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EXPENDABLE: EIGHT SOLDIERS FROM MASSACHUSETTS REGIMENTS EXECUTED
FOR DESERTION DURING THE UNITED STATES CIVIL WAR

A Thesis Presented

by

STEPHEN F. RAGON

Submitted to the Office of Graduate Studies,
University of Massachusetts Boston,
in partial fulfillment of the requirements for the degree of

MASTER OF ARTS

May 2017

History Program

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EXPENDABLE: EIGHT SOLDIERS FROM MASSACHUSETTS REGIMENTS EXECUTED
FOR DESERTION DURING THE UNITED STATES CIVIL WAR

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ABSTRACT

EXPENDABLE: EIGHT SOLDIERS FROM MASSACHUSETTS REGIMENTS EXECUTED FOR DESERTION DURING THE UNITED STATES CIVIL WAR

May 2017

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The written history of the United States Civil War provides limited analysis on the topic of desertion and execution for desertion in the Army of the Potomac. The specific numbers involved are well documented. With the exception of occasional narratives on the executions themselves, there is no examination of the human decisions taken, beginning with the soldier's choice to desert. In addition, while the military court-martial trial was rigid in its structure and process, it allowed for discretion in the sentencing phase. Human choice exerted its greatest influence in the aftermath of the trial as the sentence was reviewed up through the military chain of command. Ultimately, the case would arrive at the desk of President Abraham Lincoln; the final arbitrator of life or death. Fortunately for the convicted, they had a compassionate Commander in Chief and President Lincoln personally intervened in hundreds of their cases.

There were over 200,000 incidents of desertion from the Union armies during the Civil War. Desertion and other crimes resulted in 75,961 court-martials and 1,883 soldiers were sentenced to be executed. A total of 265 men were executed and 147 of those were for desertion. This paper provides a micro history of eight soldiers from Massachusetts regiments executed for desertion. They are contrasted against seven soldiers from Massachusetts regiments pardoned for the same capital crime of desertion. Extrapolating the data elements of the accused, along with their trial testimonies, allows for the identification of three major factors that influenced whether a soldier who deserted was executed or pardoned.

A second contribution to the historical record on the Civil War is the identification of the personal data elements found in these men's lives. By consolidating these elements, such as place of birth, a profile of the typical deserter emerges. This deserter profile can be contrasted against a historically codified profile of a typical Union soldier. Ultimately, while these deserters were denigrated for their crime of desertion, they deserve to have their stories heard. In doing so, it is possible to identify who these men really were and what their role was in the United States Civil War.

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TABLE OF CONTENTS

| | |
|--|------|
| ACKNOWLEDGMENTS | vi |
| CHAPTER | Page |
| 1. INTRODUCTION | 1 |
| 2. THE UNION ARMY AND DESERTION DURING THE WAR | 9 |
| 3. THE LEGAL PROCESS..... | 21 |
| 4. THE EXECUTED MEN..... | 34 |
| 5. WILLIAM FRANCIS HILL..... | 54 |
| 6. MEN GRANTED A REPRIEVE..... | 65 |
| 7. CONCLUSION..... | 80 |
| BIBLIOGRAPHY..... | 85 |

CHAPTER 1 INTRODUCTION

The topics of desertion and execution for desertion have received sparse coverage throughout written American history. They are usually masked as small sub topics within a framework of much larger narratives on military warfare. In addition, the published material tends to restrict itself to the summation of numeric facts and figures. Occasionally, anecdotal stories about the accused or the trial and execution process of the convicted are included. As an example, in the Civil War classic, *The Life of Billy Yank*, there are only five pages on desertion listed in the index of a book over 400 pages in length. In addition, one and a half of those pages are written about the execution process and two botched executions. One was held in early 1864, and the other in late 1864.¹

Desertion and execution for desertion were not written about and rarely discussed in public for over 60 years after hostilities were concluded. They were considered distasteful and impolite topics. Instead, people naturally wanted to focus on remembrances of the lofty ideals they fought for and the heroic actions taken by all involved during the late war. Ella Lonn, in her groundbreaking book, *Desertion During The Civil War*, took on the subject of desertion for the first time in 1928, while some of

¹Bell Irvin Wiley, *The Life of Billy Yank: The Common Soldier of the Union* (Indianapolis: Bobbs-Merrill Company, 1952), 449.

the veterans were still alive.² Her work remains the gold standard for anyone interested in Civil War desertion by the numbers. In addition, she introduced several human motivations for desertion such as pressure from the home front to desert, to help provide a broad based scientific approach to the topic. However, she did not examine the character of the individual actors themselves or their personal choices taken.

In the years since Lonn's book was published, there has not been any other book that has looked comprehensively at desertion numbers. Her facts and figures are continually used in background information when desertion is covered in new scholarly publications. More recent scholarship has focused on specific data sets such as soldiers executed during the Civil War, or more often, on individual vignettes that are placed within the context of much larger narratives.

Up to now, the published material continues to provide little analysis of the human element in this military capital crime. The role that individual decisions played, beginning with the decision to desert, continued throughout the judicial process and ultimately the execution itself, are also key elements missing from standard histories. It is the intention of this thesis to focus on the previously untold stories of individuals who were executed. There are currently no other studies that examine individual case histories of desertion leading to execution, with the intention of understanding both the formal steps taken and the idiosyncratic reasons given for the execution or release of a deserter. These case studies reveal both the formal rules and circumstantial conditions that led to individual decisions regarding the fate of a deserter. This thesis will show that formal

² Ella Lonn, , *Desertion During The Civil War* (Gloucester, MA: American Historical Society, 1928), 146.

military law was in fact implemented with discretion by officers and military courts in patterns that can be recognized and understood.

There are two key research features to this thesis. First, in order to do a meaningful analysis, the focus of this thesis is limited to desertion from the United States Army and, in particular, the Union Army during the United States Civil War and specifically Massachusetts regiments. The second key feature is the centrality of human agency in stories of desertion. While an examination of desertion by the numbers provides key background to this thesis and helps contextualize desertion, the main focus will be on the individual actors themselves and the human element in the overall story of desertion and execution for desertion during the Civil War.

A Congressional report published by the 39th Congress of the United States in 1867 cites 278,644 instances of desertion from the Union Army during the U.S. Civil War. Desertion and other crimes resulted in 75,961 Union Army courts-martial issued and ultimately 1,883 Union soldiers were condemned to be executed for their crimes.³ In the remaining cases, soldiers were either found not guilty or punished in non lethal manners as prescribed for in the regulations. Most of those sentenced to death either had their sentences commuted or were granted a pardon. After the appeals process had been exhausted, the *List of U.S. soldiers executed by the United States Military authorities during the late war*, listed 267 of the 1,883 men who had their execution sentences carried out. Out of the 267 men executed, 147 of those were convicted of desertion and occasionally other crimes in combination with desertion.⁴ Of the 267 men executed, 13

³ *The Index Project Inc.*, accessed November 10, 2016. <http://www.theindexproject.com/>.

⁴ Jerry Morelock, "Shoot Or Spare," *America's Civil War*, January 2016, 29.

were from Massachusetts regiments and eight of those were executed for desertion.⁵ Out of the remaining five soldiers executed from Massachusetts regiments, three of those were for the crime of rape and two for the crime of mutiny. Two out of the eight executed men, although members of two different Massachusetts regiments, were executed side by side on the same day; August 28, 1863.⁶

What caused the Federal government to execute 14% of the 1,883 men sentenced to death and commute or pardon the other 86%? What were the circumstances of the crimes or character traits of the executed men that put them in a different judicial light than their comrades in arms? The following conclusions emerge from examining the primary source materials on the condemned men from Massachusetts. Men from Massachusetts regiments executed for the crime of desertion either came from outside the social borders of their home communities, their individual military units, or both. Being single or poor are examples of the former. Always late to fall in to formation and straggling behind on marches are examples of being outside the normal boundaries of military behavior. Conversely, the Massachusetts men who were spared execution for desertion had a variety of legal, military and civilian support systems used on their behalf that helped stay their execution. Their stories, taken together, illuminate not only Civil War military attitudes towards desertion and the deserters themselves but also contemporaneous ideas about status, legitimacy and what made someone an outsider.

⁵ Edward C. Johnson, Gail R. Johnson and Melissa Johnson Williams, *All Were Not Heroes A Study of "the List of U.S. Soldiers Executed by U.S. Military Authorities During the Late War"* (Chicago: E.C Johnson, 1997), 432.

⁶ "Seven Men Shot For Desertion," *Boston Post* (Boston, MA), September 3, 1863, 4.

The above examples were contributing factors explaining why some men were executed and why others not. However, in addition to these individual demographic identifiers, three major influences had the greatest effect on a trial's proceedings and its outcome. These three factors remain the primary reasons for the difference in the variety of sentences issued for the same capital crime of desertion.

The first major influence exerted on a desertion trial was closely related to the personal and character traits identified in a Civil War soldier. This factor takes precedence over all of those traits. What were the circumstances of the soldier's entry into the army and his individual military unit, as well as his length of service? In military terms this key trial influence is identified in the soldier's service record.

The basic military unit of the Civil War was the regiment and it was made up of between 10 to 12 companies. "Nearly all Civil War soldiers considered their regiment to be their military home."⁷ If they had volunteered for service, and even if they had received a signing bonus, they usually assimilated easily into army life. However, if they were a conscript who were drafted, or served as a substitute, they did not fare as well. Time and time again, the volunteers proved reliable in battle where as, the conscripts could not be counted on to do their part. If a soldier appeared before a court-martial trial the odds were weighed heavily against him if he was a conscript instead of a volunteer. Closely tied to this issue of military family was a soldier's length of service in his unit. Long term service implied that trust and relationships had been formed over time. If they

⁷ Carol Reardon and Tom Vossler, *A Field Guide To Antietam* (Chapel Hill, NC: University of North Carolina Press, 2016), 12.

had experienced a short term of service it implied an unknown and a possible risk to their military unit and family.

The second key influence exerted on a court-martial trial was the caliber of the individual court officers themselves and their personal feelings about desertion and what punishment the crime merited. Almost all of the senior officers in the Union Army were West Point graduates and they strongly adhered to a heavy hand when it came to discipline and punishment of the enlisted men. Many volunteer officers, who had no military experience, observed and tried to imitate the West Pointers. Thus it can be concluded a deserter would usually have officers predisposed towards punishment before the proceedings ever opened. A typical example in the Army of the Potomac was General George Sykes, an 1842 graduate of West Point and a career army officer. He fought in almost all the major battles in the east and at one point commanded the V Corps. The Army of the Potomac was reorganized under General Hooker in early 1863. Corps were created as a combination of divisions and commanding a Corp was one step below commanding an army. General Sykes, throughout his military career, endorsed every death sentence that crossed his desk.⁸ There were a few exceptions to this practice and one was General Joseph Hooker. He was an 1837 graduate of West Point and also a career army officer who at one point commanded the Army of the Potomac during its darkest days in early 1863. According to Tom Lowry, “Hooker, whose military career and personal proclivities have been much studied, almost always sought a way to avoid

⁸ Thomas P. Lowry, *Don't Shoot That Boy! Abraham Lincoln and Military Justice* (Mason City, IA: Savas Publishing Company, 1999), 99-100.

carrying out the death penalty.”⁹ General Hooker and other commanding officers used President Lincoln’s Amnesty proclamation to justify leniency or punishment based on their own interpretation of its provisions. It should also be noted that officers tended to come from the higher levels of civilian society. As an example, the officers and some of the men of the 20th Massachusetts Infantry Regiment were graduates or students of Harvard University. Thus they were known throughout the Army of the Potomac as the Harvard Regiment. Privates Hill, Dawson and Wentworth would have had little social interaction with their officers in the 20th Massachusetts.

The third major influence exerted on each trial was the date of the trial itself and what the prevailing mood of both the country and, more importantly, the military authorities was at that time. For example, early in the war the mood was optimistic, the army was full of highly motivated volunteers and everyone expected a short war. Desertion was rare and punishment for desertion was extremely lenient. Conversely, as the war progressed and casualties mounted with no end of the war in sight, morale reached low points during the winter of 1863 and after the enormous casualties of the 1864 summer campaigns. Many of the brave men of the early battles were dead and their replacements were untrustworthy conscripts who were poorly motivated. Desertion levels soared along with an interrelated increase in trials and executions. Starting during the 1864 summer campaigns and continuing through the latter part of the year, there were daily executions in the army camps for desertion.¹⁰ It is clear then that the date of court-martial trial is a third critical component linked to the verdicts rendered.

⁹ Ibid., 101.

¹⁰ Lonn, *Desertion During The Civil War*, 146.

In conclusion, these three main factors are present in all the trial records and the additional circumstantial traits factor into most of the courts' decisions as well. These three main factors guided the court officers' sentencing after they found a man guilty of desertion. They had the flexibility to impose a lesser punishment, recommend a remittance or pardon, or simply endorse a soldier's execution. Commanding officers above the court had these same options available to them. Ultimately, the power to execute or pardon a soldier for desertion rested with President Abraham Lincoln. The record is full of examples of his well known compassion when it came to his review of the sentences of the condemned men.

CHAPTER 2 THE UNION ARMY AND DESERTION DURING THE WAR

The armies of the Civil War were unique in history in both their sheer size and the casualties incurred by the combatants. The battles were, and remain, the largest ever fought in North America and their casualty totals have attached themselves into the standard historical narrative of the Civil War. The percentage of the population actively involved in the war effort and the percentage of the population that both served and died in the armed forces are the highest in United States history. As an example, it has been well documented that the total of over 600,000 soldiers that died during the Civil War equaled more than that in all United States wars combined until that total was surpassed during the Vietnam War. Another benchmark cited is that approximately 2% of the population died during the Civil War and almost one out of every four soldiers never returned home.¹¹

It is helpful to profile a “typical” Union soldier during the Civil War so this data can be contrasted against the executed and pardoned men’s profiles. By analyzing the large body of research available, individual attributes emerge and these can be used to define the average soldier. For example, there were over 300 occupations recorded on the

¹¹ “Civil War Casualties,” *Civil War Trust*, accessed November 10, 2016, <http://www.civilwar.org/education/civil-war-casualties.html>.

enlistment forms but two dominate the occupation list.¹² A large majority of the Union soldiers were either small farmers or laborers, with most of the laborers being unskilled.¹³

When the Enrollment Act, also known as the Civil War Military Draft Act, was passed on March 5, 1863, it contained two controversial provisions. First, it allowed drafted men to pay a commutation fee of \$300 to the Federal government which granted them a deferment from military service. Second, it allowed for a drafted man to pay a substitute to take his place in the ranks. One of the executed men from a Massachusetts regiment, John Roberts, was a substitute for Benjamin R. Russell of Boston.¹⁴ An inflation counter, easily found on *Dave Manuel.com*, calculates \$300 in 1863 to be equivalent to \$5,660.38 in 2015.¹⁵ Thus economic status was a contributing factor in enlistment decisions, especially after March 5, 1863. The expression, “A rich man’s war a poor man’s fight” had its roots from the Civil War. Levi Ross, one of the soldiers who did not desert, wrote to his father on March 25, 1863,

I believe that a poor man’s life is as dear as a rich man’s. The blood of a poor man is as precious as that of the wealthy,” he added, and the rich, having more at stake, “should sacrifice more in suppressing this infernal Rebellion and in restoring the Union and thereby save their property, homes and liberty.¹⁶

Fully three fourths of the army was made up of native born Americans. Germans made up the largest immigrant group and supplied 200,000 men, while the Irish were second with

¹² Wiley, *The Life of Billy Yank*, 304.

¹³ James M. McPherson, *For Cause & Comrades Why Men Fought In The Civil War* (Oxford: Oxford University Press, 1997), 9.

¹⁴ National Archives and Records Administration, Record Group 94, *Records of the Adjutant General’s Office, 1762-1984, Carded Records of Soldiers Who Fought in Volunteer Organizations During the American Civil War, 1890-1912*, John Roberts, National Archives Building, Washington, D.C.

¹⁵ *Dave Manuel.com*, accessed November 10, 2016, <http://www.davemanuel.com/inflation-calculator.php>.

¹⁶ Wiley, *The Life of Billy Yank*, 282.

