedule (*Court Services Operational Records Classification System*, 100152) introduced in the 1980s. Prior to the 1980s each court registry maintained its own records. Different types of records have different retention schedules and while some – primarily probate files – are retained in their entirety, many are selectively retained, i.e. orders and judgements are kept but the rest of the case file is destroyed after a set period of time.

Divorce and other civil case files, for example, are retained by the court registries for 27 years and then destroyed; the orders and judgments, which are either pulled from the files or filed separately, are retained by the registries for 10 years and then transferred to the BC Archives. Probate files are retained by the registries for 11 years and then transferred to the BC Archives in their entirety.¹

Who uses them?

The judicial system itself has been the principal user, but historians and other academics are making increasing use of them as social history becomes more important. Court records will sometimes contain information about familial relations, property ownership and changing attitudes to crime and justice. Genealogists are also mining them, and more and more we are seeing that records in our legal custody are being used as proof of their current legal status and for other evidentiary purposes.

How are they created and arranged?

The court system is structured around registries (geographic), levels (e.g. magistrate, county, supreme, appeal), and type of action (criminal or civil). Each registry may encompass more than one level of court, and they usually deal with both civil and criminal matters. Each court and each type of case generates different types of records. Civil cases fall into several different categories (e.g. bankruptcy, probate, divorce, statutory, adoption) which may also affect how the records are kept. In order to locate specific court records you must determine the type of action, the level of court at which the action took place, and the registry where the record would have been filed.

Important things to know:

- There are over 30 registries in the province, and there are occasional additions, amalgamations and changes in structure.
- Historically, the main court levels are Supreme, County and Appeal. There are newer Provincial Courts and Family Law Courts. In the past there were also police and local magistrate courts. Criminal cases were tried by Supreme Court judges in Assizes held in various locations in the spring and fall. Many criminal cases are now heard in Provincial Court.
- The court level at which cases – or actions - were tried, or heard, was based on their “seriousness” or the area of law at issue. For example, a civil case, suing for a small amount, would be at the County Court, whereas a divorce action could only be heard at the Supreme

¹ Note that not all the court records that should have been transferred to the BC Archives have been. Some registries have, for various reasons, retained some or all of their older records.

Court. An exception to this is Speedy Trials where the defendant could opt for trial by judge alone and it would be held at the County Court level.

There is a list of registries in the Court Records Guide, and a guide which will help you determine where smaller communities generally filed. Note that this list is not up to date, so a check should be done against the list of courts and registries on the Court Services Branch website (www.ag.gov.bc.ca/courts/overview/locations/index.htm).

Finding court records

The most common records sought are **orders, judgments and reasons for judgment**. There are very few transcripts of proceedings. Probate records usually consist of the complete file. Finding court records often involves using a sequence of court records, starting with an **index** and/or or **cause book** (or **case record card**) which will give you information about case file number, dates, **style of cause**, presiding judge, and orders and/or judgements, etc. For Supreme Court cases, the starting point is usually the cause books (or, after the 1970s, case records cards). For County Court cases it is the **plaint and procedure books**.

Note that the BC Archives has only scattered police/magistrate court records. These courts were under police or local control and their records, such as they were, did not form part of court registry records. If they still exist, they are often found in local archives. For example, the Vancouver Police Court records are held at the City of Vancouver Archives. The records are also much more rudimentary than the County or Supreme Courts.

Refer to the list of definitions and sample searches in the Court Records Guide for assistance in determining what action you are looking for, what documents might have been created and what level of court you should focus on.

Pre-1950 records

The Court Records binder, although not recently updated, is still very useful for early records. In addition to containing information about records from 1871-1950, it also has lists of published cases in the Northwest Collection, and colonial judicial records. At the back, there are sections which list most of our 1871-1950 court records by registry, type of record, and level of court.

Recommended research strategy:

- Determine court or registry, date, level of court and type of record you are looking for. There are guides to searching for probate records and divorce records.
- Use the registry list or do an **advanced search** on the court or registry name to evaluate what we have for that registry. There is a guide to divorce records by registry in the Reference Room which lists the relevant records for each, including indexes, etc.
- Match the available records to your inquiry. If you do not already have file numbers or order numbers and dates, and the finding aids do not have a breakdown by names of the parties involved (plaintiff and defendant or deceased for probates) look for indexes and cause books/plaint and procedure books first.
- Consult the finding aids for box or reel numbers.

If you cannot find the records you are looking for see the **Related Records** section below and/or consult with staff for advice. The BC Archives does not have a complete set of court records and not all court records survived (or are necessarily retained).

