

Records Relating to Criminal Trials, Appeals, and Pardons

Information Leaflet #9

INTRODUCTION

This leaflet contains summary information on records of New York trial and appellate courts pertaining to criminal prosecutions (felonies and misdemeanors) and appeals, and on records relating to applications for and grants of clemency by the Governor (pardons, commutations, reprieves). Thus the scope of the information here presented covers the continuum of the State's involvement with a criminal, from arraignment, through trial, conviction (or acquittal or dismissal), sentencing, appeal, and pardon (if any). (The leaflet does not discuss records or files of district attorneys or police agencies, which investigate crimes, apprehend suspects, and prepare cases for prosecution.) Records in the State Archives pertaining to criminal appeals and executive clemency are described in considerable detail. Records held by the trial courts or other repositories are discussed in general terms.

Many of the records described in this leaflet contain information that is restricted by statute; the restrictions are noted in the appropriate location. New York's criminal justice system is large and complex, and this leaflet aims to assist researchers to locate sets of records or individual cases in that labyrinth.

NEW YORK CRIMINAL COURTS

County Court (1847+)

In all counties outside of New York City the County Court has jurisdiction over felonies and over misdemeanors that may be prosecuted by indictment. (In exceptional circumstances the Supreme Court may accept a criminal case.) Prior to 1896 the criminal term of the County Court was called the Court of Sessions. For varying periods during the later nineteenth century certain city courts had jurisdiction over felony cases. Records of the County Court are usually maintained by the county clerk, though in a few counties the court retains its recent criminal files.

Court of General Sessions (1683-1847)

The Court of General Sessions was a county-level court having jurisdiction over all felony cases not punishable by death or life imprisonment (those cases were reserved to the Court of Oyer and Terminer). Certain city courts had equivalent jurisdiction. (The Court of General Sessions in New York County continued as that county's superior criminal court until 1962.) Surviving minute books and indictment files are usually held by the county clerk. Lists of county and city criminal court records from the colonial period are found in Douglas Greenberg, *Crime and Law*

Enforcement in the Colony of New York 1691-1776 (Ithaca: 1976), and Julius Goebel and T. Raymond Naughton, *Law Enforcement in Colonial New York: A Study in Criminal Procedure (1664-1776)* (New York: 1944; repr. 1970).

Court of Oyer and Terminer (1683-1895)

Justices of the Supreme Court presided over a Court of Oyer and Terminer (old French, "hear and determine) in each county at least once a year. The court's jurisdiction was the same as that of the Court of General Sessions or County Court, except that Oyer and Terminer had jurisdiction over crimes punishable by life imprisonment or death. Any surviving records of this court are held by the county clerk.

Supreme Court of Judicature (1691-1847)

Though primarily a civil court, the Supreme Court during the colonial period occasionally tried felony cases. The surviving records of the colonial Supreme Court are in the New York County Clerk's Office. (A 1799 statute empowered the court to destroy all criminal indictments and other case papers pre-dating 1776; the only surviving records are minutes.)

Court of Assizes (1665-1683)

This court had both civil and criminal jurisdiction. The few surviving records of this court are in the New York State Archives [series A0271, available on microfilm] and the New-York Historical Society. See Peter R. Christoph and Florence A. Christoph, eds., *Records of the Court of Assizes for the Colony of New York, 1665-1682* (Baltimore: 1983).

Dutch Courts (pre-1664, 1674-75)

Most if not all surviving trial court records from the Dutch government have been published. See Berthold Fernow, ed., *The Records of New Amsterdam from 1653 to 1674*, 7 vols. (New York: 1897); A.J.F. Van Laer, trans. and ed., *Minutes of the Court of Rensselaerswyck 1648-1652* (Albany: 1922), and *Minutes of the Court of Fort Orange and Beverwyck 1652-1656* (Albany: 1920), the latter superseded by Charles T. Gehring, trans. and ed., *Fort Orange Court Minutes 1652-1660* (Syracuse: 1990); and A.J.F. Van Laer, trans. and ed., *Minutes of the Court of Albany, Rensselaerswyck and Schenectady [1668-85]*, 3 vols. (Albany: 1926-32).