150,000 service members.¹⁷ Approximately 180,000 African-Americans, many of whom were former slaves, volunteered for service. This total represented about 10% of the Union forces and they officially began to fill the ranks after Lincoln's Emancipation Proclamation was issued in the fall of 1862.¹⁸ There were four African-American soldiers executed from Massachusetts regiments and they committed the crimes of rape and mutiny. In the 1860's, there existed throughout all levels of society, a widespread prejudice towards immigrants as a group, religious minorities like Catholics and Jews and, of course, African-Americans. This latter group would have included those that were legally free or the thousands of escaped slaves, as well as those still held in slavery. If a soldier was of foreign birth or an African-American, he would have been viewed with some skepticism by his fellow soldiers. It is also important to note that in all African-American regiments, including the famous 54th Massachusetts Infantry, the regulations specified that only white officers could command the troops. In addition, it is significant that 52 of the 267 soldiers executed during the Civil War were African-American and only one of those was executed for desertion. That number represents almost 20% of those executed or twice the average of the total percentage of African-Americans that served in the Union Army.¹⁹ These two facts illustrate the disadvantage that African-Americans had in the military when white commanding officers, in military terms, preferred charges against them. In addition, the court-martial trials were composed of white officers.

¹⁷ Ibid., 307-308.

¹⁸ "United States Colored Troops (USCT)," *Civil War Trust*, accessed November 10, 2016, http://www.civilwar.org/education/history/usct/usct-united-states-colored.html?utm_source=email&utm_medium=email_update&utm_campaign=21517.

¹⁹ Johnson, *All Were Not Heroes*, 436-438.

Literacy would be another aspect of a deserter's profile affecting the outcome for the accused. In general, literacy rates were high and it was estimated in a company of 100 men only between 1 and 6 of them, or less than 10%, would have been illiterate.²⁰ James McPherson confirms in his book, *For Cause and Comrades*, that 90% of the Union soldiers were literate.²¹ An illiterate soldier was at a disadvantage any time written documents were involved. For example, their enlistment or court papers would have had to have been read to them. They would not have been able to evaluate those papers before they were required to sign them or verbally respond in a military court of law.

Another profile feature is the ages of the soldiers themselves and by today's standards the Civil War was a young man's fight. According to Bell Irvin Wiley, "Despite issuance of War Department orders as early as August 1861 forbidding acceptance without parental consent of minors under eighteen and an unqualified barring of them the next year, thousands of boys seventeen years and younger found their way into the ranks."²² Benjamin A Gould, a United States Sanitary Commission actuary, compiled vital statistics on 1,012,273 Union Volunteers. He found that 10,233 were under the age of eighteen at the time of their enlistment. It is important to note Gould used the soldiers' enlistment records for his data and many youths and enlisting authorities illegally listed an older age on the forms. One of the Massachusetts soldiers executed was one of these boy soldiers and another turned of age after he illegally enlisted but before he was officially mustered in. At the other end of the scale, only a

²⁰ Wiley, *The Life of Billy Yank*, 305-306.

²¹ McPherson, *For Cause & Comrades*, 11.

²² Wiley, *The Life of Billy Yank*, 298.

little over one half of one per cent was over the age of 45.²³ While many of the officers were older and much more experienced, the average man in the ranks would have been in his 20's and new to the art and practice of war.

One key denominator to look at would be the location of the soldiers' enlistments and their home communities listed on their enlistment forms. Many of the recruits, including some of those profiled below, came from the same rural areas and knew most of their fellow soldiers by name. This is especially significant when it came to external pressures being applied to not desert their units. If recruits did come from the same communities it was not uncommon for them to call out in both personal letter writing, as well as newspaper print, the names of those men from their community that were skulkers. The dictionary defines a skulker as one who lies in hiding, as out of cowardice. James McPherson wrote, "Because of this close relationship between community and company, the pressure of the peer group against cowardice was reinforced by the community."²⁴ Conversely men who enlisted in the large cities or away from their home communities did not have this direct peer and community pressure applied to their conduct while serving in the army.

Finally, it was also estimated that about half of the men did most of the real fighting and for most of them, "the instinct to seek safety is overcome by the instinct of honor."²⁵ These soldiers are the opposite of the majority of the men accused of desertion. These men are important because they represent what the officers serving on the desertion trial courts viewed as the sustaining model for the army. James McPherson

²³ Ibid., 302.

²⁴ McPherson, *For Cause & Comrades*, 80.

²⁵ Ibid., 6.

addresses this ideal when he writes, “Convictions of duty, honor, patriotism, and ideology functioned as the principal sustaining motivation of Civil War soldiers, while the impulses of courage, self respect, and group cohesion were the main sources of combat motivation.”²⁶ The men who deserted during the Civil War failed to meet these high standards of military efficiency set by their commanding officers.

Desertion numbers during the Civil War are staggering when compared to other wars fought by the United States. Ella Lonn’s book, *Desertion During the Civil War*, documents 278,644 officially listed desertions from the Union Army during the war. Her book, published in 1928, remains the definitive book on desertion during the Civil War and the statistical records associated with desertion. She used the *Official Records of the Union and Confederate Armies*, published in four series between 1881 and 1901 as well as a report published by the 39th Congress, which was in session from 1865 to 1867, as a basis for her desertion numbers. She presents the data in easy to read tables in her book’s index, breaking down the desertions by month and year for 1863 through 1865, as well as by state. For example, Lonn listed Massachusetts with 7,352 desertions. Massachusetts was far behind the number one state for desertions; New York, which had 44,913 desertions.²⁷

If a percentage comparison of deserters is used between the Civil War and other wars the United States has been involved in, the results are predictable. A comparison shows the Civil War exceeds all other wars in terms of the actual numbers involved. The Union had the largest aggregate of troops and 11% of them deserted. Conversely, the

²⁶ Ibid., 131.

²⁷ Lonn, *Desertion During the Civil War*, 233-234.

Confederacy suffered a desertion rate of 10% during the war. The Mexican-American War, fought almost 20 years before the Civil War, had a 7% desertion rate, but a deeper look reveals why. The number of deserters was 6,825 out of armed forces that totaled less than 100,000 men.²⁸ In addition, Robert Ryal Miller profiles the San Patricio (Saint Patrick) Battalion, which fought for Mexico during the war. It was composed mainly of several hundred Irish deserters from the United States Army. Later, after being captured near the end of the war, 50 of them were hanged for desertion at three different execution sites.²⁹ This total was in addition to other soldiers serving in the San Patricios that were either shot or flogged. On September 13, 1847, at the third execution site, 30 of them, including one man who had lost both legs in fighting days before, were hung.³⁰ This execution became the largest mass execution of soldiers in United States military history and they were hanged in violation of the Articles of War. At that time, the ultimate penalty prescribed for desertion was execution by firing squad. There has been much written about this group and they had their own place outside the margins of their society as Irish Catholic immigrants and their original military units as deserters and traitors to the flag of the United States.

In looking at post Civil War conflicts, a new phrase became part of the military lexicon and introduced itself as a new statistic recorded in the military records. If a person evaded the draft during the Civil War, he was counted as a deserter. In World War I, the newly classified “draft evader” was tracked statistically and separate from deserters.

²⁸ John Whiteclay Chambers, ed. *The Oxford Companion to American Military History* (Oxford: Oxford University Press, 1999), 212.

²⁹ Robert Ryal Miller, *Shamrock and Sword: The Saint Patrick's Battalion in the US-Mexican War* (Norman, OK: University of Oklahoma Press, 1989). 104-105.

³⁰ *Ibid.*, 105.

As an example, for the years 1917 and 1918 there were 363,022 draft evaders and only 21,282 or less than 1% of the armed forces listed as deserters.³¹ World War II saw a spike in desertions after the 1944 Battle of the Bulge and the military authorities executed the last United States soldier, Private Eddie Slovik, for desertion on January 31, 1945. Additional details concerning Slovik's background, desertion, trial and execution are succinctly covered at the web site, *History*.³² In more recent years, the Vietnam War has produced the highest rates of desertion since the Civil War. Desertion rates ranged from a low of 1.6% for FY 1965 to a high of 7.4% in FY 1971. It should be noted that the United States armed forces rose dramatically during those years so the raw numbers peaked at 79,027 incidents of desertion in FY 1971.³³

Lonn presents her arguments on why the soldiers deserted, as well as other human decisions involved with desertion by both sides during the Civil War. She starts with a key fundamental point that the Union and Confederate armies were mostly made up of volunteers. In 1860, the existing Regular Army of the United States had a prewar total of just 16,000 soldiers. Most of the key officers on both sides came from the Regular Army but the millions of other soldiers were either volunteers or came into the northern ranks after the Enrollment Act was passed on March 10, 1863. It should also be noted that with the exception of a short war with Mexico, 1846-1848, the country had not seen war in almost 50 years. According to Lonn, for the volunteers this was an underlying cause of desertion and it accounts for, "the utter absence of a realization of the obligation incurred

³¹ Chambers, *Oxford Companion*, 212.

³² "This Day in History The execution of Pvt. Slovik," *History*, accessed November 10, 2016, <http://www.history.com/this-day-in-history/the-execution-of-pvt-slovik>.

³³ *Ibid*.

by enlistment and failure to impress that obligation on the mind of the soldier by firm discipline.”³⁴ Volunteer soldiers simply did not see themselves obligated to the Regular Army regulations and certainly did not believe desertion should be classified as a capital crime. As an example, early on in the war, a few of the farmers would go home to plant crops or others would leave during winter but they would return in time for the active campaigns of the late spring through the fall.

A second factor in Union desertion was an underlying sympathy for the Southern cause and their fellow citizens. This attitude reached its zenith when Lincoln issued the Emancipation Proclamation in 1862 after the Battle of Antietam and it became effective on January 1, 1863. A large percentage of the soldiers voiced their displeasure and in some cases deserted when the war took on the abolition of slavery in addition to the original cause of restoration of the Union.

Other factors leading to desertion had to do with delays in pay for the soldiers, poor supplies, and conditions in the camps and on the march. This was especially true at the beginning of the war when the nation moved from a peace time to a war time economy. While the latter were indeed hardships the former caused more men to desert. The records are full of letters to soldiers from home and from officers to the authorities on the subject of delays in pay. As the average soldier was at the lower end of society’s economic scale, a delay in pay meant real hardships for his family back home who were counting on his income to sustain them. There are also instances in the written material on the Civil War where men were forgiven for deserting and then returned to the ranks after looking after their families back home.

³⁴ Lonn, *Desertion During the Civil War*, 134.

Since the beginning of organized warfare soldiers have tried to get out of the ranks through a medical waiver. So whether they were confined in hospitals or sent home to help them convalesce, desertion was easier in settings away from their regimental camps. Not returning to the ranks in a timely manner contributed to the high overall absentee rates in the Union Army.

Additional factors in the profile of the deserter include war weariness and discouragement as the Civil War dragged on past the first year and what was initially expected to be a short war. Despondent or encouraging letters from the home front were key motivators. Many of the troops had never traveled farther than their local towns and communities and, in particular, younger soldiers deserted because they were just homesick and far away from their family. Finally, alcohol played a role in desertion as well. In several of the profiled men's trials, the issue of alcohol and being led astray by others figured prominently in their defense as a major mitigating circumstance to their desertion. Predictably, the courts saw little merit in an alcohol based defense and this will be seen clearly in some of the court-martial trial cases below.

A final key factor in Civil War desertion was the quality of the troops in the army at a particular time in the war. In mid 1861, after the initial call to arms and continuing up to the winter of 1862, the volunteer soldiers were mostly highly motivated individuals who fought for the restoration of the Union and for their neighbors in the ranks with them. After the disastrous defeat at Fredericksburg in December of 1862, and a bad winter of discontent, the quality of the troops and their morale plummeted. The profile of the typical Union soldier began to take on some new and unfavorable characteristics in the eyes of their commanders. Frequency of desertion would have been a prominent

unfavorable characteristic of the soldier in the later years of the conflict. When Joseph Hooker took over the Army of the Potomac on January 26, 1863 desertion had become a crisis for his army. General Hooker estimated in his compiled returns that 25% of his army was absent and that desertion was averaging several hundred men per day.³⁵

The government had three responses to this issue; each with its own modest level of success. First, Hooker put in place a system of regular furloughs but only for those soldiers who had meritorious service records.³⁶ The results were an increase in morale but not a reduction in desertions, as the men that deserted were not the ones with meritorious service records. The second response was President Lincoln's first Amnesty Proclamation issued on March 10, 1863, which will be covered in more detail in Chapter Three. The Amnesty Proclamation produced limited results as did a subsequent one in 1864. The third and most aggressive response was a large increase in both the criminal prosecution and the resultant capital punishment for the crime of desertion. A Provost Marshal General's Bureau was commissioned on March 3, 1863 and its two main functions were to implement conscription and apprehend deserters.³⁷

In spite of these responses, volunteering slowed to a trickle and the United States government instituted the Enrollment Act along with the Provost Marshal General Bureau in March of 1863. The caliber of troops entering the army declined dramatically and as bounties for enlistment went up, bounty jumping became a new career for many of society's undesirables. In addition, substitutes who were hired by others to fill their place in the ranks were extremely unreliable and also deserted in large numbers with the

³⁵ Lonn, *Desertion During the Civil War*, 145.

³⁶ *Ibid.*, 162.

³⁷ Wiley, *The Life of Billy Yank*, 282.

substitute money in their pockets. Draftees were usually housed, as was the case of Massachusetts, in the local harbors in order to make deserting harder for the new troops. While the new men were being transported on the rail system to the front lines they were put under armed guard. Despite these and other measures taken, thousands were able to desert before they ever reached the front lines. Thousands more deserted very soon after they reached their assigned units the first chance they got. Thus another significant indicator of a harsh punishment was length of service record. Those soldiers that served longer periods of time in the service were viewed more favorably by the court's officers than those that had not done much service, if any at all.

In conclusion, there are many identifiable variables that apply to persons who deserted and were subsequently brought to trial. Each variable brought its own influence to bear on the assessment by the individual court officers as to the guilt of the accused. These variables also had a large role in the subsequent punishment that was prescribed by the court officers. These many contributing factors were not as significant as the three primary elements that helped to influence the officers' verdicts in a court-martial trial. However, they are a good indicator of the prejudicial factors at work among the officers and society in the United States of the 1860s.

CHAPTER 3 THE LEGAL PROCESS

After exploring causes for desertion and profiling the men in the ranks, it is important to look at desertion through history and the rigid military legal process involved in the prosecution of desertion. The Revolutionary War was the first large scale American war that dealt with the issue of desertion and punishment for desertion. Desertion was legally covered in The Articles of War of 1776, under Section VI, Article 1. It said, “All officers and soldiers, who having received pay, or having been duly inlisted (sic) in the service of the United States, shall be convicted of having deserted the same, shall suffer death, or such punishment as by a court martial shall be inflicted.”³⁸ Joseph Lee Boyle’s two volume set, *“He loves a good deal of rum...”: Military Desertions during the American Revolution, 1775-1783*, is the definitive work on the subject of desertion during the Revolutionary War.³⁹ Boyle covers the high desertion rates, particularly during the first two years of the war, and the leading causes for the troops to desert. He documents 7,500 cases and desertion rates which could have been between 20 to 25 per cent of the Continental army’s total returns.⁴⁰ Boyle’s work centered on reproducing the thousands of notices in the leading newspapers offering cash

³⁸ Lowry, *Don’t Shoot That Boy*, 85.

³⁹ Joseph Lee Boyle, *“He loves a good deal of rum...”: Military Desertions during the American Revolution 1775- 1783. Vol 1, 1775-June 30, 1777*, (Baltimore: Clearfield Company, 2009).

⁴⁰ *Ibid.*, v.

rewards for the apprehension of deserters. These notices listed the deserters by name, identified them visually, and described in detail the clothing they were last seen wearing in the army. The usual punishment, if they were apprehended and convicted, was flogging with a whip. The ultimate penalty called for execution by hanging. Accurate numbers on execution for desertion during the American Revolution are difficult to locate, but one study suggested that out of 225 sentences of death only 40 to 75 of the sentences were carried out and last minute reprieves were common.⁴¹ Another example found, “In May 1780, eleven men were scheduled to be executed, all but one for desertion. Their graves had been dug, eight were on ladders with the ropes around their necks, when a reprieve for ten of the men came from Washington.”⁴² These two examples suggest that other forms of punishment such as flogging were much more common than an occasional execution.

