

Court Records

The Saskatchewan Archives has collected many of the court records created in Saskatchewan, however, it is important to note that court records have been inconsistently preserved and many files have been lost.

Court Records Located at the Saskatchewan Archives Board

Please note that this is a general overview. The actual files vary from one judicial district to another. Many of these records are unprocessed and could take some time to locate.

District Court - civil and criminal, 1931 to 1963. (In some cases only a sample of the original series have been preserved.)

Supreme Court/King's Bench/Queen's Bench - civil and criminal - 1907 to 1931 (Some of these records were destroyed in a flood.)

Supreme Court of the North West Territories (The records from the territorial period are incomplete.)

Court of Appeal - civil and criminal - 1887 to 1969

Court System in Saskatchewan

After 1870 and the transfer of Rupert's Land to Canada, federal statutes governed the area outside of Manitoba until the government of the North West Territories was created. In 1873 the court system was established with stipendiary magistrates having jurisdiction over less serious offences. A Manitoba Queen's Bench Judge or two stipendiary magistrates sitting together had jurisdiction over more serious offences. Where the penalty was death or imprisonment in a penitentiary, a case could be sent to the Manitoba Queen's Bench for trial. Over the course of the next few years, the system underwent some minor changes in jurisdiction and judicial districts, but the next significant change was not until 1886 when the Supreme Court of the North West Territories was created.

There were a variety of judicial district boundary and name changes over the years but during the territorial period the various districts overlapped the boundaries of what is now Alberta, Saskatchewan and Manitoba.

The provinces of Saskatchewan and Alberta were created in 1905 but the territorial court system remained in place until 1907. The province of Saskatchewan created a new court system in 1907, which included:

- **The Supreme Court of Saskatchewan** which sat as the Supreme Court En Banc when serving as the Appeal Court for the province.
- **The District Court** was also created at this time. The District Court was a court of limited jurisdiction; that is, it could only hear those cases that were given it by

statute to hear. It also functioned as the appeal court for sentences imposed by Justices of the Peace and Police Magistrates.

- **The Surrogate Court** was also formed in 1907. This is the court of probate governing inheritance, guardianship, etc.

At the formation of the Saskatchewan Court system in 1907, there were 8 judicial districts. The boundaries and numbers of these districts changed several times over the succeeding years.

In 1918 the court system underwent another transformation when the Supreme Court was divided into two courts:

- **The Court of the King's Bench (KB)** In 1952, when Queen Elizabeth became the monarch, this court became the Court of the Queen's Bench (QB).
- **The Court of Appeal** was the appellate court that had the same jurisdiction as the Supreme Court of the North West Territories En Banc, that is, to hear the appeal of decisions tendered in the lower courts.

The Surrogate Court continued to function, as did the District Court. The District Court was rolled into the Court of the Queen's Bench in 1981.

As mentioned before, the District Court was a court of limited jurisdiction. The Court of the King's/Queen's Bench is a court of original jurisdiction. That is, it can hear anything unless a statute specifically excludes it. Some cases, for example divorces and treason, are heard exclusively in the KB/QB. Civil cases involving larger amounts of money (the amount has changed over the years) were also heard in KB/QB.

Under the District and KB/QB courts was the Magistrate's Court, now known as the Provincial Court (it has been presided over by justices of the peace, police magistrates, provincial magistrates and today, provincial court judges). The Saskatchewan Archives does not have records from the lower courts.

The Saskatchewan Archives does not have records of the Surrogate Court. These records are still located in the courthouses. The Regina courthouse has a Master Index to these records. If researchers are interested in these records they can obtain the docket number and the courthouse where the record is stored from this master index.

Tips on How to Find Court Records

How the Court Records are organized:

Court records are arranged chronologically by judicial district and court. Court records, as they are created, are filed in each courthouse and arranged chronologically by court. As a case is initiated it is given a consecutive number or docket number. Practices varied over time and from courthouse to courthouse, but usually docket numbers begin each year at "1".

Docket books list the cases chronologically providing the names of the parties and documents filed. It may include the final disposition of the case and should include the names of the lawyers involved.

What information is needed from the researcher?

To locate a court record relating to a specific case we need to know the following:

1. Names of the parties

Who were the parties to the case? If it is a criminal case one of the parties is always "the King", "the Queen", "Rex", "Regina", or simply "R." The accused person or persons is the other party.

In some cases Archives staff can conduct searches by the name of the defendant using a database created from the criminal case docket books at the Saskatchewan Archives. The database is not comprehensive. In some cases docket books were lost before the Archives acquired the record. In other cases smaller courthouses have docket books that cover many years that they have retained until all records they refer to have been transferred to the Saskatchewan Archives.

If it is a civil case, that is, everything other than criminal, the case is named according to the names of the plaintiff(s), the person(s) suing, and the defendant(s), the person or persons being sued.

2. Date

Since the records are arranged chronologically, the year or approximate year is needed to narrow the search.

3. Court

Which court was the case heard in? Police Magistrate's Court? District Court? King's Bench? Was it sent to the Court of Appeal? The type of case will indicate which court it might have been heard in.

4. Judicial District

Which judicial district or courthouse was the case heard in? Criminal matters, as a general rule, are heard in the judicial district where the crime took place. Civil matters may be heard where the plaintiff or defendant reside or where the property in dispute is located.

5. Defendant Sentenced to Death

Where the defendant in a criminal case was sentenced to death the file was sent to the federal Department of Justice for the final review by the federal cabinet. The National Archives has these files. An index for these files is available at the Saskatchewan Archives.

It is important to provide as much of the above information as possible so that Archives staff can locate the record or direct the researcher to where the records may be located.

Conclusion

It is not always a simple and straightforward matter to locate court records without specific information. Staff at the Government Records Branch have been slowly working on bringing together information about changes in judicial district boundaries, the court structure, and court jurisdiction on certain types of actions and can assist the researcher in determining in which judicial district and which court a case may have been heard.

There may be some time delays in accessing court records stored at the Saskatchewan since many are still unprocessed.