

Probate Records, or what happened *after* your ancestors died.

- **Probate Records by definition relate to death.**
 - However, the date of death of the individual is not all that can be found, especially if an intestate process.
 - Probates may be with a will, without a will (intestate) or nuncupative (handwritten, rare anymore)

- **What is the Process?**
 - With a will:
 - Reading of the will, identifying the executors
 - (Death Certificate Presented)
 - Request to be named as the executor,
 - Letters Testamentary naming executor
 - Executor may have had to post a bond or be released from it.
 - If the Executor has died someone else, possibly another relative may be named Certified Trust Administrator (CTA) of the estate.
 - Publication to creditors
 - May be through a newspaper notice (other than the obituary) or
 - Sheriff's notice (also published) of impending sale of property to settle debts.
 - Inventory of property other than real property
 - Account of Sales of property
 - Distribution of the remaining assets of the estate (including real property) according to the terms of the will.

- **Intestate Probates**
 - (Death Certificate Presented)
 - Letters of Administration
 - Publication for Creditors
 - Establishing the Heirs

- Inventory
- Account of Sales
- Distribution of Estate

- **Probate with a will**
 - **Will**
 - The Will calls out the heirs, but not always all the heirs.
 - Eg., a first born son who will automatically inherit the land, where primogeniture exists; or
 - A married daughter who received her inheritance as a dowry.
 - It may however call out a grandchild as an heir in place of the child.
 - Wills are usually signed by family, friends, and neighbors.
 - One convention calls for wills to be signed by a brother of the testator and a brother-in-law.
 - **Letters testamentary**
 - Will identify the decedent, date of death, and who will be in charge of the estate distribution --Executor.
 - If Executor is also deceased, another administrator will be named.
 - **Publication for creditors will have date of death of decedent.**
 - Newspaper or sheriff's notice.
 - **Inventory of property**
 - Will include slaves
 - Will not include real property prior to 20th century
 - Even today though real property is evaluated differently than liquid assets.
 - The will may or may not have called out a guardian for the minor children.
 - However, the courts will appoint a guardian,

- Usually an older male relative, even if the mother is living.
- **Account of sales**
 - Examining the account of sales tells you with whom they did business, even clues to undocumented family relationships.
- **Distribution of Estate**
 - Done in accordance to the specifications of the will.
 - Spouses of daughters will inherit on their behalf.
 - It is technically the daughter's inheritance, but the husband is in charge.
 - If the will is contested, you will follow the case in the appropriate Equity court, chancery court or superior court.
 - These can go on for years.
 - E.g., Cupid Williams' 1912 NY estate was not settled until 1949.
- **Probate – Intestate (no will)**
 - (Again a death certificate presented)
 - Request for the court to open the estate and name the petitioner as Administrator.
 - **Letters of Administration**
 - Date of death and who's in charge
 - often a spouse or child.
 - **Guardians** appointed as needed – same as above.
 - **Petition for Widow's dower entered.**
- **Publication for creditors**
 - Date of death – same as for a will
- **Inventory – same as above**
- **Here Identification of Heirs is required.**

- In the 20th and 21st centuries a more formal process than previously.
- Will include all names and birth dates or death dates and subsequent heirs.
- In some states must follow the lineage down to next living heir.
- In some states there are statutory limits for the generations followed.
- These documents, which are more complete in some states, can be a goldmine for genealogists.
 - Sometimes include information on heirs who no longer live in the area.
- **Account of sales**
 - Same as above
- **Distribution of estate**
 - The Distribution will proceed according to the determination of the court as to whom the heirs are.
 - Guardians will take control of their wards' inheritance.
 - **Final determination of Dower benefits.**
- **Inventories, Accounts and Distributions especially important for tracing enslaved ancestors.**
- **Where to find Probate Records**
 - Probate process found in different courts in different states even over time.
 - Maryland – Orphan's Court, Chancery Court (now defunct)
 - Georgia – Court of the Ordinary
 - Virginia – Chancery, now Circuit Court
 - North Carolina – Common Pleas and Quarter Sessions, now Superior Court, Equity Courts
 - New York – Surrogate's Court
 - Delaware – Chancery Court

- **Records may be copied into separate probate or will registers.**
 - A will may not be in the same register as the inventory, especially if a long time period separates their recording.

- **Tips to a possible Probate**
 - Information learned in these places can tip you off to a potential probate:
 - Obituaries and death notices,
 - Contemporarily, check On-line funeral sites – Legacy.
 - City Directories – sometimes the death of a spouse is noted.
 - Cemetery listings
 - Including *Findagrave*, *Cemetery census*, local historical society transcriptions.
 - Some cemeteries maintain their own databases.
 - Historical Societies – clipping files.
 - Funeral bulletins
 - Changes in names in tax records for property
 - Any death notice anywhere

- **Not every death ends up in probate**
 - People with essentially no assets usually don't file for Probate.
 - People who have deeded their real property to a family member, or other person, prior to their death, will not have a probate.
 - Widows can petition the court for support
 - Typically 2-3 years max
 - If they don't remarry, they may end up in a **poorhouse** or home for veterans' widows.
 - Children who cannot be supported will be apprenticed/indentured by the courts.