The new United States government established the Military Code of 1806 and it would be the standard used throughout the War of 1812, the Mexican-American War and the United States Civil War. Desertion was covered under Article 20 under the new Articles of War of 1806. It stated that, “All officers and soldiers who have received pay, or have been duly enlisted in the service of the United States, and shall be convicted of having deserted the same, shall suffer death, or such other punishment as, by sentence of a court-martial, shall be inflicted.”⁴³ The Military Code of 1806 also governed the United States Army during times of peace. The regulations stated that desertion was not a capital crime when the country was not at war.

⁴¹ Ibid., vi.

⁴² Ibid.

⁴³ Lonn, *Desertion During the Civil War*, 165.

Execution for desertion continued during the War of 1812 and the ultimate penalty was changed to execution by a firing squad. The firing squad was adopted as a more humane form of punishment and hanging was now reserved for those who committed more heinous capital crimes. In an article published in 1940, John S. Hare presented a table index of those sentenced to death and those that were executed or reprieved organized in yearly columns. While it should be noted that this includes all executions ordered, the vast majority were for the crime of desertion. The aggregate for the years 1812 through 1815 was 260 men sentenced to death, of whom 55 were granted reprieves and 205 were ultimately executed.⁴⁴ This produced an astonishing execution rate of almost 79%. Similar to the pattern observed in the Civil War, the convictions and executions rose dramatically in the latter years of the war as morale and support wavered. As an example, in 1812, only four men were sentenced to death and three were executed. In 1814, 160 soldiers were sentenced to death and 146 of those, or over 91%, were executed.⁴⁵ Execution for desertion in the War of 1812 even made its way into Presidential politics. Major General Andrew Jackson, the hero of the Battle of New Orleans, executed 6 deserters on February 21, 1815. This event was later used in a mudslinging presidential campaign against Jackson by the incumbent President, John Quincy Adams. In a series known as the "Coffin Handbills", one of which was entitled, "A short account of some of the Bloody Deeds of General Jackson", black coffins were printed with the executed man's name listed above each coffin.⁴⁶

⁴⁴ John S. Hare, "Military Punishments in the War of 1812," *The Journal of the American Military Institute* 4, no. 4 (1940): 238.

⁴⁵ *Ibid.*

⁴⁶ Georgia Brady Bumgardner, "Political Portraiture: Two Prints of Andrew Jackson," *The American Art Journal* 18, no. 4 (Autumn, 1986): 86-87.

The next war in American history and the one preceding the Civil War was the Mexican-American War, which was fought between 1846 and 1848. The Articles of War and the Military Code of Justice did not change during this war and the regulations were not revised again until after the Civil War broke out in 1861.

Punishment for desertion during the Civil War was aimed directly at the enlisted privates and the non-commissioned officers. There are two details that need to be taken into account about the officers. First, there was no need for an officer to desert since all they had to do was resign their commission and they were allowed to depart the service. As a prime example, Carol Reardon and Tom Vossler wrote, "After Antietam, the officers of the hard-luck 105th New York, resigned in droves. As Private J. B. Sherman wrote home less than two weeks later 'My Captain goes home tomorrow this makes 9 commissioned officers gone & they are all going if they can get away.'" ⁴⁷ The bloodiest single day of battle in American history scarred many of the soldiers. Officers were allowed to resign but enlisted men had to desert to get away from war and all its horrors. Second, if officers had charges preferred against them for cowardice or conduct unbecoming an officer; they were later allowed to resign their commission. They were allowed to do so under the phrase, "for the good of the service". Out of the 267 men executed for all crimes during the Civil War, there were only three corporals and nine sergeants executed. The rest of the soldiers executed were all privates and at the lowest level of rank in the military. The phrase "rank has its privileges" was directly correlated to the crimes of desertion or, even worse, desertion in the face of the enemy.

⁴⁷ Reardon, *A Field Guide to Antietam*, 74.

In the initial law of 1806, all sentences for death had to be reviewed and approved by order of the President of the United States. The sheer volume of cases involved during the Civil War caused the military authorities to petition Congress to amend the law of 1806 in order to expedite the judicial process. Thus, the Revised United States Army Regulations of 1861 became the guiding document that governed the court-martial process for the rest of the war. For example, Article 65 specified, “that any general officer commanding an army may appoint a general court-martial.”⁴⁸ In addition, Article 64 read, “General courts-martial may consist of any number of commissioned officers, from five to thirteen, inclusively; but they shall not consist of less than thirteen where that number can be convened without manifest injury to the service.”⁴⁹ The law was explicit that no death sentence could be carried out without presidential approval. Finally, while more authority was given to the officers themselves, the trial process itself was pretty straightforward and similar to that in civilian criminal courts. President Lincoln still retained the final word on a soldier’s fate. A major change added in March of 1863, was a change to the Militia Law of July of 1862. The new law repealed the provision that required Presidential approval of a death sentence for anyone convicted as a spy or a deserter. Thus Commanding Generals were given the authority to impose the death penalty. Some of the generals did approve death sentences for deserters and some of those men came from Massachusetts regiments. It is important to note that while commanding officers could approve death sentences, the President still had the authority

⁴⁸ Lowry, *Don’t Shoot That Boy*, 10.

⁴⁹ “Revised United States Army regulations of 1861,” *Making of America*, accessed November 10, 2016, <http://quod.lib.umich.edu/m/moa/agy4285.0001.001/479?page=root;rgn=full+text;size=100;view=image>.

to pardon the convicted men. The exceptions were drum-head court-martial trials where trial and execution was carried out directly in the field after a battle or engagement with the enemy. This last form of trial for desertion was a major factor in the execution of two of the men from Massachusetts regiments.

A court-martial trial could be held in a variety of settings including buildings, tents, barns, or even under a tree. The accused was brought in and the Judge Advocate read the order establishing the proceedings. Then the officers of the court were introduced and the accused, though it was not common, had the right to object to a court member. Everyone was then sworn in and the charges were read and entered into the court proceedings. The accused were asked if they wanted counsel and most of the times they waived this privilege. If they pled guilty, sentence was immediately pronounced. If they plead not guilty, or did not respond, then a trial proceeded with witnesses called and a final verdict and sentence recommended by the court. Tom Lowry, in *Don't Shoot That Boy*, makes two key points about the rigidity of the military trial process.⁵⁰ First he writes, "This degree of detail regarding court proceedings may seem amiss in a study of compassion, but any exercise of discretion, or insertion of personal values (such as "compassion") could not exist in a vacuum, but had to be firmly imbedded in a powerful matrix of rule, law, precedent, and circumstance." He then goes on to write that, "The most practical aspect of these details of court procedures is that, if they were mishandled, the verdict was nullified, and scoundrels, including murderers and rapists, went free because of procedural calls." While the human element is present throughout the trial process, it is girded around a rigid set of military procedures.

⁵⁰ Lowry, *Don't Shoot That Boy*, 11.

The sentencing process was an area where human agency had its greatest influence. Sentencing was the one area of the trial for which the officers had the authority and discretion to make their own decisions. According to Bell Irvin Wiley, no other offense received such a wide variety of punishment. He wrote, “Early in the war punishments were amazingly light, often not exceeding the forfeiture of one to three months’ pay.”⁵¹ After this initial period of the war, the most frequent punishment for desertion was incarceration from one to five years. Sometimes this included hard labor and even the wearing of a ball and chain. Other penalties included branding with the letter D, and shaving all or parts of their heads and drumming them out of camp.⁵² One general tied the men up in very uncomfortable positions, forced them to ride a wooden horse, tied them behind a wagon during the army’s march and ordered loss of six months pay.⁵³ In all cases, including execution, the soldiers were dishonorably discharged and lost access to any future benefits made available to veterans and their families.

Following the verdict and sentencing, the findings were forwarded to the general who had ordered the creation of the court-martial. If he found errors in a trial’s proceedings he mitigated or overthrew the court’s decision. Otherwise, most of the time, he passed the findings on to the Judge Advocate General in Washington, D.C., Joseph Holt. It was at this point in the process that human agency again played a leading role. Politicians, friends of the accused, and family members brought all manner of influence to bear on the Judge Advocate’s office and the office of the President while the review process was being undertaken.

⁵¹ Wiley, *The Life of Billy Yank*, 206.

⁵² Ibid.

⁵³ Lonn, *Desertion During the Civil War*, 180.

After Judge Holt reviewed the court-martial facts, wrote his opinion if he had one, and attached his signature to it, his recommendation was forwarded to President Lincoln's desk. Lincoln could write approved and sign the recommendation, change the recommended sentence or ask to review the case with Judge Holt directly. "Tradition holds that he overturned or lessened most penalties."⁵⁴ Another indication of the importance of this issue was how much time and effort President Lincoln put forth on it. On one day in mid July of 1863, he spent six hours reviewing court-martial cases and in April of 1864, he reviewed seventy two cases.⁵⁵ President Lincoln's personal views on the execution of soldiers can best be illustrated in the following quote. "I don't believe it will make a man any better to shoot him, while if we keep him alive, we may at least get some service out of him."⁵⁶ President Lincoln was the last hope for the accused and the historical record is full of his compassion and his many reasons for exercising it. Two simple examples illustrate Lincoln's leniency towards execution orders. In the first, during one short period in 1864, court-martial courts sentenced 16 soldiers to be shot. President Lincoln pardoned all but one of them. In another example, in a period less than two years, he pardoned 232 deserters.⁵⁷

There was one other legal recourse the Union authorities used to combat desertion and return the much needed manpower back into the ranks. President Lincoln made the first attempt with his March 10, 1863 Amnesty Proclamation. It called for all deserters to return to designated locations in the North by April 1st. If they did return, there would be

⁵⁴ Lowry, *Don't Shoot That Boy*, 19.

⁵⁵ *Ibid.*, i.

⁵⁶ *Ibid.*, ii.

⁵⁷ Bob Sterling, "Discouragement, Weariness, and War Politics Desertions from Illinois Regiments during the Civil War," *Illinois Historical Journal* 82, no 4 (Winter, 1989): 252.

no charges preferred. They would be returned to their respective regiments and only suffer loss of pay for the period they were absent from the army.⁵⁸ The government hoped many of the almost 100,000 men absent would return to the ranks. However, the proclamation was a failure when only 12,000 to 15,000 did so.⁵⁹ In addition, there was much anger from the veterans in the field when the deserters were returned without punishment. Ultimately, the authorities decided not to restore men to their original regiments.⁶⁰ Once again, the military boundary between the men who served and the men who deserted was well marked.

President Lincoln tried a second amnesty proclamation on March 11, 1865. This time he used a carrot and stick approach. The incentive was that if the deserters returned to the ranks within sixty days and served out their original term of enlistment they would receive a full pardon. However, if they failed to return to the ranks, they would lose their citizenship and the right to hold office in the United States.⁶¹ This proclamation did much worse than the first proclamation and only 1,755 men returned to the ranks, while 117,000 remained officially at large.⁶² General Grant, in his capacity as Commanding General of the United States Army, also tried an amnesty program for deserters and the War Department issued its own amnesty proclamation at the end of the Civil War. These efforts, like all the ones preceding them, achieved meager results.

To complete an analysis of the legal process involved with desertion there are statistics available that illustrate how desertion came to be one of the Civil War's

⁵⁸ Lonn, *Desertion During the Civil War*, 169.

⁵⁹ *Ibid.*, 178.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*, 170.

⁶² *Ibid.*, 178.

dominant issues as it progressed into the later years of the conflict. A simple example from the book *Don't Shoot That Boy*, illustrates this point. The United States Civil War started on April 10, 1861 with the attack on Fort Sumter. There were zero executions for desertion in the Union Army for the eight months of war in 1861. In 1862, there were thirteen court-martials for desertion that Lincoln reviewed. Lincoln approved two of the execution sentences and pardoned or remitted the remaining eleven men. One of those eleven was originally approved for execution by Lincoln but later had his sentence remitted after his case was reviewed again.⁶³ Out of the first 42,000 court-martials, 14,146 were for desertion.⁶⁴ There are no available statistics for the total number of court-martial trials for desertion during the Civil War but the above statistic does allow for analysis. It can be concluded that out of the first 55% of the 75,961 court-martial trials of the Civil War, a little over a third of them were for desertion.

As previously noted, there was a dramatic upsurge in desertion and a corresponding upsurge in prosecution for desertion beginning in late 1862. Both were primarily a result of military reverses and the loss of morale by northern civilians. Desertion reached epidemic levels beginning in 1863 and continued unabated for almost the rest of the war. A deeper examination into two officially documented periods in 1863 will serve to illuminate this rising phenomenon in more detail.

Tom Lowry summarizes the official court-martial records in the Union Army for April 1863, and reveals the following data points.⁶⁵ There were a total of 216 court-martial cases for desertion in April of which 32, or almost 15% of them, were ruled

⁶³ Lowry, *Don't Shoot That Boy*, 93-94.

⁶⁴ *Ibid* p 86.

⁶⁵ *Ibid.*, 87.

acquittals. Of the remaining 184 men, 99 of them representing almost half of those tried, were incarcerated and were usually ordered to perform hard labor. These men received sentences ranging from ten days up to five years. The second largest group of 65 men received a fine or forfeited some of their pay. A total of 14 men were sentenced to be shot, representing 6.5% of those brought to trial. Out of that total, 11 had their sentence overturned, commuted, or remitted, and three were indeed shot, which represented a little over 1% of those tried for desertion. Similarly, the three men out of the 14 men sentenced to be executed would have produced an execution rate of a little over 21% of those sentenced to death. The official record indicates that President Lincoln did not review or remit these three men. The rest of the 216 received minor disciplines that included one reprimand and a couple of instances of having to stand on a barrel for six hours or carrying a soldier's knapsack full of heavy rocks. Finally, in addition to the above sentences, 15 men were drummed out of the service, seven of them had their heads shaved and six were branded with the letter D. A key observation in the record was that five of the men were judged to have been mentally abnormal and yet that fact had no impact on their sentencing.⁶⁶ This is an important fact of life in the military of the 1860's and this policy had a bearing on one of the executed men from Massachusetts, William F. Hill.

The second written instance in the record is a November 30, 1863, report prepared by General George Meade, Commander of the Army of Potomac, at President Lincoln's request. It is titled, *Report of the Number of Men in the Army of the Potomac tried for*

⁶⁶ Ibid.

*desertion from July 1 to date, number guilty and shot.*⁶⁷ This report found that during that five month period there were 592 men tried for desertion. Of that total, 291, or almost half, were found guilty. A total of 80 men, representing 13.5% of those tried, were given execution sentences. Ultimately, 21 soldiers, representing 3.5% of those put on trial for desertion, were eventually shot. Similarly, the 21 men out of the 80 men sentenced to be executed would have produced an execution rate of a little over 25% of those sentenced to death. One final piece of data in the report reinforces the difficulty the authorities had in returning deserters to the ranks. The report noted that during the same five month period only about 2,000 men made it back into the ranks.⁶⁸

While these two reports produce limited data from two specific timeframes during the Civil War, the results are indeed consistent and significant for interpretation. In the April 1863 report those sentenced to death were 6.5% of those brought to trial and just over 1% of the trial totals were actually executed. The April 1863 numbers produce an execution rate of 21% of those sentenced to death. The July 1 to November 30, 1863 the report compiled by General Meade, confirms this trend on percentages. Those sentenced to death were 13.5% of those brought to trial for desertion and just over 3.5% of the trial totals were actually executed. This report produces an execution rate of 25% of those sentenced to death.

It should be noted that the 21% and 25% are significantly higher than the overall 14% rate of execution of those convicted for all crimes for the entire Civil War. This can be understood because of two key facts. First, the periods covered in the two 1863 reports

⁶⁷ Wiley, *The Life of Billy Yank*, 407.

⁶⁸ *Ibid.*, 206.

are well past the days of 1861 and 1862 when executions were rare when compared to the number of those sentenced to death. Second, these percentages also suggest that those executed for desertion were executed at a higher rate than those sentenced to death for other crimes.

