

Crime and Punishment

Introduction

Records relating to crime and punishment in Devon are not all held locally. They are held in various repositories, including The National Archives at Kew, near London. Not all of the records held in Devon are in the Devon Heritage Centre or the two other record offices, either. The location of trial records depends on the type of court where the trial was held.

The Court System

From the 13th century right up to 1971, the criminal courts system operating in England fell into three main categories:

- Courts of petty session or magistrates' courts, where minor offences were dealt with in 'petty sessions'
- Local county courts and borough courts, where trials were held four times a year at the 'quarter sessions'
- Assizes, where the most serious criminal trials were heard twice a year by judges appointed by the King or Queen

In 1956, the assizes and quarter sessions courts were replaced by Crown Courts in Liverpool and Manchester. In 1971 this was extended to the rest of England and Wales, including the county of Devon.

It is important to know that Devon Assize Court records are not kept at Devon Heritage Centre, but at The National Archives at Kew (ref: ASSI.) There is more information on these records on The National Archives webpage.

Court Records – Basic Information

The use of Latin in English official records was not totally abolished until 1733, apart from a short break at the time of the Commonwealth, so you may need knowledge of Latin to read earlier court records. In addition, handwriting in court records earlier than 1660 may provide you with problems in reading unless you possess reasonable skills in palaeography.

Most courts created more than one class, or type, of record. The two most useful types of court record, if they survive, are the depositions (written evidence filed by witnesses and the accused) and the indictments (which record the charge, or offence, often giving the criminal's address).

Where records are held in Devon Heritage Centre or the other record offices in the county, advice about this should be sought from the search-room staff, and card indexes and catalogue lists should be examined where these are available.

Apart from the modern records, a large amount of the material in the records held at Devon Heritage Centre and described here is still un-indexed and uncatalogued.

Some 20th century records are subject to a closure period and may not be available for general public inspection in the searchroom.

Types of Courts

Assizes

The courts of assize, or assizes, generally dealt with the most serious crimes (e.g. murder and treasonable activities). These cases were committed to the assizes by the justices sitting at Quarter Sessions (which were local county courts held four times a year).

The word assizes was derived from the Old French word *assises*. It referred to the sittings or sessions of the judges, known as "justices of assize", who were judges of the King's Bench Division of the High Court of Justice. These courts existed from the Middle Ages onward. Thus from the 13th century, judges and senior lawyers were commissioned as justices to ride off into the counties, and hold the king's courts. A pair of judges would cover a Circuit, each Circuit covering a group of counties. Devon was part of the Western Circuit.

By 1559, the Assize judges were mainly dealing with the most serious crimes not normally handled by the local courts of Quarter Sessions. Crimes considered serious at that time included murder, infanticide, theft, highway robbery, rape, assault, coining, forgery and witchcraft, trespass, vagrancy, and recusancy. The Assizes were held in Exeter at Lent (spring - prior to Easter), Lammas (August, or summer), and in the winter.

Before 1733 most Assize records are in Latin. Note that these records do not normally give the age of the accused, nor details of his or her family.

Records generated by the Assize Courts

Records of the Western Circuit, which included Devon, survive for 1611 – 1936 at The National Archives, although not all series are complete. Not all assize records have survived, as the clerks of assize sometimes destroyed them when they ran out of space. Earlier records are less likely to have been kept than later ones.

For more information, please see the Assize Guide available on The National Archive website.

If you do not know where or when a trial took place, you can begin by looking at Home Office criminal registers for England and Wales (held at The National Archives in series HO 27), which cover 1805 to 1892. The registers list people charged with indictable offences and provide the place of trial, verdict and sentence. They can be seen online at The National Archives in Kew, free of charge, and are also available online through the Ancestry website.

A booklet titled *Assizes and Quarter Sessions in Exeter*, published by Exeter City Council, but now out of print, is held in Devon Heritage Centre's local studies collection.