New York City Criminal Courts

In the five counties within New York City the Supreme Court has had exclusive jurisdiction over felony cases since 1962. Before 1962 the New York County Court of General Sessions and the County Court in the other four boroughs had superior criminal jurisdiction. Since 1962 the

Criminal Court of the City of New York has had jurisdiction over misdemeanors and lesser offenses, as well as preliminary proceedings in felony cases. Before 1962 New York City courts vested with inferior criminal jurisdiction were the Court of Special Sessions (1732-1962 after the mid-nineteenth century it had many specialized divisions), the "Police Court" (1798-1895) and the succeeding Magistrates' Courts (1895-1962). Records of the criminal courts in New York City for recent decades are maintained by the courts. Many records of the Court of General Sessions are held by the Municipal Archives and the New York County Clerk's Office. The Municipal Archives also holds voluminous records (dating back to the 1790s, many of them on microfilm) of the city's lower criminal courts and of the New York County district attorney's office. See Guide to Federal, County and Municipal Archives in the City of New York (New York: 1989). For a history of the New York City courts, see The Encyclopedia of New York City, ed. Kenneth T. Jackson (New Haven: 1995), pp. 290-95.

City, Town, Village, and District Courts

New York has nearly 1500 lower criminal courts, which are empowered to dispose of offenses below the level of felony. City, town, village, and district courts handle felony arraignments and try misdemeanors and lesser offenses. Each town has two or more elected town justices (formerly justices of the peace).

All larger and some smaller villages have village justice courts (formerly police courts). All city courts have appointed clerks who maintain the court's records. However, most town and village courts have no clerks of their own, and the town and village clerks take custody of the records after a justice leaves office. In recent decades District Courts have replaced town and village justice courts in Nassau and Suffolk Counties. Those courts maintain their own records.

Between 1820 and 1970 statute required all the lower criminal courts (city, town, village, and district) to file certificates of convictions with the county clerk's office. Some counties maintain these certificates dating back to the nineteenth century. The certificates serve to document the business of the lower criminal courts, most of whose older records have long since been destroyed. Some historical societies and libraries around the state have old docket books of local justices of the peace. (The books remained in private hands, and were not retained by the town clerk.)

Family Court (1962+)

The Family Court was established in 1962 and operates in each county. The court has jurisdiction over criminal offenses committed by minors, as well as assault by one family member against another, failure to support legal dependents, paternity of illegitimate children, etc. Family Court records are maintained by the court's chief clerk. Access to the records is restricted, but the Family Court judge may grant access to "any person or agency having a legitimate purpose."

Children's Court

The predecessor to the Family Court in counties outside of New York City was the Children's Court, established in 1922. In New York City a Children's Court was organized in 1902 and a Family Court in 1921; both courts were succeeded by the Domestic Relations Court of New York City, which functioned between 1933 and 1962. All these courts had areas of jurisdiction later given to the Family Court, and that court maintains any surviving records of the predecessor courts. Prior to the early twentieth century the County Court had jurisdiction over criminal offenses committed by juveniles. An 1892 statute required the courts to keep separate docket books for criminal cases involving juvenile defendants under age 16. Prior to that date the regular court minutes and files would include information on juvenile defendants.

Access to Records of Criminal Courts

The Judiciary Law generally makes records of court proceedings open for public inspection. However, certain categories of records are not freely accessible: sealed records of criminal defendants who were acquitted, or whose cases were dismissed; records of youthful offenders; records relating to sex crimes; and all records of the Family Court and predecessor courts. Questions about access to court records should be directed to the court clerk or to the Office of Court Administration, 25 Beaver Street, New York, New York 10004; phone: (212) 428-2875. A directory of county- and city-level courts and of appellate courts is found in the current edition of the New York Lawyers Diary and Manual. An on-line directory of criminal courts is found at New York State Unified Court System's website.

INITIAL APPEALS IN CRIMINAL CASES

Many criminal cases are appealed, usually to the Appellate Division of the Supreme Court, and occasionally there are subsequent appeals from the Appellate Division to the Court of Appeals, the State's highest court. The record on appeal (formerly called a "case") presents to the appellate court the proceedings of the trial court, and legal objections either to the court's jurisdiction or to its proceedings. The record on appeal contains copies of papers filed in the trial court (including the indictment or other instrument by which the case was commenced), a transcript of testimony, and copies of documentary exhibits.

Accompanying the record on appeal are briefs of the attorneys for the appellant and respondent, on which oral arguments were largely based. When appeals are made by prisoners, only a limited number of copies of the record and briefs are filed with the court. Therefore the clerk's set includes a considerable number of criminal appeals not found in the duplicate sets of the records and briefs found in law libraries. Among the records and briefs are cases that were notorious at the time, and are of continuing interest for legal and social history. Script writers for motion pictures or television shows have used records on appeal from New York courts to extract themes and details relating to crime, police work, and court trials.