In conclusion, the legal process for desertion trials was a fairly straightforward, by the book, affair. While there was rigidity to the process itself, human agency was a factor at different points in the judicial process. Ultimately, human agency continued up through the ranks until it reached the final arbitrator of justice; the President of the United States. President Lincoln liberally exercised this final authority on the judicial process and saved many enlisted soldiers from the firing squad.

CHAPTER 4 THE EXECUTED MEN

The executed soldiers will be listed in the chronological order of their execution with the exception of William Hill, who will be profiled in Chapter Five. Before proceeding with their profiles, it is important to look at the military process of executing one of its soldiers.

The execution process, like the trials themselves, was a straightforward and by the book affair. The soldiers from the regiment and the division of the accused were formed in a military formation called a hollow square. It looks like a large U and the prisoner was executed at the open ended top and halfway across the formation. The soldier was escorted out to the execution site accompanied by a band playing the famous “death march”. The marching formation was headed by the provost marshal on horseback. There were armed escorts for the condemned man, a chaplain, the firing squad, and others in the formation. It should be noted that the firing squad was composed of members of the doomed man’s regiment. The coffin to be used following the execution was also carried by four soldiers in this formation. When they arrived at the point of execution a fresh grave had been dug and the soldier was positioned in front of it facing the hollow square. The execution order was read aloud to the prisoner and the troops, last rites were given, and the firing squad was brought up before the prisoner. Two facts are important to note. First, there were usually two firing squads. If the first squad did not kill the condemned

man then the second squad was brought up to fire a second volley. Second, a blank cartridge was in a gun in each squad which again followed military protocol. Following the execution, all the troops were marched by the dead man as a lesson on the evils of desertion.⁶⁹ There are several examples of botched executions including those of two of the Massachusetts men below.

At a military execution, human choice is seen for the last time. It started with the department of the condemned men. It may be surprising that men convicted of desertion would be stoic and stand up before their comrades and a firing squad. We can never know their reasons for their behavior at their execution but two seem prominent. First, there was no hope of escape for the condemned men and they must have been resigned to their fate. Second, as a last attempt at inclusion, the men may have felt that dying well and in control of their emotions allowed them to redeem their character and standing amongst their comrades.

Human choice also played a role in the firing squads. Some men, who could easily kill an enemy soldier, were uncomfortable shooting their own comrades. Some would deliberately miss their targets and others would try and miss a vital spot on the prisoner. In some cases, punishment was given to those soldiers who missed their human targets on purpose. Poor shooting, whatever the cause, was one of the reasons a second firing squad could be needed. It is also clear that at the distance involved a member of the firing squad would have known if he had a blank or a real bullet in his rifle after he discharged his weapon. No bullet impact meant the soldier had a blank in his rifle. Otherwise, the bullet's impact would have been easily visible to the man who shot it.

⁶⁹ Wiley, *The Life of Billy Yank*, p. 206.

The first soldier executed from Massachusetts was John Smith, who was born in Philadelphia around 1827. He was shot for desertion near Morrisville, Virginia, on August 28, 1863. Smith enlisted in the Union Army in Cambridge, Massachusetts, on November 29, 1862. He was noted as being 35 years old at enlistment and stood 5 feet 5 inches tall. He had light hair, blue eyes and a sandy complexion. His occupation was listed as a mechanic. He originally enlisted in Captain Plummers' Company, Andrews sharpshooters, attached to the 15th Massachusetts Infantry Regiment. They were later designated the 1st Company Andrew Sharp Shooters, Massachusetts Volunteers.⁷⁰ According to his trial records he enlisted on December 10, 1862 and he deserted on January 15, 1863 near Falmouth, Virginia. He was arrested on August 15, 1863 near Morrisville, Virginia and on August 19, 1863 he was brought to trial on a charge of desertion. The subject of his arrest back in Virginia is a key clue as to his trial and subsequent death sentence.

John Smith reenlisted in the 19th Massachusetts Infantry Regiment and was sent to Virginia as a replacement. Testimony at Smith's trial was provided by Lieutenant Oscar H. Clement, from his former company of Sharpshooters, that he recognized Smith among the 19th Massachusetts' new recruits and had him arrested for desertion.⁷¹ At his trial, Smith offered no witnesses but he did make the following statement.

I went away and intended to come back and did not get a chance to until the present. I did not think of going away until I got from camp with some men and got to drinking, and I concluded to go home and come back again. I had no chance until I met a friend who was drafted and he said he would give me a

⁷⁰ Johnson, *All Were Not Heroes*, 82.

⁷¹ National Archives and Records Administration, Record Group 153, *Records of the Judge Advocate General (Army) Court-Martial Case Files, 1809-1938*, File no. NN 3098, National Archives Building, Washington, D.C.

chance to get back and would pay me for it. I thought if I would come into the service again it would be all right and I knew where I was coming to.⁷²

The court found him guilty and sentenced him to be executed by a firing squad.

It is important to note that by the summer of 1863 desertion was rampant and the Union conscription act was adopted. The nation had just experienced its bloodiest battle of the Civil War at Gettysburg in early July. On July 15, 1863, draft riots broke out in New York City and over 100 people were killed.⁷³ The commanders of the Union armies would have been cognizant of all these facts and felt a need to punish deserters in a more public way in order to keep the rest of the men in the ranks. As a result of this policy, The Army of the Potomac executed five men on August 28, 1863. The trials of the men were legal but were rushed through the legal process. Perhaps these trials were premised on a rush to judgment in order to make an example for the rest of the troops.

There is a *Boston Post* news article dated September 3, 1863, posted near Morrisville and it provides details on John Smith and his execution. The reporter was impressed with his looks, his neat and clean clothes and his overall demeanor. Smith said he was a tailor originally from Philadelphia and living in Boston at the outbreak of the war. He added he was 37 in February, was married with no children and his father and five brothers (some of whom were serving in the military) were all alive. He also stated he participated in the Battle of Fredericksburg and the historical record confirms Andrew's Sharpshooters were indeed in the battle. He went on to state that he deserted after drinking too much alcohol with others and made his way back to Massachusetts.

⁷² Ibid.

⁷³ "This Day In History New York Draft Riots," *History*, accessed November 10, 2016, <http://www.history.com/topics/american-civil-war/draft-riots>.

Smith agreed to go back in as a substitute for William Ayers of Waltham and was paid \$300 by Ayers. Smith reenlisted and this time under the name of Thomas Waters. He confirmed at his trial that he had the \$300 and would gladly return it, but the Judge Advocate indicated that the crime of desertion could not be mitigated. John Smith fell in the first volley of the firing squad made up of his old sharpshooters company. According to the correspondent, “a heave and a sigh followed and he was dead.”⁷⁴

Private John Smith does not fit the profile of a man outside the margins of his local society. He claimed he was married, though he did not return to his wife after he deserted, and they may have been estranged or he lied. Smith had a stable job and a large family back in Philadelphia. However, there are four central points involved with his death sentence. First, as detailed in Chapters Two and Three, this was a particularly dark time for the Union Army and the military authorities were keen to make an example to stop troops from deserting. John Smith was one of five soldiers executed that day for desertion during the melancholy winter of 1862-1863. Second, his first enlistment was for about five weeks and that period was too short to become integrated tightly within his military unit. Third, he reentered the army as a substitute for \$300 and enlisted under an assumed name, which was illegal. Finally, none of his original unit stood up for him at his trial. If he did indeed participate in the Battle of Fredericksburg, and there is no record he did, he did not do anything to merit notice by his officers or fellow soldiers. In conclusion, John Smith did not appear to be outside the margins of society. He certainly was outside the margins of his first military regiment he deserted after just five weeks of service and he enlisted under an assumed name in his second regiment.

⁷⁴ “Seven Men Shot For Desertion,” 4.

Chronologically the second Massachusetts soldier executed for desertion was John Roberts, who was executed on October 30, 1863 near the Union camp at Morrisville, Virginia. Roberts enlisted on July 23, 1863 in H Company of the 15th Massachusetts as a substitute for Benjamin R. Russell. He listed his age at 21, his occupation as blacksmith and that he was born in Saint John, New Brunswick, Canada.⁷⁵ Roberts was mustered in on July 28th in Boston and arrived at the front in Virginia on August 14, 1862. On September 3, 1863, near Banks Ford, Virginia, Private Roberts deserted from the army.⁷⁶ He later joined up with four other deserters and on September 7th, at 2:45 in the morning they were all captured while trying to cross the Potomac River and head north away from the front lines.⁷⁷

At his trial, held on October 9, 1863, evidence was introduced of his joining his unit and that he had been read the Articles of War. Details of his capture were included in a letter from the ensign on the boat that apprehended the deserters. Roberts called no witnesses but introduced the following statement.

When I was hunting for the camp in Morrisville; I lost my road and got down to the river, I did not intend to desert. I met the men I was with and I could not walk. They said they were going to the sick camp and I could get into the boat and go to Alexandria and I could get my regiment that way. I was on picket when the Articles of War were read to the Regiment and they were never read to me.⁷⁸

The court deliberated and found Roberts guilty of desertion and sentenced him to be executed by a firing squad. This order was confirmed by General Meade, the commanding general and on October 24, 1863 he issued General Order Number 98 from

⁷⁵ National Archives, RG 94, John Roberts.

⁷⁶ Ibid.

⁷⁷ National Archives, RG 153, File no. LL 987.

⁷⁸ Ibid.

the Army of the Potomac ordering Roberts' execution.⁷⁹ Private John Roberts had his sentence carried out on October 30, 1863, near Morrisville, Virginia.⁸⁰

In summary, the main factors in the decision to execute Private Roberts were that he enlisted as a substitute for financial purposes and deserted from his unit less than three weeks after joining it. A look on a map confirms that Alexandria, Virginia, is on the south side of the Potomac River and all the officers would have known there was no need to use a boat to get there from near Banks Ford, Virginia. In addition, Roberts was Canadian born and the men and officers of his regiment would not have known him locally before enlistment or be willing to intercede on his behalf. A final factor is that the trial was held in October of 1863, at a time of epidemic desertions and corresponding prosecutions for desertion.

The third soldier executed in chronological order was William E. Ormsby. It should be noted that the records occasionally misspell the name as Ormsley. Ormsby enlisted in San Francisco, California on February 15, 1863 along with several other recruits. He was 20 years old and he was from the State of New York.⁸¹ There was a William Ormsby living at home with his parents in the 1850 Federal Census. He was born in New York, lived in Saint Lawrence, New York and was enumerated as 6 years old.⁸² William had enlisted into Company E of the Second Massachusetts Cavalry and was paid a \$25 enlistment bonus. He was sent with other recruits back by boat, at the government's expense, to Camp Meigs, in Readville, Massachusetts. On his enlistment

⁷⁹ National Archives, RG 94, John Roberts.

⁸⁰ *ibid*

⁸¹ National Archives, RG 94, William E. Ormsby.

⁸² U.S. Census (1850), Oswegatchie, Saint Lawrence County, New York, roll 443, p. 105A.

papers he was listed as 5 feet 3 ½ inches tall, with a fair complexion, blue eye and brown hair. He listed his occupation as expressman. Expressmen in the 1800's were men that safeguarded and delivered packages of all types throughout the United States.⁸³

Private Ormsby deployed with the rest of the 2nd Cavalry in Northern Virginia and they had to confront the most famous of the partisan guerillas during the Civil War; Mosby's Rangers. The rangers lived at home and operated in an area covering the Fauquier and Loudon Counties of Northern Virginia. Ormsby deserted the cavalry with his horse and other accoutrements on January 24, 1864, near Lewinsville, Virginia. Subsequent to his desertion the 2nd Cavalry's rear guard was attacked by Mosby's Rangers on February 6, 1864. In a counter charge the Federals drove the partisans from the field and captured some of them, including William Ormsby.⁸⁴

Private Ormsby was immediately brought before a drum-head court-martial in Vienna on the same day. A drum-head court-martial was usually held right after a battle to try someone of a capital charge under extenuating circumstances without going through the normal court-martial trial process. The procedures of the trials are the same, but there is a greater sense of urgency in dealing with an offense. Testimony was given against Ormsby and he, unlike the other profiled soldiers, asked for and received legal advice from counsel that was provided for him. He called no witnesses on his behalf but made a written statement to the court. It is clear the most damaging part of the desertion charge was being a traitor in the armed services of the enemy. William gave his reason for deserting as a desire to go home and see his mother and family. He said he was

⁸³ National Archives, RG 94, William E. Ormsby.

⁸⁴ Ibid.

captured by Mosby's men and then after a later incident of heavy drinking he was part of the group that ran into the 2nd Massachusetts Cavalry. He admitted he discharged his pistol but claimed to not have aimed it at his original comrades.⁸⁵

The court deliberated for what must have been a short period of time, entered a verdict of guilty and promptly recommended execution. Colonel Charles Russell Lowell, who had raised the 2nd Massachusetts Cavalry Regiment, passed final judgment in General Order Number 10 Cavalry Campaign Vienna dated February 7, 1864. He wrote, "Approved and the prisoner Private William E. Ormsby, Co. E 2nd Mass Cavalry, will be this day shot to death with musketry."⁸⁶ Brigadier General Tyler, commanding general, sent a telegraph from Fairfax Court House, Virginia, also dated February 7, 1864. It read, "I have the honor to report all quiet. The deserter from the 2nd Mass Cavalry captured in arms against the United States was convicted by drum head court martial and shot at twelve (12) o'clock this noon."⁸⁷

There can be no doubt that Private William Ormsby was shot not just for desertion but because he was in arms fighting against the Union Army that he enlisted in. He had served nine months in his unit and had no other offenses on his record. We can conclude that William was just in the wrong place at the wrong time. If he had been captured by any other Federal force they would not have recognized him and he could have even supplied a false name. It was his old company comrades that caught and recognized him and we can only imagine how angry they were at finding one of their own shooting at them. Lastly, Mosby's Rangers had the upper hand in this guerilla war

⁸⁵ National Archives, RG 153, CMSR.

⁸⁶ National Archives, RG 94, William E. Ormsby.

⁸⁷ Ibid.

and the Union officers wanted to send a message to their troops of the consequences of deserting over to the enemy.

The fourth soldier executed from a Massachusetts regiment was Thomas R. Dawson. He was executed in April of 1864, even though his general court-martial trial was held seven months earlier on September 11, 1863.⁸⁸ Thomas enlisted in Boston on August 1, 1863, into Company A of the 19th Massachusetts Regiment. In addition, he enlisted as a substitute for Charles M. Field of Boston. Dawson listed his birthplace as Ireland and he was 32 years old. He was of a florid complexion, with blue eyes and dark hair and he listed his occupation as laborer.⁸⁹

After only five weeks of service, Private Dawson got into criminal trouble on September 9, 1863. He, along with two other soldiers who were not apprehended, left camp and got heavily intoxicated. Dawson, on his own, then proceeded to go into the house of a local widow, identified in the trial records as Mrs. West, and raped her several times. Mrs. West had screamed for help around 10 PM, which alerted the guards on duty and they reported it to the officer of the guard. Around one AM Mrs. West came to the guard house and reported the assault in person. A group of soldiers were sent back to Mrs. West's house and they found Dawson in the back of the widow's house. His personal items such as shoes, hat and suspenders were lying around the house and Dawson admitted they were his. At Dawson's trial, he pled guilty to the first charge and testified, "I know nothing of the 2nd charge when I woke up I found myself in charge of

⁸⁸ National Archives, RG 153, MM 792.

⁸⁹ National Archives, RG 94, Thomas R. Dawson.

the picket.”⁹⁰ Mrs. West provided direct testimony at Dawson’s trial and she visually identified him in court as the man who raped her. This, along with the collaborating statements of the arresting officers, was enough to convict Private Dawson of both deserting his post and the heinous crime of rape against a woman who was recovering in bed from a recent illness. Because of the nature of his crime of rape, Dawson’s sentence was execution by hanging.