Devon County Assize Gaol Calendars (Calendars of Prisoners)

Some of these survive among the County Quarter Sessions records and are thus held at the Devon Heritage Centre. Some gaol calendars survive for the years 1784, 1843-1845 and between 1854 and 1919 (ref. DHC QS/34/1-65). These list prisoners held for trial at the next County Assizes.

Some of an additional series of printed gaol calendars (ref. DHS QS/32/92-379) covering the years 1782 to 1882, list prisoners in custody after committal at the Devon County Assizes. This series of calendars record prisoners in the County Gaol, House of Correction ("Workhouse" or "Bridewell") and "Sheriffs Ward" (debtors), and cases to be tried.

The National Archives also holds copies of gaol calendars of prisoners in custody following trial at the various Assizes in series HO140. They are referred to as Home Office: Calendars of Prisoners and only cover the years 1868-1971. These 'after-trial' calendars are lists, generally printed, of prisoners tried at Assizes (and at Quarter Sessions). The calendars are arranged yearly, and then alphabetically by county and chronologically within each county.

They include the following information: number; prisoner's name; age; trade; previous convictions; names and addresses of committing magistrates; date of warrant; when received into custody; offence as charged in the commitment (includes the name of victim before 1969); when tried; before whom the trial took place; verdict of the jury; sentence or order of the court.

Selected calendars of prisoners from series HO140 for the period 1868-1929 have been digitized and are available online on Find My Past.

Transportation Records held at Devon Heritage Centre

Only a few records relating to transported convicts survive in collections at Devon Heritage Centre. The following records may prove useful:

To colonies in America

- Devon County Assizes and Quarter Sessions - contracts and bonds dated 1726 – 1773 (ref: QS/129/1-94) These are listed.
- Entries in Devon County Quarter Sessions Order Books dated between 1718 - 1775 (ref: QS/1/16-20)
- Exeter City Quarter Sessions – orders, contracts and bonds, dated 1718 -1746 (ref. Exeter City Archives [E.C.A.] Ancient letters series).

For more information, see the published H.M.C. Report on the Records of the City of Exeter, Series 73, 1916, page 237, available in the Devon Heritage Centre searchroom.

To colonies in Australia

- Financial papers relating to removal of convicts from Exeter to Portsmouth (males) and to Woolwich (females) prior to transportation, dated 1821 - 1825, in voucher bundles, Devon County Treasurers records (ref: QS/134/5/1)
- Sentences in Devon County Quarter Sessions Order books, dated 1802 - 1854 (ref: DRO QS/1/22-30). These are indexed.
- Exeter City Quarter Sessions orders, dated 1801 - 1863 (ref: Exeter City Archives [E.C.A.] books 267-269)

Quarter Sessions

The Court of Quarter Sessions dealt with crimes less serious than those dealt with by Assizes, but still sometimes punishable by death or transportation. Quarter Sessions records are generally held in local heritage centres or record offices.

Separate quarter sessions were held in Devon for the following:

County of Devon

The County Quarter Sessions Records (ref. DHC QS), which form a complete and unbroken series dating from 1592 until the courts were abolished in 1971, are held at Devon Heritage Centre. The collection is the earliest uninterrupted series of such records in the country. A catalogue listing the County Quarter Sessions holdings can be searched online through our online archive catalogue databases, available

from the Online Catalogues and Indexes page of the Devon Archives and Local Studies website.

In 2011 the former Devon Record Office (now Devon Heritage Services) was awarded a grant of £32,000 by the National Archives Cataloguing Grants Programme. This award funded The Right to Remain Silent? Project, which resulted in the repackaging and cataloguing of a portion of the bundles of sessions papers in series QS/4 of the Devon County Quarter Sessions collection. The cataloguing of series QS/4 has been continued by a volunteer archivist since the project funding ended. Quarter Sessions bundles dating from 1734 to 1753 have been catalogued so far.

Devon County Quarter Sessions bundles (series QS/4) should be used together with the Sessions Order Books (series QS/1).

There are personal name and subject card indexes to County Quarter Sessions Order Books, 1734-1802, in the search-room.