Archival collections of records and briefs of the Court of Appeals and the Appellate Division of the Supreme Court are noted below. In addition, many law libraries around the state hold reference collections of records and briefs from appellate courts. A directory of law library holdings of appellate court records and briefs is Joan T. White and Dawn M. Tybur, comps., *Union List of Cases and Points/Records and Briefs in New York State Law Libraries* (Buffalo: 1987). This list identifies the libraries holding records and briefs of both State and Federal courts and indicates the date range, format (paper or microform), and loan policy.

The New York State Library holds large collections of records and briefs of the Appellate Division (1896+), of the old General Term of the Supreme Court (1847-1895), and of the Court of Appeals (1847+). (The Library's older records and briefs are in storage, and retrieval is subject to delay.)

Starting in 1984 the records and briefs of all four departments of the Supreme Court Appellate Division have been reproduced on microfiche by the Office of Court Administration. Paper copies of the records and briefs are no longer retained by the Appellate Division. The microfiche publication (excepting the copies of restricted cases) is available in the New York State Library and in several law libraries around the state. Once an appeal is decided paper copies of the record and briefs are remitted (returned) to the trial court; those copies may be in the county clerk's office (for county-level trial courts) or the court clerk's office.

New York State appellate court decisions and opinions are published in the official New York Reports (abbrev. "N.Y.," Court of Appeals cases, 1847+) or the Appellate Division Reports (abbrev. "A.D.," Supreme Court Appellate Division cases, 1896+). Legally-significant decisions in the lower courts of record (i.e. courts having a clerk and seal) are published in the *Miscellaneous Reports* (abbrev. "Misc.," 1892+). All three publications commenced their second series in 1956. The citation to a case consists of the volume number, reporter, series, and starting page number (e.g. 13 A.D. 2d 545).

Official law reporting began in New York in 1804, and unofficial, commercial reporting of court cases about the same time. Currently the West Publishing Company publishes all officially-reported New York cases in the *New York Supplement* (1888+, with retrospective reports of Court of Appeals cases back to 1847), and Court of Appeals cases in a multi-state reporter titled the *North Eastern Reporter* (1885+). During the nineteenth century both official and unofficial court reports were known by the names (or abbreviated names) of their reporters (e.g. "Johns." for "Johnson," reporter for the Court of Chancery, 1814-23).

Law libraries hold numerous tools legal digests, encyclopedias, etc. that assist researchers in locating reported cases. The most comprehensive index to reported cases is the plaintiff-defendant and defendant-plaintiff tables in *Abbott New York Digest*. This work is a multi-volume summary of New York case law, arranged by subject, now in its fourth chronological series. The best current guide to locating New York reported cases is found in Ellen M. Gibson, *New York Legal Research Guide* (Buffalo: William S. Hein & Co., 1988), pp. 145-81 (has a complete list of official and unofficial published case reports).

Supreme Court Appellate Division (1896+)

Since 1896 the Appellate Division of the Supreme Court has been the principal first-level appeals court in New York. The Appellate Division is organized in four departments, headquartered in Manhattan, Brooklyn, Albany, and Rochester. The Appellate Division has jurisdiction over appeals from the trial courts of original criminal and civil jurisdiction and from administrative bodies.

First Department (Manhattan)

The First Department is comprised of New York and Bronx Counties. The official depository for records and briefs of the First Department (Manhattan) is the Library of the Association of the Bar of the City of New York. (That facility is open only to members of the Association.) The State Archives holds the following two related series:

B0815 Trial Transcripts from New York County Criminal Courts, 1883-1927 (425 microfilm reels)

These transcripts were produced for appeals to higher courts. The great majority of these transcripts are for trials in the Court of General Sessions, 1886-1927 (about 3100 cases). A few transcripts are for cases tried by the New York Supreme Court, 1896-1922 (160 cases); the Court of Oyer and Terminer, 1886-1895 (about 25 cases); and other, lower tribunals (e.g. Magistrates Court). There are no transcripts for the vast majority of criminal cases that were not appealed.

Access and Restrictions: The State Archives holds the master negative microfilm and can produce user copies of individual reels on request, at cost of duplication. The Library of the John Jay College of Criminal Justice, CUNY, was responsible for producing the microfilm and holds a complete set of the film for public use. Both John Jay College and the State Archives have copies of the paper indexes to the cases; there are indexes to defendants, judges, attorneys, and charges, as well as a master index by assigned case number. An unpublished guide to the collection is available: Eli Faber, comp., "Trial Transcripts of the County of New York (1883-1927); A Historical Introduction and Index to the Microfilm Collection" (1985).