Subsequently, Private Dawson disappears into a bureaucratic hole and he is next found in the records transferred into Company I of the 20th Massachusetts Regiment, on January 15, 1864 by the War Department.⁹¹ At this point, the judicial process seems to have resumed and in G. O. no.40, dated March 15, 1864, Dawson was ordered, “To be hanged by the neck until dead...”⁹² There is also a letter, dated March 16, 1864, from Judge Holt approving the execution sentence.⁹³ Finally, on April 16, 1864, there is a letter from General Meade, the Commanding General, which approved the execution order and set a date of April 25th for the execution.⁹⁴

In a strange twist of events, on April 17th the officers of the 19th Massachusetts Regiment sent a petition directly to President Lincoln asking for a complete pardon and to return Private Dawson to the ranks. They had the Reverend Father William Corby, chaplain of the Irish Brigade, hand deliver the petition. While Lincoln did not pardon Dawson immediately, he did finally agree to pardon him if Meade would state in writing

⁹⁰ National Archives, RG 153, MM 792.

⁹¹ National Archives, RG 94, Thomas R. Dawson.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ ibid

that Dawson should be pardoned. General Meade declined and the execution plans proceeded.⁹⁵

General John Gibbon, commander of Dawson's 2nd Division, 2nd Corps, Army of the Potomac, wrote on April 24, 1864, instructions for Dawson's execution at 12 noon and that the soldiers were to march past the corpse after he was hung.⁹⁶

The historical record is not clear on Private Dawson's execution date. All the records confirm it occurred in Stevensburg, Virginia. However, various records list April 14th, 20th, 24th or 25th as the date of execution. It is clear that the first two dates are clerical errors and the original orders for execution written by Generals Gibbon and Meade confirm that. The other piece of evidence is a Pittsfield, Massachusetts, newspaper that carried a short paragraph reporting Dawson's execution. It read, "An execution, by hanging, took place in the Army of the Potomac on the 24th ult. The culprit was Thomas R. Dawson, of the Nineteenth Massachusetts Volunteers."⁹⁷

Regardless of Private Thomas Dawson's execution date, he, more than any other soldier in this paper, deserved to be executed. He found himself outside both the military and civilian laws of the society and he was hanged for it. Hanging was reserved for the most extreme form of punishment by the military and he received this sentence for his conviction of rape. If he had just been convicted of desertion, the regulations prescribed execution by firing squad. In all probability the petition by his officers may have gotten his execution stayed if the charge was just getting drunk and deserting his post temporarily. The court officers would also have been influenced by Dawson's enlistment

⁹⁵ Johnson, *All Were Not Heroes*, 175.

⁹⁶ National Archives, RG 94, Thomas R. Dawson.

⁹⁷ "THE WAR NEWS," *Pittsfield Sun* (Pittsfield, MA), May 5, 1864, 2.

as a substitute who served a very short time at the front lines. They may have been influenced by Dawson being Irish and that alcohol was a factor in his crimes. A final factor is that the trial was held in September of 1863, at a time of epidemic desertions and prosecutions for desertion. It is significant that Dawson remains the only case in this sample of 15 soldiers, where officers tried to intervene and were unsuccessful at getting a convicted man's sentence remitted. President Lincoln was prepared to follow through with their request but wanted General Meade to take responsibility for it. It is clear that Meade, a West Point educated and career army officer, saw Dawson's crime of rape as an unpardonable offense.

The fifth soldier executed in chronological order was John D. Starbird. He first enlisted in Company D of the 3rd Battalion of Massachusetts Infantry. He was one of the original 90 day volunteers that the government called for after Fort Sumter was captured by the Confederates. He was listed at 20 years old, served his 90 days and was mustered out of the army on August 3, 1861.⁹⁸ According to the authors of *All Were Not Heroes*, he was 5 feet 8 inches tall, had dark hair, grey eyes, and a light complexion and he listed that he was a clerk born in Manchester, New Hampshire.⁹⁹

Starbird reenlisted into Company K of the 19th Massachusetts Regiment in Boston on September 3, 1861 for three years. Private Starbird listed his age on the enlistment form as 21. The file notation also said that he was executed on May 21, 1864 by G.C.M. (General Court-Martial).¹⁰⁰ The details of Private Starbird's career are found in *All Were Not Heroes* and the record shows that he deserted the 19th Regiment on April

⁹⁸ National Archives, RG 94, John D. Starbird.

⁹⁹ Johnson, *All Were Not Heroes*, 189.

¹⁰⁰ National Archives, RG 94, John D. Starbird.

18, 1862, near Yorktown, Virginia, during General McClellan's Peninsula Campaign. He was officially listed as a deserter on June 29, 1862. In September of 1862, Starbird enlisted in the 47th Massachusetts Infantry Regiment as Lawrence J. Hoyt. He deserted the 47th Regiment in November of 1862, and promptly enlisted in the 2nd Rhode Island Cavalry Regiment and received a \$325 enlistment bounty. He deserted the 2nd Regiment in August of 1863, and then in September of 1863, he enlisted as John D. Ford in the 35th New Jersey Infantry. He was paid a \$200 bounty for this enlistment and deserted after only three days of service. Starbird's luck ran out and he was arrested in Boston by Police Officer T. H. Adams, who received \$30.00 for his efforts.¹⁰¹ Starbird's Massachusetts records indicate he was captured on November 5, 1863 and instead of being tried for desertion he was inexplicably returned to his original Company K of the 19th Massachusetts Regiment on March 22, 1864.¹⁰²

During General Grant's Overland Campaign of the summer of 1864, Private Starbird's regiment was involved in heavy fighting at the Battles of the Wilderness and Spotsylvania. He was alleged to have "deserted his colors in the face of the enemy" before each battle and on the dates of May 7 and May 10, 1864, respectively. A trial was convened on May 19, 1864 and he was brought before a drum-head court-martial. He was found guilty and he was executed on May 20, 1864 with no appeal process.¹⁰³ When Judge Holt later questioned the absence of a written record of the testimony of the trial's witnesses, General Meade made the following reply to him on July 5, 1864.

¹⁰¹ Johnson, *All Were Not Heroes*, 189-190.

¹⁰² The Adjutant General, *Massachusetts Soldiers, Sailors, and Marines in the Civil War, Vols I-VIII*, (Boston: The Adjutant General, 1931-1935), Vol II, p. 486.

¹⁰³ Ibid.

The trial of the case occurred when we were in the immediate presence of the enemy and in actual and constant engagement with them. In my judgment, an immediate example was necessary to check a growing disposition to desertion. I consider I would have been perfectly justified in ordering the instant execution of the person without trial, but it was thought better to conform to the ordinary modes of procedure so far as circumstances would permit. The case therefore was brought before a “Drumhead Court Martial” and no record was made of the evidence.¹⁰⁴

General Meade has also commented in writing at the conclusion of the original trial record. He wrote, “The Major General Commanding is determined to exercise the utmost rigor of the law in punishing those cowards who disgrace their colors by basely deserting them in the presence of the enemy.”¹⁰⁵

In summary, Private John D. Starbird was clearly a man outside the boundary of all his military units after he enlisted in the 19th Massachusetts Regiment. He was a confirmed bounty hunter but that was not what got him shot. It was his desertion of his comrades in the face of the enemy before two major battles. Private Starbird was expendable to the army for two main reasons. First, he was not reliable and could not be counted on to do his duty when it was required the most, namely in time of battle. Second, he was used as an example by the military command as a warning to others that might be inclined to desert at a time when battle was imminent. It was the latter reason that the military received some return on its investment in training, feeding and equipping Private John D. Starbird.

The fifth soldier executed for desertion from Massachusetts Regiments was Frank McElheny. His last name also appears in the records as McElhenny and McElheney.

¹⁰⁴ National Archives, RG 153 NN 1943.

¹⁰⁵ Ibid.

Frank McElheny mustered into Company F of the 24th Massachusetts Infantry Regiment on November 25, 1861 at Camp Meigs in Readville, Massachusetts. He was born in Boston and his age recorded was 18. The record also notes he was shot for desertion on August 8, 1864.¹⁰⁶ The only other information available was that he listed his occupation as a teamster and he had a widowed mother.¹⁰⁷ Frank was a discipline problem and an insubordinate soldier from almost the beginning of his service. He was court-martialed on a variety of charges including insulting a superior officer in New Bern, North Carolina, on August 7, 1862. He was sentenced to be dishonorably discharged, forfeit pay and received a five year prison sentence at Fort Macon, Beaufort, North Carolina.¹⁰⁸

McElheny escaped from Fort Macon and apparently swam to safety, entered the Confederate lines, and later enlisted in their army under an assumed name. In the summer of 1864, he decided to desert the Confederate cause. McElheny had heard that the Union military, as an inducement to entice southern deserters, had offered to send any Rebel deserter to any place they wanted in the North. Frank McElheny decided to desert at Deep Bottom, Virginia on July 27, 1864. In an incredible example of bad luck, Frank deserted directly into the ranks of his old 24th Massachusetts Infantry Regiment and F Company. In addition, they were only in a front line position on one out of every three days of service.¹⁰⁹

Frank McElheny was immediately recognized, arrested on the spot and forwarded to Regimental Head Quarters. He was subsequently brought to trial on a second and more

¹⁰⁶ The Adjutant General, *Record of the Massachusetts Volunteers, 1861-1865* (Boston: The Adjutant General under a resolve of the General Court, 1868-1870), Vol II, p. 458.

¹⁰⁷ Johnson, *All Were Not Heroes*, 207.

¹⁰⁸ National Archives, RG 94, Frank McElheny.

¹⁰⁹ Johnson, *All Were Not Heroes*, 207-208.

serious court-martial offense at Fort Monroe, on August 5, 1864. At his trial, evidence was introduced of Private McElheny's long history of violation of Army regulations and the Articles of War. He freely admitted that he joined the 19th Virginia Battalion in Richmond. He also volunteered he had been born in Salmon Falls, New Hampshire and starting at age 15 he had driven a team until the Civil War broke out. McElheny made his mark on the statement indicating that he was illiterate¹¹⁰

The court found Frank McElheny guilty of desertion and sentenced him to be executed by General Order 91 Head Quarters, Department of Virginia and North Carolina, dated August 6, 1864. He was shot to death by a firing squad from the 24th Massachusetts Regiment on August 8, 1864 in Deep Bottom, Virginia.¹¹¹ It is noted that it was a botched execution. The first volley that hit McElheny wounded him but did not kill him. A second volley was fired into him while he was prone on the ground and it killed him. He was placed in a coffin face down and buried in an unmarked grave. In addition, on the day of execution the Regimental Surgeon, Dr Samuel Green, stated that he rode seven miles to the head quarters of General Benjamin Butler to ask for a commutation of McElheny's sentence, but to no avail.¹¹²

In summary, Private Frank McElheny was outside of his military unit almost from the beginning of his enlistment up to his initial court martial on several conduct related charges. In addition, he deserted the Union Army and worse freely admitted he had joined the enemy against his country. Prior to the Civil War McElheny does not appear in the birth or census records of either Massachusetts or New Hampshire. He was

¹¹⁰ National Archives, RG 153, LL 2342.

¹¹¹ National Archives, RG 94, Frank McElheny.

¹¹² Johnson, *All Were Not Heroes*, 209.

independent, on his own, and working by the age of 15. He was also illiterate. These two contributing factors, along with his absence from the records also indicate he was living on the edges of his local society.

The last soldier executed chronologically for desertion from a Massachusetts Regiment was John C. Dixon. In his company descriptive book, John enlisted for three years in Company H of the 1st Massachusetts Regiment Heavy Artillery on August 18, 1864 in Concord, Massachusetts. He was listed at 5 feet 9 inches tall, with a light complexion, blue eyes and brown hair. He gave his place of birth as Montreal, Canada, his age 21 and his occupation was a boot maker. He received a \$100 bounty and was owed \$200 more¹¹³ On another Massachusetts service record his age is confirmed at 21 and he was living in Holliston, Massachusetts, and listed his occupation as boot crimper.¹¹⁴ A boot crimper is the person that puts the curve into the front of a boot. Private Dixon reached the front ranks during the Army of the Potomac's siege at Petersburg and he was assigned to Fort Alexander Hayes in the trench lines being deployed by the Union Army. Dixon deserted during sentry duty on the afternoon of November 21, 1864. In a bizarre twist of fate, he was apprehended later that night when he reentered the Union lines farther down from the fort and thought he was deserting over to the Confederates!¹¹⁵

A court-martial trial was convened on November 28, 1864, near Petersburg and Private Dixon was charged with desertion to the enemy and a second charge of deserting his post while on duty. It should be noted that in the trial records his middle initial was

¹¹³ National Archives, RG 94, John C. Dixon.

¹¹⁴ Adjutant General, *Massachusetts Soldiers*, Vol V, p. 618.

¹¹⁵ National Archives, RG 153, NN 3098.

listed as E, but that is incorrect. In addition, some records list Dixon as being tried for rape in addition to desertion. That is incorrect and the trial records reflect this fact.

Trial testimony from his regiment confirmed he was on sentry duty that day, he deserted his post, and his rifle was found three rods in front of his sentry post. Three rods would be the equivalent of 50 feet. The prosecuting officer also asked if Dixon was a volunteer or a substitute and the soldier thought he was a volunteer. Testimony was then given by the arresting soldiers who confirmed Dixon had come into their lines in order to desert. The sentry quoted Dixon as saying, “he wanted to desert the Yanks they used him so bad, that he had received a good bonus but that it had been stolen in the Post Office and that he had been used hard generally.”¹¹⁶

Private Dixon called no witnesses and made the following statement to the court. He said, “I did not intend to desert. I was discharged from the British Service for disability. I sometimes get light in the head.”¹¹⁷ The court found Private Dixon guilty of both charges and ordered him to be shot. In a letter dated December 17, 1864, General Meade, Commanding General, issued G.C.M. order No. 51. It ordered Dixon’s execution on December 23, 1864 at 12 O’clock.¹¹⁸ A final letter written December 22, 1864 by Brigadier General Regis de Trobriand confirmed the details of the execution to be held on December 23, 1864, and the sentence was duly carried out.

A final piece of irony is contained in a letter sent to the Adjutant General’s Office from Montreal and dated December 22, 1864, by a Lieutenant Colonel Lyman. He sent a variety of letters of recommendation on behalf of John Cochlan Dixon and also claimed

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ National Archives, RG 94, John C. Dixon.

he was enlisted by a bounty broker who defrauded him of his money.¹¹⁹ The letter arrived after Private Dixon's execution and in a return letter from Samuel Preck, Asst. Adjutant General, the end of the letter closes with the following statement.

In reply I have the honor to inform you that it appears upon investigation that this soldier was tried by Court Martial for desertion and deserting his post, found guilty and sentenced to be shot to death by musketry December 23, 1864 at noon, which sentence has been executed.¹²⁰

In summary, Private John Dixon was convicted of deserting his post and going over to the enemy. In addition, other factors include his late enlistment in the Civil War and his short three month service record. It should also be noted he was Canadian born and a foreigner. Baptism records indicate he may have been baptized in a Catholic church in Montreal in 1843.¹²¹ His middle name and its spelling suggest he may have been from an Irish Catholic family. The skepticism of the officers is also evident in the court's question asking if Dixon was a substitute. It can be concluded that he was a short term, bounty enlisted recruit with a foreign accent. No one spoke up on his behalf until the letter from his friends from Montreal arrived after his execution.

In conclusion, it is evident that the military saw these seven men as expendable to the war effort and had no misgivings about executing them. In addition, they wanted to use these men's executions as examples for the rest of their comrades. The message delivered was continue to do your sworn duty or suffer similar punishment.

¹¹⁹ National Archives, RG 153, NN 3098.

¹²⁰ Ibid.

¹²¹ Canada, Montreal, Quebec, Institut Généalogique Drouin, Basilique Notre-Dame, 1843.

CHAPTER 5 WILLIAM FRANCIS HILL

Up to now, all of the above executed men were obviously guilty of the capital charge of desertion both in the letter, as well as in the spirit of the law. They were legally judged by governing military law and their sentences were justly carried out. In addition, these men were clearly outside the margins of their home societies and their military units as their behavior suggests. They would have been called scoundrels and Thomas Dawson, William Ormsby and Frank McElheny had additional charges brought against them. Dawson was also convicted for the crime of rape and Ormsby and McElheny were also convicted for being a traitor and fighting for the enemy. It can be concluded that the officers on the court had no qualms about ordering the execution of these men and that they were expendable to the Union Army's war effort.