City of Exeter

The City of Exeter Quarter Sessions records cover the period 1557 - 1971, although some series are incomplete. They are part of the Exeter City Archives (ref. ECA) collection, held in Devon Heritage Centre. There is a card index to the Exeter City Quarter Sessions collection in the searchroom.

Plymouth

Plymouth Quarter Sessions records are held at Plymouth and West Devon Record Office in Plymouth. The catalogue was originally submitted to the online Access to archives catalogue project, and can now be searched and are available from the Online Catalogues and Indexes page of the Devon Archives and Local Studies website.

Some Devon Boroughs

Borough Quarter Sessions records are held at either North Devon Record Office (ref. NDRO) or Devon Heritage Centre (ref. DHC). Catalogue lists for some of these collections can be found online our Devon Archive & Local Studies Services Online Catalogue available from the Online Catalogues and Indexes page of the Devon Archives and Local Studies website. Others are only available in paper catalogue format.

They survive for the following Boroughs:

- Bideford Borough (refs. NDRO 1064Q and 46B)
- Bideford Quarter Sessions records in collection 1064Q cover the years 1659-1888 and those in collection 46B cover the years 1830-1949.
- South Molton Borough, 1671-1775 (ref. NDRO 1190A)
- Torrington Borough, 1686-1836 (ref. NDRO 2558M)
- Dartmouth Borough, 17th–19th cents. (ref. DHC - part of DD series)
- Tiverton Borough, 1740-1813 (ref. DHC - R 4/1), and 1836 – 1950 (ref. DHC 1143)

Petty Sessions (later Magistrates' Courts)

Petty Sessions were the lowest tier in the court system and developed at the beginning of the 18th century to take on some of the work previously undertaken by the Quarter Sessions. Petty Sessions divisions were initially based on the old Hundreds of Devon.

Petty Sessions dealt with matters such as minor theft, poaching, assault, drunkenness, bastardy examinations, arbitration, and later with driving offences, as well as deciding whether to refer a case to

the Quarter Sessions. They were also responsible for approving licences to sell alcohol in ale houses and public houses.

Smaller crimes, those not needing to be heard before a jury and that could be punished under the petty session's limited sentencing powers, were known as summary offences.

At the beginning of the nineteenth century, individual justices of the peace, who were members of the gentry, frequently tried summary offences in their own home. In 1828, they became established by statute and became increasingly formalised. After the Summary Jurisdiction Act of 1848, all summary trials had to take place at formally constituted Courts of Petty Sessions, before at least two magistrates.

More serious crimes were known as indictable offences, and if an initial hearing at the Court of Petty Sessions found that there was a case to answer, they were referred (or committed) to the next Quarter Sessions.

Courts of Petty Sessions were abolished in the early 1970s and replaced by Magistrates' Courts. Today, cases relating to indictable offences are passed by the Magistrate's Court to the Crown Court.

Petty Sessions and Magistrate's Court records are held in local record offices. The survival rate of records is generally poor, but increases after 1848 when under the Summary Jurisdiction Act, Petty Session records had to be passed to the Quarter Sessions. In Devon, records are traceable to the late 17th century, and licensing records of this early period survive. However, no judicial court records survive before the 19th century.

Petty Sessions Records held at Devon Heritage Centre

Registers of Summary Convictions, Exeter, 1865 - 1911

Registers of Summary Convictions, County of Devon, 1824–1915 (refs. QS/11 and QS/12)

Earliest surviving dates for the Petty Sessions Registers for Divisions other than Exeter are as follows:

- Axminster, 1880
- Crediton, 1859
- Crockernwell, 1915
- Cullompton, 1915
- Holsworthy, 1861 (held at North Devon Record Office)
- Honiton, 1880
- Stanborough and Coleridge, 1876
- Ottery, 1915
- Teignbridge, 1879
- Tiverton, 1905
- Tiverton Borough, 1885
- Woodbury, 1891
- Wonford, 1926.

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