J0016 New York [County] Court of General Sessions of the Peace Records on Appeal Remitted from the Supreme Court General Term, Supreme Court Appellate Division First Department, or Court of Appeals, ca. 1884-1916 (384 vols.)

These records on appeal are printed books containing copies of trial court documents, transcripts of testimony, documentary exhibits, etc.; and signed orders of the appellate court indicating the decision on the appeal and remitting (returning) the record to the Court of General Sessions. These volumes were transferred to the State Archives in 1990 by the Library of the Supreme Court (New York County) Criminal Division.

Access: These volumes are arranged by a sequential volume and case number, assigned by the court after the records were remitted. The individual cases are not in any discernible order, chronological or otherwise, and the Archives has no index to or list of the cases.

Second Department (Brooklyn)

The Second Department embraces the counties on Long Island and Staten Island and five counties in the lower Hudson Valley. The State Archives holds the court clerk's set of records and briefs for 1896-1935. Those for later decades have been destroyed, but duplicate sets exist in a few law libraries. The clerk of the Second Department holds records and briefs for recent years.

J2004 Records and Briefs, ca. 1896-1935 (750 c.f.) Restricted in part.

These records and briefs were acquired by Queens Borough Public Library after the Second Department had disposed of them. The State Archives acquired them in 1992.

Access and Restrictions: These records and briefs include both criminal and civil cases. Some categories of cases are restricted. The records and briefs are practically inaccessible because they are disarranged and unindexed.

Third Department (Albany)

The Third Department embraces twenty-eight counties in eastern, northern, and central New York. Besides the usual appeals from trial courts, the Appellate Division Third Department has a substantial business of appeals from quasi-judicial determinations of administrative officers, such as the Workers' Compensation Board and the Commissioner of Education.

J2001 Records and Briefs on Appeal, 1896-1983 (7413 vols.) Restricted in part.

The State Archives holds the court clerk's set of records and briefs for cases appealed to, or matters decided by, the Appellate Division in this department. Starting in 1984 the records and briefs of the Third Department have been preserved on microfiche, which is available in law libraries around the state. For minutes and case registers of the Appellate Division Third Department, see Guide to Records in the New York State Archives (Albany: 1993), pp. 399-400.

Access and Restrictions: The Archives holds case lists which provide access to the volumes of records and briefs for 1937-1938 and 1969-1982. Access to the volumes for other years is difficult; in order for a search to be made, the researcher must supply the title of the case and the date of argument before the court. Certain categories of cases are restricted.

Fourth Department (Rochester)

The Fourth Department embraces twenty-two counties in western, central, and northern New York. The records and briefs of the Supreme Court Appellate Division (Fourth Department) are retained by the clerk of the court. The court also holds records and briefs of the Supreme Court General Term, ca. 1850-1895, from judicial districts embraced by the present Fourth Department.

Supreme Court General Term (1847-1895)

The predecessor to the Appellate Division was the General Term of the Supreme Court. Between 1847 and 1870 the General Term was held in each of the eight judicial districts. In 1870 the number of General Terms was reduced from eight to four. The General Term was empowered to hear appeals from judgments from the Supreme Court's trial terms in each county; from orders and decisions of Supreme Court justices; and from the County Courts and the Mayor's and Recorder's courts in cities.

County clerks maintained the minutes of the Supreme Court General Term when it sat in their counties. A few law libraries around the state have collections of cases and briefs from the General Term, but apparently no single collection is complete, and all collections put together may not yield a complete set. Summary information on holdings of General Term cases and briefs is available in White and Tybur, comps., Union List of Cases and Points/Records and Briefs in New York State Law Libraries.

Supreme Court of Judicature (1691-1847)

During the early nineteenth century very few proceedings and convictions of criminal courts were reviewed by higher courts, because common and statute law strictly limited the convicted person's right to such review. The review was initiated by obtaining a writ which, depending on the circumstances, ordered the trial court to transmit to the Supreme Court a certified copy of the proceedings (writ of certiorari) or the record of judgment or conviction in a court of record (writ of error), or to transfer custody of the defendant (writ of habeas corpus).

The record from the lower court was attached to the writ of error or writ of certiorari and returned to the higher court for its determination or review. Written briefs, if there were any, were filed separately. Hence there was nothing that resembles the printed and bound "cases and points" or "record and briefs" maintained by the appellate courts starting around 1850, and continuing to the present.