The life and case of the last of the Massachusetts men who was executed is different from the others. While certainly guilty of the crime of desertion, William F. Hill's life and the circumstances of how he got to be executed serve as an example of how a simple minded boy got caught up in the fog of war. From the beginning of his fraudulent enlistment in Boston, to his execution in Morrisville, Virginia, human choice appears as a strong undercurrent. Examples of choice include that he appears to have been cheated out of his bounty, arrested and executed as an example to others, and had no

one of military authority or from his home community who was willing to petition for leniency on his behalf. William does not fall into the same category as the other executed men from Massachusetts and his biography and the circumstances of his trial and execution deserve more coverage. William's story concludes with the details of his botched execution far away from his home in a war in which he never meant to fight.

William Francis Hill was born on September 12, 1845, in North Brookfield, Massachusetts.¹²² He also appears in the 1850 Federal Census under Willy F. Hill and enumerated with an age of 5 years old. The form confirms he had attended school in the last year. His father, Moses, was 49 years old at that time and listed his occupation as farmer with a valuation of \$500. His mother, Clarrisa, was 40 years old at that time and had no occupation listed. William had 3 older brothers and 2 older sisters and the oldest was Harriet, age 24 and still living at home in 1850.¹²³

On December 2, 1851 Clarrisa Hill died in West Brookfield, Worcester County, Massachusetts when William Hill was just a little over six years old. Her age on the death notice is listed as 43 and a birth date of about 1808 and her cause of death was listed as anemia. She left no will filed in the Commonwealth of Massachusetts and under the form column for parents the notation reads "Wife of Moses Hill."

In the 1855 Massachusetts state census, Moses Hill, now listed as age 56, is still heading the household. William Hill's mother is no longer enumerated and in his 1863 desertion trial records it is indicated that she was deceased. One of the older boys has left the home and he is now listed as aged 10. It should be noted that Ancestry.com has

¹²² Massachusetts Vital Records, 1840-1911. New England Historic Genealogical Society, Boston, Massachusetts, Number of Births in the Town of North Brookfield, MA, 1846, p. 232.

¹²³ US Census (1850), North Brookfield, Worcester County, Massachusetts, Roll 432 p. 15B.

incorrectly transcribed it as 18. The Massachusetts state census form follows a chronological format and William Hill is listed below his 17 year old brother Charles. It is noted that Charles shows up above William in the 1850 Federal Census and aged 12 at that time. Other family members that are listed confirm the data set is correct and that Moses has now lost his farm and listed his occupation as laborer.¹²⁴ None of the other family members in the house have occupations, including William's 28 year old sister, Harriet.

The 1860 Federal census does not identify either Moses or William Hill and his trial records indicate he and his father were in the North Brookfield Almshouse. Charles and George W. A. Hill are no longer listed as living in a Hill family home. In 1860, they lived in two different homes in Northfield and listed their occupations as shoemakers.¹²⁵ Both of them later enlisted in the Union Army and served honorably until they were discharged. Charles Hill was in the 25th Massachusetts Regiment and his official volunteer enlistment form lists him as a farmer born in Randolph, Massachusetts. He was illiterate as he made his mark on the signature line and his name is signed by the enlisting officer. An examining surgeon has certified "on honor" that he is fit to serve. The last paragraph is standard language but noteworthy. It says,

I CERTIFY ON HONOR That I have minutely inspected the volunteer (Charles F. Hill) previously to his enlistment, and that he was entirely sober when enlisted; that, to the best of my judgment and belief he is of lawful age; and that accepting him as duly qualified to perform the duties of an able-bodied soldier, I have strictly observed the Regulations which govern the recruiting service.¹²⁶

¹²⁴ Massachusetts State Census (1855), North Brookfield, Worcester County.

¹²⁵ US Census (1860) North Brookfield, Worcester County, Massachusetts, Roll 653, p. 51, 80.

¹²⁶ National Archives, RG 94, William F. Hill.

He then recorded Charles Hill's height, complexion, color of hair and eyes. Private Hill spent most of his time in New Bern, North Carolina and spent over one year in the hospital after contracting malaria. William Hill's other brother George was also in the Union Army. It is very doubtful that any of the brothers had contact with each other while in the military.¹²⁷

The next documentation that exists on William Hill is his Muster and Descriptive Roll card dated August 6, 1862 from Boston, Massachusetts. It should be noted there is no official volunteer enlistment form existing in William Hill's service record. He enlisted as a private into the 20th Massachusetts Infantry Regiment for what was then the legal standard of three years of service. He was listed as being 5 foot 5 inches tall, with blond hair, blue eyes and a fair complexion. Hill, or someone on his behalf, incorrectly listed his age as 21 when in fact he is just a little over one month shy of his 17th birthday. Legally, Hill should not have been allowed to enlist in the Union forces. William Hill listed his occupation at that time as a laborer. His muster card left the line for bounty paid or bounty due blank.¹²⁸

William Hill's firsthand account of his enlistment is noteworthy and given the many recorded instances of bounty fraud being committed during the Civil War, it certainly has a ring of truth to it. In an interview in the *Boston Post* the day before his death, Hill told the correspondent "that a man got him drunk and had him sworn in before he knew what he was about."¹²⁹ He also made the following statement.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ "Seven Men Shot For Desertion," 4.

Enlisted 33rd, Colonel Maggi, last spring from Canton, Received bounty in Boston for 33rd. Captain Richards took it away and put it in bank, School st, Boston, in his own name, got about \$30.00 myself. The Captain and S Wentworth of Canton the rest. Was not passed by the examining Surg. 33rd and Colonel Maggi had me passed previously in Boston. In July 1862 went into the 20th in Boston, recruiting office...¹³⁰

It would appear that S Wentworth was a bounty agent and collected a portion of Private Hill's enlistment bounty. There is indeed an Albert Maggi listed as Colonel in the 33rd Massachusetts and his muster in date was August 7, 1862.¹³¹

Private Hill's military career was a short one and centered around the Battle of Antietam, which occurred on September 17, 1862 outside of Sharpsburg, Maryland. The 20th Massachusetts was a veteran regiment at this time, having been formed back in July and August of 1861. William Hill would have been enlisted as a replacement and thus immediately became an outsider to the rest of the regimental men in the ranks who had been fighting almost continually for a full year. The 20th Massachusetts was an under strength regiment of just 300 men at the time of the battle and it was in the thick of the fighting in the "West Woods" portion of the battle. The 20th lost one officer and eleven men killed, two officers and eighty one men wounded and an additional twenty eight men were listed as missing, for a casualty rate of a little over 30%.¹³² Hill does not appear to have participated in the battle and he later gave an excuse that he was not issued a weapon and could not fight. At this point William clearly had enough of soldiering and when the Union Army moved back into Virginia he complained of sore feet on the march and fell out of formation.

¹³⁰ Johnson, *All Were Not Heroes*, 81-82.

¹³¹ National Archives, RG 94, Albert C. Maggi.

¹³² Reardon, *A Field Guide to Antietam*, 141.

William Hill's Company Muster Roll's cards are informative regarding how the army legally viewed him. On his September and October card, he is marked present and under remarks it says, "Mustered in Aug. 6/62 in Boston." On his November and December card he is marked absent and under remarks it says, "Absent since Nov 2. Straggled on march." On his November to February 28th card under remarks it says, "Straggled on march Nov. 2 1862. Convicted deserter since Jan 1 63." ¹³³

William Hill testified at his trial that he was induced to desert by others at a farm house, changed his clothes and made his way back to his home in North Brookfield. He was officially listed as having deserted his regiment on November 6, 1862 near Paris, Virginia. He appeared on a card that is titled Descriptive list of Deserters dated March 11, 1863 and under remarks it says, "Straggled on March Nov. 5 62." He also appeared on another card entitled List of Deserters dated March 1863. It says he deserted on November 4, 1862 and under remarks it says, "Probably Hospital or Convalescence Camp." ¹³⁴

Instead, Hill had returned and settled in at the almshouse with his father until Special Officer Charles M. Ruggles arrested him in North Brookfield based on a warrant issued by the Worcester Provost Marshal for his arrest dated June 11, 1863. ¹³⁵ Ruggles' handwritten letter, which included an itemized listing of his expenses, is available in Private Hill's trial record. Those were "Use of horse to Brookfield—3.50, Aid to J. Kane—2.00, Subsistence-- .075." ¹³⁶

¹³³ National Archives, RG 94, William F. Hill.

¹³⁴ Ibid.

¹³⁵ Johnson, *All Were Not Heroes*, 81.

¹³⁶ Ibid.

William was returned under guard to his regiment on July 17, 1863. “A General Court Martial was convened at the headquarters of the 2nd Division, Second Corp, near Morrisville, Virginia, and on August 17, 1863 it tried Private William H. Hill... on a charge of desertion in the face of the enemy.”¹³⁷ Note the trial records incorrectly transcribed William Hill’s middle initial as a H.

There are two letters in the records that are illuminating in their contents and their facts. They also explain where Hill, and his father Moses, were during the 1860 census. The first letter is dated June 5, 1863, from North Brookfield, and it was written by Hiram Knight, Enrolling Officer. Knight confirmed that Hill, who he estimated to be between 17-18 years old, and his father were then residing at the almshouse in North Brookfield. About two years previously, Moses Hill took William to Randolph, then deserted him and came back alone one year later to North Brookfield. The letter goes on to say Moses received a letter in the summer of 1862 from a selectman in Randolph that William Hill had received a \$100 bounty and wanted Moses Hill to secure it for him. Knight wrote that he did contact the selectmen from Randolph and confirmed that a young man named William F. Hill did enlist in a city of Canton quota and received a \$100 bounty and he believed he had enlisted in the 20th Regiment. Knight also wrote that William Hill came back to the almshouse in a filthy and destitute condition the previous winter and that he felt Hill had been at the Battle of Antietam, thrown away his arms and equipment and changed clothes with a Confederate deserter and returned to North Brookfield. Knight wrote, “He is a stout hearty but shiftless fellow, has ever since his return complained of one knee but gives no satisfactory answer how he was injured.” He concluded by saying

¹³⁷ National Archives, RG 153, NN 1831.

they had thought William older but, “I have found in a house where the family lived some years ago, an old Bible containing a family record which I doubt not is true made by the mother (a smart woman) now deceased. He is there entered as born September 21, 1845.”¹³⁸ This data element confirms that the court knew William was under the legal age to serve and it called into question his mental capacity by confirming his mother was in fact “smart”.

The second letter in the records is dated June 10, 1863, and is from the Adjutant General of Massachusetts and addressed to Captain Stone , Provost Marshal, Worcester, Massachusetts. This letter confirmed his receipt of a letter from the Chairman of selectmen of the town of Canton that they did indeed pay a bounty of \$100 to William Hill on July 18, 1862. The bounty was for William Hill to join the 20th Regiment of Massachusetts volunteers and enclosed William Hill’s enlistment form on the roll of recruits for the 20th Regiment.¹³⁹

Surprisingly, William pled guilty to the charge and neither he nor the prosecution offered any testimony. William did submit a statement in his defense and it read, “I was sick and my feet were done and I could not keep up. That was the cause to fall out. I went to a farmer’s house and the farmer urged me to desert. My father was very sick and I thought I must go home.”¹⁴⁰

The court confirmed the sentence in General Order Number 86, Army of the Potomac, on August 24, 1863, with an execution date of August 28th.¹⁴¹ General Meade,

¹³⁸ National Archives, RG 94, William F. Hill.

¹³⁹ Ibid.

¹⁴⁰ National Archives, RG 153, NN 1831.

¹⁴¹ National Archives, RG 94, William F. Hill.

Commanding General, made an additional notation at the end of Private Hill's trial record that confirmed the sentence. He wrote, "This man having failed to take advantage of the Presidents (sic) proclamation the proceedings, findings & sentence in the case are approved, and the execution will be carried into execution."¹⁴²

Finally, we have Hill's final interview with the correspondent for the *Boston Post*. He reiterated how he fell out of the march from Bolivar Heights, Maryland to Fredericksburg. He confirmed that he went to a farmhouse and met other soldiers who advised him to desert. They showed him the way to get back across the Potomac River and head for home. He also said he was concerned for his aged father who was seventy five years of age (not correct) and his unmarried sister who was 35 (Harriett presumably). The correspondent goes on to say that Hill petitioned for an extension of the sentence for a few days with the reason given "he wished to have more time to meet his just God." A final telling comment by the correspondent was, "Hill bore a bad character amongst the officers of his regiment. All refusing to intercede in his behalf and even the officers of his company declined intervening to mitigate his sentence."¹⁴³

William Francis Hill was executed at Morrisville, Virginia on August 28, 1863 side by side with John Smith of the 1st Massachusetts Sharpshooters. The firing squad was formed by the men of Smith's regiment. Once again, the *Boston Post* is a source of what ended up being a botched and poorly performed execution. After the firing squad of 8 men (one of them had a blank cartridge in his rifle) fired their volley, both men fell. William continued to moan and suffer and remained alive. Another sharpshooter was

¹⁴² National Archives, RG 153 NN 1831.

¹⁴³ "Seven Men Shot For Desertion," 4.

ordered to discharge his weapon and shot William in the face and caused a ghastly head wound. William still remained alive and “another ball passed his head; and, strange as it may seem, it was another full 2 minutes before Hill was extinct.”¹⁴⁴

There is a final muster roll call for William Hill and it covers July and August 1863. It says, “Gain from desertion. Shot for desertion Aug 28, 1863. Sentenced G.C.M.” (General Court Martial).¹⁴⁵

There are two postscripts to William Hill’s life. The first is that William Hill does not appear in the regimental history of the 20th Massachusetts Regiment. Civil War regimental histories were notorious for omitting bad behavior and Hill’s execution is another example of this policy. William F. Hill’s name is listed on the east side of the North Brookfield’s Soldiers’ Monument along with the other North Brookfield men who died during the war.¹⁴⁶ A second postscript is that Hill’s father, Moses, died on February 13, 1868 in North Brookfield. His occupation was listed as pauper; his cause of death was suicide, and in the margins it was written, “Cut his throat.”¹⁴⁷

Private Hill was reportedly the youngest soldier executed for desertion in the Union Army and he clearly was isolated from his home society after his mother died. He was also outside the margins of his regimental military unit for the three months that he served in the Union Army. The authors for the book *All Were Not Heroes*, assert that

¹⁴⁴ Ibid.

¹⁴⁵ National Archives, RG 94, William F. Hill.

¹⁴⁶ “Soldiers’ Monument-North Brookfield, MA,” *Waymarking.com*, accessed November 10, 2016, http://www.waymarking.com/waymarks/WMM9JW_Soldiers_Monument_North_Brookfield_MA.

¹⁴⁷ Massachusetts Vital Records, 1840-1911. New England Historic Genealogical Society, Boston, Massachusetts, Deaths Registered in Town of North Brookfield, MA, 1868, p. 291.

William Hill was illiterate and that he, “was (perhaps) mentally retarded.”¹⁴⁸ Clearly, William Hill had no business being in the Union Army and he certainly never should have received a death sentence. We have already examined the mindset of society, the military, and the Federal government at the time of Hill’s execution in John Smith’s profile. The five executions carried out on that day were an attempt by the Union Army commanders to send a message to the troops and the public. In conclusion, at the very least, William Hill’s enlistment was illegal and he should have been allowed to leave the army based on his chronological age, if for no other reason.

¹⁴⁸ Johnson, *All Were Not Heroes*, 82.

CHAPTER 6 MEN GRANTED A REPRIEVE

In order to bring the thesis argument full circle, it is necessary to profile some of the soldiers from Massachusetts regiments who received a death sentence and subsequently received a pardon or had their punishment reduced. The list below does not represent all those Massachusetts soldiers granted a reprieve. However, it is a representative number that allows for a comparison against the executed men's profiles. The service records and trial dates covered in these profiles are consistent with those of the men who were executed.

George Appleton Bent was born around 1835, in Quincy, Massachusetts. He enlisted in Company H of the 11th Massachusetts infantry in April of 1861, in Boston for three years. He listed his age at 25, and he was 5 feet 9 inches tall, of dark complexion, with dark hair and grey eyes.¹⁴⁹ Bent listed his occupation as boot maker and this can be confirmed in the 1860 Federal Census. The census enumerates his age at 24, his wife Susan, age 23 and three young children. They were living in Quincy, Massachusetts, during 1860.¹⁵⁰

George Bent deserted near Bladensburg, Maryland around November 23, 1861. As noted previously, desertion was not a crippling issue in the military early in the Civil War. After Bent deserted, he was not returned to the ranks under arrest until October 5,

¹⁴⁹ National Archives, RG 94, George A. Bent.