Post 1950 records

Not all court records after 1950 are described on our website. Some may be listed in the Court Records binder. If you are unable to find records relating to your inquiry, ask staff to search an internal database for you. If you are looking for a divorce, check the divorce records by registry guides as they include records not on our website.

For records from 1992 onwards, you can search a database, **Court Services Online** (<https://eservice.ag.gov.bc.ca/cso/index.do>), for case file numbers. Some of these records are at the BC Archives but most are still in the custody of the court registries. There is no charge to search but there is a charge to view any records available online.

BC Court of Appeal, Supreme Court and Provincial Court judgments are searchable online at www.courts.gov.bc.ca/search_judgments.aspx and www.provincialcourt.bc.ca/judgments-decisions. For more court and court-related databases see www.canlii.org/en/databases.html.

Related and other useful records

There are records other than court records which can assist in tracking down court records and/or provide additional information or help fill in the gaps in our collections.

- **Judges' bench books.** These are the judges' own notes of court proceedings and are not considered court records. You will need to know which judge tried a case. This information can be found in cause/plaint and procedure books and in newspaper accounts. GR-1727 can also be used to determine names of judges at particular locations and dates. Court Records binder 7A has detailed information about bench books, and lists of judges. Bench books can be challenging to use as they are handwritten, usually do not have indexes and may contain notes from a number of levels of court. Access is restricted for bench books after 1909.
- **Newspaper accounts.** Most criminal trials and a number of civil trials (divorces, business disputes, cases involving prominent individuals) were reported in the local newspapers. Police Court and Magistrate's Court convictions are often reported as well. You will need to know the approximate date of the trial to make this work. The BC Archives Colonist index to 1900 and the Legislative Library Newspaper Index (1900-1970, 1971-1981, and 1981-1900 on microfilm and cards; 1991-2007 online) can be helpful in tracking down newsworthy cases.
- **Attorney General records.** **GR-0419**, Attorney-General document series, can sometimes provide records of a preliminary hearing or Crown brief. There are indexes, but the records are restricted from 1910 onward. **GR-0429** and other Attorney-General correspondence records include a wide range of court cases.
- **Law reports and digests.** Significant cases and decisions are published in law report series, some of which are available online, usually for a fee. *BC Reports* is available without charge and covers BC cases from 1867-1948 (<http://bchistory.library.ubc.ca/?db=bcreports>). The BC Archives Library has *Western Weekly Reports*, which includes a large number of BC cases, from 1911-2003 (NW 348.043 W326). Other reports and digests can be found at law libraries.
- **Coroner's records.** See BC Archives Research Guide to Coroner's records.
- **BC Provincial Police records.** See Provincial Police Force binder (no.12).
- **Published accounts of trials.** The BC Archives library has both contemporary and historical accounts of some trials.

Online search tips

To determine what records we have for a particular location or registry, use the Advanced Search option for Textual Records (<http://search.bcarchives.gov.bc.ca/sn-5182D60/advsearch/TextualRecords>). In the title field enter the location of the court and the word “court”, e.g.

Search For:	Within Field:	Using Option:
<input type="text"/>	All Text	Match All Words (AND) ▼
<input type="text" value="kamloops court"/>	Title	Match All Words (AND) ▼
<input type="text"/>	Call Number	Match As Exact Phrase ▼

There are 32 matches and if you have your level of display detail set at most you can easily determine what is relevant and what is not. Click on the page icon for more detail about each record.

If you are looking for a particular type of record, e.g. probates or divorces, enter the term in the All Text box with a ?, e.g. probate? If you want a particular level, e.g. Supreme, add the term to the Title box.

Access Restrictions

Although the *Freedom of Information and Protection of Privacy Act* does not apply to court records, court rules and legislation such as the *BC Adoption Act* and the federal *Youth Criminal Justice Act* restrict access to some of them. The rules of court (Supreme Court, Provincial Court and Court of Appeal) restrict access to certain court records, such as divorce case files.

The following are the most common restrictions:

- All adoption records are closed and may not be released to the public. Requests for access to these records must go through Vital Statistics Agency.
- Records relating to young offenders (and their young victims and witnesses) are restricted after 1909.
- With the exception of orders and judgements, access to divorce case files – if they still exist – is restricted to the parties to the divorce and their legal representatives.

Note that where open records are mixed with restricted records, e.g. adoption orders mixed with other – unrestricted – civil orders or a divorce order in a case file, only staff can access and copy the unrestricted document for researchers.

The following court records are not restricted:

- wills and probate files
- records – other than young offender records - which are over 100 years old
- coroner’s records prior to 1910
- divorce orders and judgements
- general civil orders and judgements other than adoption orders