The New York State Archives holds several record series, transferred from the Court of Appeals, containing thousands of writs of error and certiorari and the returns thereto. These documents were originally filed in the upstate offices of the Supreme Court of Judicature during the period 1797-1847. The New York County Clerk's Office holds the same types of documents that were filed in the New York City office of the Supreme Court prior to 1847.

For further information on pre-1847 records of the Supreme Court, including records of criminal cases transferred to or reviewed by that court, see "Duelly & Constantly Kept": A History of the

New York Supreme Court, 1691-1847 and An Inventory of Its Records (Albany, Utica, and Geneva Offices), 1797-1847 (Albany: 1991) and Guide to Federal, County and Municipal Archives in the City of New York (New York: 1989).

County Court

Since 1824 the county-level courts (Court of Common Pleas prior to 1847, County Court since 1847) have had the authority to review criminal and civil cases appealed from the town justice and village police courts. Appeal papers are occasionally filed with the county clerk, though properly the papers should have been remitted to the lower court after the appeal was concluded.

FINAL APPEALS IN CRIMINAL CASES

Court of Appeals (1847+)

The Court of Appeals is the court of last resort in New York's Unified Court System. The court has jurisdiction over questions of law, new findings of fact in the Appellate Division, and all appeals in capital cases (see below). Court of Appeals orders granting or denying leave to appeal in criminal cases are listed in the New York Reports.

J2002 Cases and Briefs on Appeal, 1847-1989 (15,761 vols.)

The Court of Appeals has transferred to the State Archives the clerk's set of cases (i.e. records on appeal) and briefs dating back to 1847. Additional cases and briefs are transferred after a minimum of six years retention in the court. Cases and briefs of the Court of Appeals starting ca. 1960 are available on microform in several law libraries around the state. See White and Tybur, comps., Union List of Cases and Points/Records and Briefs in New York State Law Libraries.

Access and Restrictions. The cases and briefs are indexed in a card file maintained by the Court of Appeals. Researchers should supply the State Archives with the title of the case and the citation to the reported decision in the New York Reports. The records and briefs for certain categories of cases are restricted. Otherwise the cases and briefs are generally available for public inspection, but photocopying is restricted if the paper is brittle or the binding is fragile.

J2006 Minutes of Causes, 1847-1940 (32 volumes)

These minutes contain entries of notices filed, oral arguments, preliminary and final orders, decision, and return of case to trial court for execution of judgment. They are a convenient listing of actions in each case considered by the Court of Appeals. For other case-tracking records produced by the Court of Appeals, see Guide to Records in the New York State Archives, pp. 387-91.

Access: These minutes are organized chronologically by date of case. Each volume has a case index. The minutes are available without restriction.

Court for the Trial of Impeachments and Correction of Errors (1777-1847)

This tribunal was New York's court of last resort under the State's first and second constitutions. It heard only a handful of appeals of criminal cases. The State Archives holds the court's minutes [series J0159] and (incomplete) case files [series J0157]. These records are available on microfilm.

FINAL APPEALS IN CAPITAL CASES

Since its creation in 1847, the Court of Appeals has been the court of last resort for persons convicted of capital crimes. In 1887 the Code of Criminal Procedure was amended to require an automatic direct appeal from the trial court to the Court of Appeals, if the convicted person was sentenced to death. The court was empowered to order a new trial, "if satisfied that the verdict was against the weight of evidence or against law, or that justice requires a new trial, whether any exception shall have been taken or not, in the court below." The substance of this statutory provision was incorporated into the State Constitution in 1894. Documentation of the trial proceedings and evidence presented in capital cases is found in the records on appeal ("cases") of the Court of Appeals [series J2002, described above]. Some information on the status of appeals by persons convicted of a capital crime is found in records relating to the execution of sentences of death at Sing Sing Correctional Facility at Ossining.

B0147 Admission Registers for Prisoners to be Executed, 1891-1946 (2 vols.); B1242 Log of Actions Relating to Inmates Awaiting Execution, 1892-1907 (1 vol.); B1244 Log of Actions Relating to Inmates Scheduled for Execution, 1915-1967 (2 vols.)

Together these registers and log books contain a chronological summary record of all prisoners received at Sing Sing Prison who were sentenced to death. The earliest log book contains only brief information on the prisoner. Commencing 1907 the log books contain summary data on the personal and criminal history of each prisoner; and on the appeal and execution proceedings.