¹⁵⁰ US Census (1860), Quincy, Norfolk County, Massachusetts, Roll 653, p. 138.

1862. The Federal government was charged \$5.00 for his apprehension.¹⁵¹ General Hooker, Commanding General, approved the court's sentence for execution on February 16, 1863, and Judge Advocate, Joseph Holt, also endorsed the order. However, General Hooker wrote a revised opinion recommending the execution order be overturned based on President Lincoln's March 1863 Amnesty Proclamation. It then went to President Lincoln's desk and he pardoned Bent and returned him to the ranks.¹⁵² George Bent then served honorably and was wounded at the Battle of Chancellorsville in May of 1863. He was subsequently discharged from active service by a surgeon's certificate and transferred to the Invalid Corps due to disability on September 12, 1863.¹⁵³ He later returned home and lived in Quincy. George Appleton Bent died in Quincy on March 11, 1908 from Albuminuria.¹⁵⁴ Albuminuria is a condition where protein is in the urine and the kidneys fail over time.

.In conclusion, Private George Bent had several major factors in his favor. He was married with three young children at home and he had been a stable member of the Quincy community and practicing a trade for many years. In addition, his crime occurred early in the war and in early 1863, the government was still trying to get men back into ranks and restore morale. Lastly, he was a fortunate benefactor of President Lincoln's compassion and this pardon was issued around the time Lincoln issued his first amnesty proclamation.

¹⁵¹ National Archives, RG 94, George A. Bent.

¹⁵² National Archives, RG 153, MM 239.

¹⁵³ National Archives, RG 94, George A. Bent.

¹⁵⁴ Massachusetts Vital Records, 1840-1911. New England Historic Genealogical Society, Boston, Massachusetts, Return of a Death, City of Quincy, MA, Permit No. 449, 1908, p. 41.

William Watson enlisted on July 10, 1862, in Lynnfield, Massachusetts for a three year period. He enlisted in Company G of the 32nd Massachusetts Infantry. His company muster roll listed him at 5 feet 8 inches tall, with a dark complexion, black hair and eyes. He listed his residence as Boston, his age at 28, and under occupation he listed himself as a laborer. He was born in County Down, Ireland.¹⁵⁵

Private Watson had three separate charges brought against him near Potomac Creek, Virginia. He was accused of drinking alcohol on November 30, 1862, and going to a sergeant's tent and striking him. He subsequently went Absent Without Leave (AWOL) but was brought back to the army after being absent a few days. The charges were conduct prejudicial to good order and military discipline, mutiny and desertion. For the first crime Private Watson received a sentence of forfeit of pay of \$5 a month for six months. For mutiny, he was sentenced to forfeit \$8 a month for six months, and carry a 25 pound log four hours a day for fourteen days with a 12 pound ball and chain attached to his leg.¹⁵⁶ For the crime of desertion, Watson was given the death penalty. One key point Private Watson made at his trial was that he had not received pay for nine months.¹⁵⁷ William Watson had his sentence pardoned by President Lincoln in the same timeframe and under the same provision of Lincoln's Amnesty Proclamation as did Private Bent.

¹⁵⁵ National Archives, RG 94, William A. Watson.

¹⁵⁶ Ibid.

¹⁵⁷ Lowry, *Don't Shoot That Boy*, 103.

William Watson continued to serve and was wounded on July 2, 1863, during the Battle of Gettysburg. He was later transferred to Battery B of the 4th United States Artillery and was finally mustered out on May 29, 1865¹⁵⁸

In conclusion, Private Watson benefited from never leaving the area of the army and he was mostly guilty of hiding to avoid punishment for striking his sergeant. He was a volunteer who had served without any prior incidents and faithfully discharged his duty with his comrades after he was pardoned. The lack of pay may have also been a mitigating factor in his sentencing and his punishment for the two other crimes were duly carried out.

The next soldier used two different names to enlist in the Union armed forces. His legal name was Daniel A. Nyen and he was born between 1836 and 1838 in Boston, Massachusetts. This name appears at the bottom of his service notes under his assumed name and also in both a marriage and death certificate issued after the Civil War. Nyen first volunteered under the name Daniel Andrews and enlisted in Boston on April 17, 1862. He listed Boston as his place of birth, but no age or occupation is recorded on the enlistment record. His unit was Company F, 1st Battalion, 11th United States Infantry and he enlisted for a three year term. He deserted sometime in the next few months and disappeared from the army's records. His final service record entry under Daniel Andrews listed his discharge from service for disability on February 7, 1865.¹⁵⁹

Nyen next volunteered and enlisted under the name Daniel Nihne in Cambridge, Massachusetts on November 26, 1862, for three years. It should be noted that most of his

¹⁵⁸ Adjutant General, *Massachusetts Soldiers*, Vol III, p. 505.

¹⁵⁹ Adjutant General, *Massachusetts Soldiers*, Vol VI, p. 781.

military information can be found under this assumed name. Daniel Nihne's enlistment card stated his age at 26 and said he stood 5 feet 9 and $\frac{3}{4}$ inches tall. His complexion was listed as dark and he had grey eyes and black hair. He confirmed he was born in Boston and he listed his occupation as varnisher. He was mustered in at Readville, Massachusetts, on January 31, 1863.¹⁶⁰ He deserted very soon after and was apprehended and confined at Fort Independence in Boston harbor. According to Tom Lowry, Daniel Nihne was convicted of desertion and sentenced to one year of hard labor, which included the use of the ball and chain punishment, and was also fined \$130.¹⁶¹ However, while at Fort Independence, he was recognized and arrested and charged with desertion as Daniel Andrews of the 11th Infantry. His muster roll for July and August of 1863 confirms he was at Fort Independence awaiting court-martial for his original desertion.¹⁶² This time the sentence given for this new desertion charge was execution. After sentence was passed and forwarded on to Major General John Dix, Dix intervened on Andrews' behalf. Dix wrote to Judge Holt, "His character is highly spoken of by all his officers."¹⁶³ He went on to suggest that Andrews/Nihne should be returned to duty. Judge Holt passed this recommendation on to President Lincoln, who issued a pardon on February 9, 1864.¹⁶⁴

Daniel Nyen continued to serve in the army until his discharge date of February 7, 1865. He married Irish-born, Ellen Dixon on January 29, 1865, in Boston just a few days

¹⁶⁰ National Archives, RG 94, Daniel Nihne.

¹⁶¹ Lowry, *Don't Shoot That Boy*, 115.

¹⁶² National Archives, RG 94, Daniel Nihne.

¹⁶³ National Archives, RG 153 LL 545.

¹⁶⁴ Lowry, *Don'T Shoot That Boy*, 116.

before he was discharged. The marriage form lists his birth year about 1838.¹⁶⁵ Daniel A. Nyen died on September 22, 1885, in Boston. The death record lists his age at 48 and birth year approximately 1837 and he was still married to Ellen. His occupation was listed as a grocer and his cause of death was heart disease (sudden).¹⁶⁶

In conclusion, Private Andrews/Nihne, in all probability, was a bounty jumper who enlisted twice under two different assumed names in a little over seven months. There is no question that the letter from General Dix that cited the officers' strong positive opinion of his character was the leading factor in Private Andrews' pardon. In addition, in February of 1864, Union war morale was high before it plunged again during General Grant's Overland campaign of the summer of 1864.

Frederick Eben Blanchard was born in 1842 or 1843 in Florida, Massachusetts. He can be found, age eight, living in Adams, Massachusetts, in the 1850 Federal Census.¹⁶⁷ He can also be found, age eighteen, living in Cheshire, Massachusetts, in the 1860 Federal Census and he listed his occupation as farmer.¹⁶⁸ Blanchard entered the army twice. He first enlisted on October 21, 1861 into Company H of the 27th Massachusetts Infantry regiment in North Adams, Massachusetts for a three year term. He listed his age, incorrectly, as 21 and his occupation as farmer. He was discharged for disability on February 22, 1862.¹⁶⁹ On Blanchard's discharge papers there is more personal information available. He was listed at being 5 feet 10 inches tall, and having a

¹⁶⁵ Massachusetts Vital Records, 1840-1911. New England Historic Genealogical Society, Boston, Massachusetts, Marriages Registered in the City of Boston, 1865.

¹⁶⁶ Massachusetts Vital Records, 1840-1911. New England Historic Genealogical Society, Boston, Massachusetts, Deaths Registered in the City of Boston, 1885.

¹⁶⁷ US Census (1850), Adams, Berkshire County, Massachusetts, Roll 432, p. 29B.

¹⁶⁸ US Census (1860), Cheshire, Berkshire County, Massachusetts, Roll 653, p. 38.

¹⁶⁹ Adjutant General, *Massachusetts Soldiers*, Vol III, p. 168.

light complexion, with light hazel eyes and light brown hair. He had been noted as unfit for duty for the last 60 days.¹⁷⁰

Blanchard enlisted again for three years on June 26, 1862 and joined Company B of the 34th Massachusetts Infantry and the form lists a bounty payment of \$25. He still listed himself as being 21 and a farmer and was stationed at Fort Lyon, Virginia, part of Washington D.C's. fort protection system. The record lists April 8 (twice) and April 11(once) of 1863 and May 8 (twice) of 1863 as Private Blanchard's desertion date from Fort Lyons. On one of the April 8 muster cards, it added that he deserted while awaiting sentence for G. C. M.¹⁷¹ Tom Lowry detailed what happened next to him. General Samuel Heintzelman, Commanding Officer of the Washington defenses, forwarded the sentence to Judge Holt with his comments. He recommended a commutation of the execution to a dishonorable discharge and hard labor for the rest of Frederick's enlistment period of three years. Judge Holt agreed and President Lincoln signed his name on the document.¹⁷²

After the Civil War, Frederick married Amanda A. Towslee of Vermont on February 1, 1870.¹⁷³ Frederick died on June 6, 1877 in Cheshire, Massachusetts, and his cause of death was listed as suicide by hanging and the notation under that line read insane.¹⁷⁴

¹⁷⁰ National Archives, RG 94, Frederick E. Blanchard.

¹⁷¹ Ibid.

¹⁷² Lowry, *Don't Shoot That Boy*, 116.

¹⁷³ Vermont Vital Records through 1870. New England Historic Genealogical Society, Boston, Massachusetts, Marriage Certificate, Pownal, VT, 1870, p. 181.

¹⁷⁴ Massachusetts Vital Records, 1840-1911. New England Historic Genealogical Society, Boston, Massachusetts, Deaths Registered in the Town of Cheshire, MA, 1877.

In conclusion, Private Frederick Eben Blanchard was allowed to reenlist in the army despite being given a medical discharge four months earlier. He was saved from the firing squad because of General Heintzelman's intervention and President Lincoln used the General's request to allow him to commute Private Blanchard's execution order. President Lincoln rarely, if ever, went against his officers after they recommended a commutation of a sentence.

George E. Wentworth enlisted in Company K of the 20th Massachusetts Infantry Regiment on August 19, 1861, in Boston and was mustered in on August 21st. In his company description book he was listed as being 25 years old, 5 feet 9 ³/₄ inches tall, with dark complexion, hazel eyes and black hair. He gave his place of birth as Milton, New Hampshire, and listed his occupation as shoemaker.¹⁷⁵

He served almost one and a half years until he deserted his unit in mid December of 1862, on the eve of the Battle of Fredericksburg. He was apprehended and return to the army on March 12, 1863, and a special muster roll dated April 10, 1863, listed him, "in arrest awaiting sentence."¹⁷⁶ The execution sentence was forwarded to General Hooker who wrote a note on April 13, 1863, recommending a pardon. Hooker used President Lincoln's Amnesty Proclamation as his rationale and wrote that he felt it unjust for Private Wentworth to be executed just because he was returned to the ranks as apprehended instead of voluntarily returning on his own. President Lincoln agreed and pardoned Private Wentworth.¹⁷⁷

¹⁷⁵ National Archives, RG 94, George E. Wentworth.

¹⁷⁶ Ibid.

¹⁷⁷ National Archives, RG 153, MM 235.

After returning to the ranks, Private Wentworth served without incident and then took advantage of an offer to reenlist on December 20, 1863, while serving in the field at Stevensburg, Virginia. Wentworth joined I company, staying in the 20th Regiment and the description matches his earlier enlistment with his age changed to 27 years old. An important data reference is that Wentworth received \$400 as a bounty. His Muster Out Roll records \$210 was paid and \$190 was due him at discharge. In addition, he was given an expiration of service date of July 16, 1865.¹⁷⁸

Private Wentworth continued to serve after his pardon and was listed wounded on May 6, 1864 during the Battle of the Wilderness. He was allowed to return to Massachusetts to convalesce.¹⁷⁹ He mustered out on July 16, 1865 and later filed for and was granted a disability pension.¹⁸⁰ George Wentworth falls off the record and the only possible link is a marriage on October 18, 1876, to Rose Fitzpatrick from St John's, Nova Scotia. Two clues in this record are his birth year was listed about 1837 and his mother's first name was indeed Sarah.¹⁸¹

Private George E. Wentworth was clearly a member in good standing within his regiment. His reenlistment in the same regiment, but in a different company, indicates a level of comfort and familiarity. The main factor in his pardon was that a lenient General Hooker extended President Lincoln's Amnesty Proclamation to any men who were returned to the ranks by April 1, 1863. George also represents another example of President Lincoln's mercy towards the soldiers. Lastly, to his credit, Private Wentworth

¹⁷⁸ National Archives, RG 94, George E. Wentworth.

¹⁷⁹ Adjutant General, *Massachusetts Soldiers*, Vol II, p. 588.

¹⁸⁰ National Archives, RG 94, George E. Wentworth.

¹⁸¹ Massachusetts Vital Records, 1840-1911. New England Historic Genealogical Society, Boston, Massachusetts, Marriages Registered in the City of Boston, 1876.

did his duty in future battles and suffered an injury from a musket ball at the Battle of the Wilderness.

Eugene Sullivan, age 18 when he enlisted on August 11, 1862, was destined to cross paths with both John Smith and William Hill in August of 1863. All three of them were brought to trial for desertion on the same day and were scheduled to be executed on August 28th. All three had interviews with the *Boston Post* and gave their personal stories to the correspondent. Lastly, William Hill was also from the 20th Massachusetts Regiment but, unlike Eugene, William was outside the borders of his military unit and this was a major factor in Eugene being granted a reprieve.

Sullivan enlisted and was mustered in on August 19, 1862, into Company F of the 20th Massachusetts. He gave his age as 18 and his place of birth as Boston. He was listed at 5 feet 3 and ½ inches tall, with a dark complexion, black eyes and dark hair. Eugene listed his occupation as tailor.¹⁸² Private Sullivan served until tragedy struck on December 13, 1862, at the Battle of Fredericksburg. During an attack, James Sullivan, Eugene's father, in the ranks next to him, was shot and killed. The records confirm there was a James Sullivan, originally from County Cork, Ireland, who enlisted in Company F of the 20th Massachusetts age 40 and that he was killed on December 13, 1862 at Fredericksburg.¹⁸³ However, Eugene in his newspaper interview said his father was killed beside him during the Second Battle of Fredericksburg, May 3, 1863, even though the record does not support this specific date.¹⁸⁴ The 20th Massachusetts Infantry was

¹⁸² National Archives, RG 94, Eugene Sullivan.

¹⁸³ Adjutant General, *Massachusetts Soldiers*, Vol II, p. 548.

¹⁸⁴ "Seven Men Shot For Desertion," 4.

engaged at both battles of Fredericksburg and it can be concluded that Private Sullivan was confused about which battle his father was killed in.