Access and Restrictions: These registers and logs are available to the public without restriction.

B0145 Case Files of Inmates Sentenced to Electrocution, 1939-1963 (15 cu. ft.) Restricted.

These files from Sing Sing Correctional Facility at Ossining contain personal, medical, and legal documentation on persons sentenced to death. Documents in the files include the warrant of execution, admission form, parole investigation report, correspondence, medical reports, notices on the status of the appeal to the Court of Appeals, documents relating to the execution of sentence, etc.

Access and Restrictions: The files are arranged by date of execution. Portions of the files are restricted pursuant to the Correction Law; regulations of the Commissioner of Correctional Services, 7 NYCRR Part 5; and a memorandum of understanding between the Department of Correctional Services and the State Archives.

NOTE: A booklet published by the Ossining Historical Society, *Sing Sing Prison Executions, 1891-1963* (Ossining: ca. 1988), contains a summary chronological list of all persons executed at Sing Sing prison. (Prior to 1891 executions were carried out by county sheriffs, usually in the grounds of the jail.)

EXECUTIVE CLEMENCY

Article 18 of the Constitution of 1777 authorized the governor, at his discretion, to grant pardons and reprieves, except in capital cases (murder and treason). This power was continued by the second (1821), third (1846), and fourth (1894) State constitutions. The governor's power to grant commutations of sentence was added by the Constitution of 1846. Today the governor's power to grant clemency and pardons is stated in Art. 4, Sect. 4, of the New York State Constitution. The power to grant pardons in capital cases was reserved to the Legislature by the Constitution of 1777. In cases of murder this power was transferred to the governor by the Constitution of 1821. The Constitution continues to reserve to the Legislature the power to pardon persons convicted of treason (though the present Penal Law specifies no penalty for treason).

The Executive Law requires the Governor to maintain "registers containing classified statements of all applications for pardon, commutation or other executive clemency and of his action thereon," and to maintain "files of all official records upon which applications for executive clemency are founded." Records of applications for and grants of executive clemency are found in various series of registers and filed papers kept by the Executive Chamber. Additional records of grants of executive clemency were created by the Secretary of State's Office, and later transferred to the State Archives.

Archival documentation of executive clemency commences in the late eighteenth century and continues in one format or another to the present. Most of the records date from the later nineteenth and early twentieth centuries, when the number of applications for, and grants of, executive clemency increased greatly. The number of grants of clemency declined after indeterminate (variable-length) sentences were introduced for juveniles (1877) and for all first-time felony offenders (1901).

The parole system was developed in part to review applications by prisoners for executive clemency. A Board of Commissioners for Paroled Prisoners was established in each prison in 1889; these boards were succeeded by the statewide Board of Commissioners for Paroled Prisoners, organized in 1901, the Board of Parole for State Prisons, 1908, and the present Division of Parole, 1926.

The principal record series in the State Archives relating to executive clemency and pardons are the following:

Secretary of State's Office

B1201 Name Index to Executive Pardons, Respites, Commutations, Restorations of Citizenship and Certificates of Good Conduct, 1799-1987 (4 c.f.)

This series is a card index to names of persons receiving grants of executive clemency in record series described in more detail below: B0042 (pardons), B0048 (respites and commutations), B0046 (restorations of citizenship), and 13253 (all types of clemency grants, post-1931).

Access: The index is in three chronological sections 1799-1930, 1931-1982, and 1983-1987.

B0042 Executive Pardons, 1799-1846, 1856-1931 (10 vols.); microfilm available for years 1799-1806 and 1825-34

This series is a record of pardons granted by the governor. Each entry gives the name of the person pardoned, the court where convicted, the crime, the sentence, and the date of pardon. Some of the entries also state the special conditions under which the pardon was granted.

Access: Indexed in series B1201 (above). All the individual volumes (except the one for 1870-1924) contain name indexes. Pardons starting 1931 are recorded in series 13253, below.

B0049 Executive Orders for Commutations, Pardons, Restorations, and Respites, 1840-1920, 1924-1929 (28 vols.) Restricted in part.

These orders (termed "requests") direct the Secretary of State to issue formal pardons, commutations of sentence, respites (stays of execution for condemned persons), and restorations (orders restoring pardoned convicts to full rights of citizenship). The orders contain name of convict, crime, place of trial, date of sentence, place of imprisonment, etc. Commutations may state special conditions of the commutation of sentence.

Access and restrictions: The volumes do not contain name indexes. Most of the volumes are in poor condition; use and photocopying are restricted. The first volume contains some applications for grants of clemency or pardon for the years 1840-42, when William H. Seward was governor; these applications are restricted. The Seward Papers at the University of Rochester Library contain many additional documents relating to clemency applications during the period 1839-42. See Catherine D. Hayes, comp., "Register of the William Henry Seward Papers" (1963) (copy available in State Library).

B0048 Respites and Commutations, 1854-1931 (1 c.f.)

These books contain record copies of respites (reprieves for persons sentenced to death and respites of sentences for persons convicted of non-capital crimes); and of commutations of sentence (commutation of death sentences or reduction in the length of other criminal sentences).

Access: Indexed in series B1201 (above). Some of the volumes contain name indexes. For respites and commutations granted starting 1931, see series 13253, below.

B0046 Executive Restoration of Citizenship Rights, 1869-1931 (8 vols.)

Restorations of citizenship rights are granted by the governor at his discretion. Entries give convict's name, crime, sentence, prison, and date of restoration. Restorations of citizenship for 1856-1868 are recorded in series B0042, above. For restorations granted starting 1931, see series 13253, below.

Access: Indexed in series B1201 (above). Each volume has a name index.

13253 Executive Pardons, Respites, Commutations, Restorations of Citizenship, and Certificates, 1931-1993 (4.6 c.f.)

This series records the Governor's grants of executive clemency and pardon formerly recorded separately in series B0042 (pardons), B0048 (respites and commutations), and B0046 (restorations of citizenship), described above.

Access: Indexed in series B1201 (above).

B0043 Lists of Convicts Discharged by Expiration of Sentence or Pardon, ca. 1819-1837, 1848-1853, 1873, 1876, 1880-1891 (2 c.f.) Restricted fragile.

These printed reports are folio sheets or booklets. They list convicts discharged from State prisons, either by expiration of sentence or pardon, during the previous year. The names are arranged by prison (State Prison in New York City, also known as "Newgate"; Auburn; Mount Pleasant, later called Sing Sing; and Clinton). The reports state the convict's name and date of discharge, and provide summary data on the individual's crime, conviction, sentence, and personal characteristics.

Access and restrictions: These reports are fragile; use is restricted. This set is incomplete. The State Library does not hold copies of these reports. A set for the years 1819-1891 is available at the Department of Manuscripts & University Archives, Cornell University Libraries (Collection #3848). These lists not only provide the names of and summary data about individuals who were pardoned, but also constitute a summary record of inmates of state prisons during most of the nineteenth century.

Executive Chamber

Following are abbreviated descriptions of records from the Governor's office relating to executive clemency. These records were received by the State Library several decades ago and were transferred to the State Archives when it opened in 1978. For more detailed information on records in the State Archives relating to executive clemency, see Guide to Records of the Governor's Office in the New York State Archives (Albany: 1995), pp. 50-57.

A3189 Letter Book of Official Correspondence and Proclamations, 1787-1795, 1802-1804 (1 vol.)

This register of official letters and other documents was maintained by Governor George Clinton. It includes proclamations delaying the execution of sentences of death, as well as letters transmitting to the Legislature applications for clemency for persons convicted of capital crimes.

Access: There is a calendar of documents found in this register.

A0622 Ledgers of Governors' Actions and Decisions, 1856-1906 (5 vols.)

The "ledgers" contain data on official actions of the Governor, organized under type of action, then chronologically. Each volume contains a section listing applications granted or denied for pardons, commutations, and restorations of citizenship. Entries give the name of convict, date and term of sentence, crime, county, and prison. The data in these "ledgers" was derived from two other record series maintained in the Executive Chamber: the Governor's "journals" (contains daily entries under various headings, 1859-1916) [series A0607] and "blotters" (contains rough entries or pasted-in documents, 1859-1938) [series A0608].

Access: The entries are chronological and may serve as a scannable listing of names of persons applying for clemency or pardon.

A0626 Executive Clemency Application Status Ledgers, 1883-1899 (5 vols.); A0629 Executive Clemency and Pardon Application Ledgers and Correspondence, 1849-1903 (40 vols.) Restricted in part.

These two series of registers contain chronological entries of applications or petitions for clemency or pardon. Data in the registers varies, but generally includes name of convict; crime and sentence; date, place, and court of conviction; checklist of documents received in relation to the application; and final disposition of application. The registers contain summary data on applications for clemency or pardon. The data could be used for historical or sociological studies of the clemency process; for example, the number, character, and the rate of approval of applications, by type of crime or identity of defendant (e.g. men or women). The ledger covering the Civil War period identifies numerous convicts who were pardoned or released from prison by order of the governor, so that they could enlist in the U.S. Army.