Eugene Sullivan next appears in the official records as having deserted around July 2, 1863, during the Battle of Gettysburg and returning to his unit on July 5th after the battle had ended. One part of the testimony was that after Colonel Paul Revere, the regimental commander, was badly wounded, he asked Sullivan to stay by his side until he died on July 5th. In addition, five officers of the 20th Regiment sent the following petition. “Sullivan is but 18 years old...he has been in several battles and behaved with proper courage previous to this offense for which he is now sentenced. He has never been vicious nor generally insubordinate.”¹⁸⁵

While John Smith and William Hill were duly executed on August 28, 1863, Eugene Sullivan received a reprieve. General George Meade, while in Command of the Army of the Potomac, wrote on August 26, 1863 that he was suspending the execution pending review by President Lincoln. His order states, “Upon the recommendation of several officers of the regiment and his brigade, division and corps commander the execution of the sentence in the case of Eugene Sullivan...is suspended.”¹⁸⁶ After Meade’s recommendation worked its way through all the channels, President Lincoln made it official and remitted Private Sullivan’s sentence on April 27, 1864.¹⁸⁷

Private Sullivan continued to serve in the Union Army and like George Wentworth he took advantage of the opportunity to reenlist in the 20th Massachusetts Regiment on December 21, 1863 in Stevensburg Virginia. He, like Wentworth, was also

¹⁸⁵ National Archives, RG 153, MM 769.

¹⁸⁶ National Archives, RG, 94, Eugene Sullivan.

¹⁸⁷ Lowry, *Don't Shoot That Boy*, 123.

awarded a \$325 bonus for reenlisting¹⁸⁸ Private Sullivan continued to serve until he was wounded in the shoulder in May of 1864. His service records list May 6 and the Battle of the Wilderness, but his disability application and other forms show he was wounded at the Battle of Spotsylvania on May 12th. Eugene was allowed to return home to convalesce but he overstayed and in spite of asking for more time to recover he was subsequently arrested as a deserter. He got transferred to a hospital in the Washington, D.C., area and his surgeon wrote a letter stating his wound was not healed and asked that the desertion charge to be removed and it was. Ultimately, Private Sullivan was discharged on account of disability for this wound on January 15, 1865. Unfortunately, Eugene Sullivan is not found in any records after his discharge and it is unclear what became of him after he received he left the army.

In conclusion, Private Eugene Sullivan was granted a reprieve when others were not for the number one reason that his officers throughout his military organization vouched for his character and his long service record. The circumstances of his father's death and his age must have also been contributing factors. To Private Sullivan's credit, he conquered his fear of battle and served admirably throughout the rest of his combat career.

Patrick Berrian enlisted and was mustered in on July 12, 1861, into Company F of the 16th Massachusetts Infantry. He listed his occupation as laborer, he said he was 25 years old, and he gave his place of birth as Lowell, Massachusetts.¹⁸⁹ The records also show that he married Jane McCusker in Lowell on October 23, 1855. He was 19 at the

¹⁸⁸ Adjutant General, *Record of Massachusetts Volunteers*, Vol II, p. 353.

¹⁸⁹ Adjutant General, *Massachusetts Soldiers*, Vol II, p. 248.

time and she was 18 and his occupation was operative.¹⁹⁰ This may have had to do with the Lowell textile mills and the operation of the machinery.

Private Berrian got into trouble in 1862 and was docked pay several times. He was brought before a court-martial trial and found guilty of drunkenness on March 7, 1862, and received a fine of \$2.¹⁹¹ Another incident got Patrick in front of a regimental court-martial and on October 1, 1862, it cost him a \$13 fine.¹⁹² Ultimately, Berrian got drunk again on June 26, 1863, and he deserted the Union Army in Maryland before the Battle of Gettysburg. He was arrested back in Lowell by the Provost Marshal and returned to the army for trial. Patrick was charged the \$5.00 expense fee for his capture, as well as a fine for his equipment lost, including his Enfield rifle. At his trial he gave the following excuse. "I had a letter that my wife was in jail for the shameful crime of adultery. She had sold everything I had to pay her lawyer and the children were going to the Poor House, to be bound out. I was half crazy thinking of the children. Then I got drunk and left."¹⁹³ On September 10, 1863, General George Meade, while in command of the Army of the Potomac, wrote "in view of the recommendation of the court, the sentence is suspended" and he forwarded the findings on to Judge Advocate Holt, who then passed it to the President without comment.¹⁹⁴ On February 9, 1864, Private Berrian was pardoned by Abraham Lincoln.¹⁹⁵

¹⁹⁰ Massachusetts Vital Records, 1840-1911. New England Historic Genealogical Society, Boston, Massachusetts, Marriages Solemnized in the City of Lowell, 1855.

¹⁹¹ National Archives, RG 94, Patrick Berrian.

¹⁹² Ibid.

¹⁹³ National Archives, RG 153, MM 818.

¹⁹⁴ National Archives, RG 94, Patrick Berrian.

¹⁹⁵ Lowry, *Don't Shoot That Boy*, 124.

Private Berrian returned to the ranks and served his duty as required. He also took advantage of reenlisting in the 16th Massachusetts on January 4, 1864, at Brandy Station, Virginia. Berrian listed his occupation as gentleman and received a \$100 bounty that was paid in two installments. By July of 1864, the 16th Massachusetts was so reduced in numbers it transferred its recruits and reenlisted men into the 11th Massachusetts Infantry and mustered out of service later that month. Patrick was transferred to Company F of the 11th Massachusetts and served until he was mustered out on July 25, 1865.¹⁹⁶ He appears on the 1865 Massachusetts census at his widowed mother's residence as single and his occupation was listed as army.¹⁹⁷ After that, he too disappears from the records.

A familiar pattern for a pardon emerges with Private Patrick Berrian's trial and sentence. He was saved by the strength of the court officers' recommendation that was seconded by General Meade. We know for a fact he was indeed married. However, there is no record of any children born to him and Jane between their October 1855 marriage date and his enlistment in the army in July of 1861. The name Berrian does not appear in later records for him or any possible children. Private Berrian's story, the officers' recommendation, and President Lincoln's compassion all contributed to saving his life for further service in the army.

In conclusion, the number one factor for pardoning the seven men above was their officers proactively intervened on their behalf. While officer intervention did not guarantee a commutation, without it; men were rarely spared. A second strong undercurrent was that all of them were volunteers and they had served for a longer period

¹⁹⁶ Adjutant General, *Massachusetts Soldiers*, Vol I, p. 779.

¹⁹⁷ Massachusetts State Census (1865), Lowell, Ward 3, Middlesex County.

of service than the executed soldiers. They had become functioning parts of their military regimental families and were not deemed expendable by their officers. Two of them had other compelling circumstances in their lives, which further increased their odds for leniency. The death of Eugene Sullivan's father, along with Jane Berrian's alleged adulterous behavior, would have been compelling human elements to their trials. Finally, Abraham Lincoln's compassionate character had much to do with the large number of pardons and remittance of sentences passed back down the military command. While President Lincoln knew he could not pardon all of the men, he found excuses to pardon as many as he felt he could, given the carnage and cost of the Civil War.

CHAPTER 7 CONCLUSION

While desertion and prosecution for desertion during the United States Civil War is a complex and multifaceted topic, the large data sets yield valuable insight into individuals, their motivation and the role that individual agency played throughout the process. Because of the overall size and scope of the data sets, this thesis has focused on 14 men and one boy from Massachusetts Regiments who were found guilty of desertion by a court-martial trial. Why were seven men and one boy executed and seven other men pardoned, given similar crimes in the same military jurisdiction of the Army of the Potomac? With the exception of Privates Dawson, Ormsby and McElheny, all the others were convicted and sentenced to death for the same capital crime of desertion.

If the data elements that were ascribed to all of the men are examined, there are additional insights to be gained. These 15 men found guilty and sentenced to death represent just a little less than 1% of the 1,883 total men sentenced to death. However, the seven men and one boy who were executed represent more than 6% of the 147 men executed. This subset allows for highlighting the human element of the actors from the beginning to the end of these exclusive to the military procedures. While previous Civil War scholarship focused on desertion by the numbers and provided limited coverage of noteworthy executions, this data set allows an examination of human motivations and decisions taken that had profound effects on a soldier's fate. Thus, the three main factors

presented in the introduction point to the way that humans lived their lives, shared their beliefs, and made judgments about desertion during the largest war in North American history.

The first factor was their mode of entry into the army and their length of service. Two of the eight men executed were substitutes and one, Private Starbird, was a convicted bounty jumper. Two more of the executed men, Privates Dixon and Dawson, served for such a short period of time that it appears their motivation to enlist was financial. William Hill was in all probability duped into enlisting and never had any desire to serve his country. Conversely, all seven of the pardoned men were volunteer enlistments, many of them early in the war. The one anomaly is Daniel Andrews/Nihne who appears to have been motivated to enlist for the bounties he received, but he did receive a request for pardon from a commanding officer.

As to length of service, the data is even more revealing. None of the executed men served for any significant length of time, with the exception of William Ormsby, who served around 11 months before deserting over to the enemy. It is important to note that his desertion to the enemy and fighting against his old comrades would have been the dominant factor in his sentence and his length of service would not have been taken into consideration at his drum-head court-martial trial. The individual in this group with the least amount of time served was John Starbird. He only lasted three days with his New Jersey regiment. In the pardoned group, all of them were volunteer enlistments and with the exception of Private Andrews/Nihne; none of them served for less than nine months. In addition, all of them continued to serve long after their pardons. Clearly mode of entry and length of service were major factors in sentencing.

The second major factor was the predisposition of the officers and the command structure of the army. We have examined commanders who were lenient or harsh in their application of the Military Code of Justice. In addition, there is no question that if the soldier's officers would not vouch for him, he was doomed. In seven of the eight cases that resulted in execution, no officers tried to intervene on their behalf. The one exception, Private Dawson, was convicted of the additional crime of rape and despite a letter to the commanding officer from his regimental officers, he was duly executed. All of the seven pardoned men received support directly from the officers they served under or from a lenient commanding general such as Joseph Hooker. Clearly, who was in command at the time of the trial and the soldier's service record with his unit commanders were major factors in who was executed.

The last major factor was date of trial and the corresponding mood of the country and the military and civilian authorities in charge at that time. The records confirm that if a soldier was tried in the early phases of the war, or if the nation's morale was high at the time of the trial, stiff sentences were not handed down. On the other hand, after the severe losses in the winter of 1863, or the bloody summer campaigns of 1864, the sentences were much more draconian in nature.

Each of these three main factors is significant by itself and when they are combined together they give a clear picture of why some men convicted of the same crime of desertion were executed and why some were not. The trial and punishment of a military court-martial follows a very exact and rigid process. However, the human element entered into this process when judgments were rendered and sentences were passed down. It continued through the appeals process until it reached the desk of the

final decision maker: President Abraham Lincoln. There is no question that the seven men and one boy executed were outside their core military units, their home societies or both. Ultimately, the Federal government found these eight soldiers from Massachusetts regiments expendable. The other seven men who were pardoned were not deemed expendable and the military still wanted to use them in the ranks. To again quote President Lincoln, “if we keep him alive, we may at least get some service out of him.”¹⁹⁸ This adage proved to be true in the case of several of the pardoned soldiers returned to their Massachusetts regiments.

While this thesis brings, for the first time, a new focus on the human element in the execution of men for desertion, it is only a small subset of the data and exclusive to those men from Massachusetts regiments. Further scholarship is encouraged on either other small state based subsets or a high level statistical review of the data for all those executed for desertion. By confirming the data elements that exist in the other data sets, a profile can be established for a typical deserter who was executed. In addition, a profile of those pardoned for the same crime can also be confirmed.

Another contribution to the narrative of the Civil War is the additional personal data elements found in these men’s lives. For example, focusing on one element, place of birth, leads to conjectures. Three of the eight executed soldiers were foreign born and that represents almost twice the percentage of all foreign born troops in the Union Army. Similarly, only one of the seven pardoned men was foreign born and that percentage is about 25% less than the percentage of foreign born troops in the Union Army. Clearly, more research is needed on a larger data set, but at first glance it appears place of birth

¹⁹⁸ Lowry, *Don’t Shoot That Boy*, 19.

may have been a contributing factor in who was convicted and later executed. In addition, 52 of the 265 men executed during the Civil War were African-Americans or almost 20% of the total executed. This represents twice the percentage of African-Americans in the Union Army. Further scholarship on these soldiers would benefit from using the same three factors as well as the same data elements this paper ascribed to their white counterparts and the element of racism that may have been a factor. Because the 15 soldier data set used in this paper is limited, a much more comprehensive analysis of a larger number of soldiers is required to form more permanent conclusions on these additional data elements.

Finally, many of the data elements found on these soldiers lead to potential clues that help profile a man executed for desertion during the Civil War. From a thorough examination of the records, a “typical” Union soldier has been codified in Civil War scholarship. If the same thorough examination of the records of the men executed for desertion is undertaken, a profile of a “typical” deserter and men executed for desertion would be possible. This, in turn, would add greatly to our understanding in more detail who these men really were and what their real place was in the United States Civil War.

BIBLIOGRAPHY

Primary Sources

United States Federal Government

National Archives and Records Administration, Record Group 94, *Records of the Adjutant General's Office, 1762-1984, Carded Records of Soldiers Who Fought in Volunteer Organizations During the American Civil War, 1890-1912*, National Archives Building, Washington, D.C.

National Archives and Records Administration, Record Group 153, *Records of the Judge Advocate General (Army) Court-Martial Case Files, 1809-1938*, National Archives Building, Washington D.C.

National Park Service, *The Civil War Soldiers and Sailors Database*, <https://www.nps.gov/civilwar/soldiers-and-sailors-database.htm>.
United States Census (1850, 1860)

Commonwealth of Massachusetts

The Adjutant General, *Record of the Massachusetts Volunteers, 1861-1865 Vols I-II*, Boston: The Adjutant General under a resolve of the General Court, 1868-1870.

The Adjutant General, *Massachusetts Soldiers, Sailors, and Marines in the Civil War, Vols I-VIII*, Boston: The Adjutant General, 1931-1935.

Massachusetts State Census (1855, 1865)

New England Historic Genealogical Society, *Massachusetts Vital Records, 1840-1911*, Boston.

State of Vermont

New England Historic Genealogical Society, *Vermont Vital Records through 1870*, Boston.

Secondary Sources

- Boyle, Joseph Lee. “*He Loves a Good Deal of Rum...* ”: *Military Desertions During the American Revolution 1775-1783, Vol 1, 1775-June 30, 1777*. Baltimore: Clearfield Company, 2009.
- Bumgardner, Georgia Brady. “Political Portraiture: Two Prints of Andrew Jackson.” *The American Art Journal* 18, no. 4 (Autumn 1986): 84-95.
- Chambers, John Whiteclay. *The Oxford Companion to American Military History*. Oxford: Oxford University Press, 1999.
- Hare, John S. “Military Punishments in the War of 1812.” *The Journal of the American Military Institute* 4, no. 4 (1940): 225-239.
- Johnson, Edward C., Gail R. Johnson and Melissa Johnson Williams. *All Were Not Heroes A Study of “the List of U.S. Soldiers Executed by U.S. Military Authorities During the Late War”*. Chicago: E. C. Johnson, 1997.
- Lonn, Ella. *Desertion During the Civil War*. Gloucester, MA: American Historical Society, 1928.
- Lowry, Thomas P. *Don’t Shoot That Boy! Abraham Lincoln and Military Justice*. Mason City, IA: Savas Publishing Company, 1999.
- McPherson, James M. *For Cause and Comrades*. New York: Oxford University Press, 1997.
- Miller, Robert Ryal. *Shamrock and Sword: The Saint Patrick’s Battalion in the US-Mexican War*. Norman, OK: University of Oklahoma Press, 1989.
- Morelock, Jerry. “Shoot Or Spare.” *America’s Civil War*, January 2016.
- Reardon, Carol and Tom Vossler. *A Field Guide To Antietam*. Chapel Hill, NC: University of North Carolina Press, 2016.
- “Seven Men Shot For Desertion.” *Boston Post* (Boston, MA), September 3, 1863.
- Sterling, Bob. “Discouragement, Weariness and War Politics: Desertions from Illinois Regiments during the Civil War.” *Illinois Historical Journal* 82, No. 4 (Winter 1989): 239-262.
- “THE WAR NEWS,” *Pittsfield Sun* (Pittsfield MA), May 5, 1864.
- Wiley, Bell Irvin. *The Life of Billy Yank: The Common Soldier of the Union*. Indianapolis, IN: Bobbs-Merrill Company, 1952.