Access and Restrictions: Some of the volumes contain name indexes, but there is no over-all index. Some volumes in series A0629 contain outgoing correspondence from the Governor's office; access to this correspondence is restricted under the same conditions as apply to the application files (series A0597, below).

A0597 Executive Clemency and Pardon Case Files, ca. 1860-1926 (133 cu. ft.). Restricted.

Files typically contain petitions or applications for clemency, from convicts or from family or friends; other correspondence supporting or opposing the application (includes letters from

judges, prosecutors, and prison officials); copies of indictments and appeal papers (include some records on appeal). Occasionally found in the file are the Governor's public statement of grant of clemency or pardon; and the convict's acceptance of any conditions attached to the grant of clemency. While most applications were rejected, the files contain much information on what were presented as mitigating circumstances that made the convict deserving of clemency or pardon. This information could provide significant data for historical and sociological studies of crime, criminals, prisons, and public sentiment about convicts. The files seem to contain little direct evidence of a governor's thinking in regard to clemency applications. More recent application files are held by the Division of Parole.

Access and Restrictions. The files are not indexed and are partly disarranged. Registers or ledgers of applications (series A0626 and A0629, above) can help in locating individual files or categories of cases. The files are in fair to poor physical condition (folders and envelopes are severely deteriorated). These files were transferred to the State Library in 1947, and from there to the State Archives in 1978. However, access to the files is restricted; the records "will be made available only in the discretion of the Governor" (information from Division of Parole). Persons wishing to use the files for research are referred to the Executive Clemency Bureau, New York State Division of Parole.

Messages of the Governors

The Governor is required by the Constitution and by statute to make an annual report to the Legislature on grants of commutation, pardon, or reprieve. The Governors' messages concerning grants of clemency or pardon have been printed in the annual Public Papers of the Governor, which commenced in the 1860s. The messages are also published separately. Between the 1850s and the 1970s the messages were also included in the annual series of Senate or Assembly Documents (through 1918) or Legislative Documents (1919-1976). These published documents are available in the New York State Library and in other major research libraries holding collections of New York State government documents.

Prison and Reformatory Records

The State Archives holds numerous inmate registers, cards, and case files from several State correctional facilities. (Most of the record series are incomplete, and only a sample of post-1956 case files is being preserved.) Basic personal information (including information on adult convictions and incarcerations) is available without restriction. However, probation, parole, and medical data is restricted by Department of Correctional Services regulations. Access to prison and reformatory records is difficult because there are almost no indexes to the records. Archives staff will search for a specific inmate record only if sufficient information is provided (such as place and dates of incarceration and/or institutional identification number) to locate the record. Descriptions of these records is available in *Guide to Records of the Department of Correctional Services*.

The institutions and date spans of correctional facility case registers or cards available for use at the State Archives are as follows:

Prisons

- State Prison of the City of New York ("Newgate") (1797-1810)
- Auburn Prison (1817-1970)
- Clinton Prison (at Dannemora) (1846-1964)
- Sing Sing Prison (at Ossining) (1865-1971)
- State Prison for Women at Auburn (1893-1933)
- Westfield State Farm [for Women] (1933-52)
- Fishkill Correctional Facility (1949-77)

Reformatories

- New York House of Refuge (at New York City) (1824-1935) (case records on microfilm)
- Western House of Refuge (at Rochester), later State Agricultural & Industrial School (at Industry) (1849-1960) (case records on microfilm)
- New York State Reformatory (at Elmira), later Elmira Reformatory (1877-1957)
- Western House of Refuge for Women (at Albion), later Albion State Training School (1894- 1948)
- Eastern New York Reformatory (at Naponoch) (1900-1909)

For related information on historical records of New York State criminal courts and clemency actions by the governor, consult the guide, *Records Relating to Criminal Trials, Appeals, and Pardons*.

The New York State Archives

Archives holdings are searchable through Excelsior, the online catalog of the New York State Archives.

Records in the State Archives may be used at the Archives' research room. Certain record series have been microfilmed by the State Archives, and the film may be borrowed on inter-library loan or purchased. Visit the Guide to Historical Records section of our Publications area to obtain a print copy of this publication. Contact us for further information on holdings and services of the New York State Archives.