

LLT Lab Annotation Protocol (Public): EvidenceSentence Type

(Sentences That Primarily State Evidence)

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The following guidelines and examples govern our annotation of spans of text using the type “EvidenceSentence”.

Part I: Guidelines

This protocol annotates text that has previously been annotated using the annotation protocol for the type “Sentence.” In addition, it assumes that you have already annotated for the types “LegalRuleSentence”, “CitationSentence,” and “FindingSentence”. Each and every annotation should span one (and only one) entire sentence.

An evidence sentence is a sentence that primarily states the content of the testimony of a witness, states the content of documents introduced into evidence, or describes other evidence. Moreover, such sentences do so descriptively, without adding any evaluative comments by the finder of fact. Evidence sentences provide part of the foundation either for findings of fact or for rulings of law. An example of a statement of evidence is: “The clinician opined that ‘It is LESS LIKELY THAN NOT [sic] that the Veteran’s claimed mental health condition, to include PTSD, incurred, was caused by or proximately due to his 6 months in military service.’” Board of Veterans Appeals #1340434 (12/06/2013). Although this sentence was written by the Board, it attributes a proposition to a clinician, and reports evidence rather than the Board’s findings or reasoning.

We are annotating at the sentence level, so a sentence that primarily describes the evidence, but which also includes within it a citation (e.g., to the transcripts, or an exhibit), should be annotated as an evidence sentence. Correspondingly, a sentence that is primarily a citation, but which incidentally also contains a parenthetical with text that states the evidence, should be annotated as a citation sentence. (Note that on a second layer of analysis, looking inside the content of a sentence, we can still extract the citation embedded in an evidence sentence, or the evidence embedded in a citation sentence, so no information is lost. It’s just that for now we are annotated whole sentences only.)

In general, in deciding whether you should annotate a particular sentence as being an evidence sentence, you should move through the following steps. These steps do not contain mechanical tests, but rather factors that can “add up” to the sentence’s probably being an evidence sentence. Think of yourself as computing a “likelihood score” that the sentence is an evidence sentence.

1. If the sentence contains an attribution cue that attributes some proposition to an attribution subject or source that is likely to have been admitted into the

evidentiary record of the case, then the sentence is more likely to be an evidence sentence. Examples of such attribution subjects or sources are the following:

- The testimony of a lay witness
 - The testimony of an expert witness
 - A publication admitted into evidence
 - The medical records of the veteran
 - An examination record or report for the veteran
 - The service performance records of the veteran
 - The service treatment records (STRs) of the veteran
2. If the sentence satisfies #1 and has a quotation as the attribution object, then the sentence is more likely to be an evidence sentence.
 3. If the sentence immediately precedes a citation sentence that cites evidence in the evidentiary record (see examples in #1), then it is more likely to be an evidence sentence.
 4. If the sentence contains an embedded citation that cites evidence in the evidentiary record (see examples in #1), then the clause preceding the citation is more likely to state evidence. If that evidence clause is predominant in the sentence, then we should label the sentence as an evidence sentence.
 5. If the sentence contains references only to definite subjects referring to the specific veteran, or other specific persons, entities or events, then the sentence is more likely to be an evidence sentence.
 6. If the sentence contains no general or universal words or phrases that indicate application to all members of a reference class (e.g., *all veterans*, *any veteran*, *always*, ...), then the sentence is more likely to be an evidence sentence.
 7. If the sentence contains no deontic words or phrases expressing obligation, permission or prohibition (e.g., words like *must*, *may*, *requires*, ... ; phrases like *is permitted to*, or *has the burden of proving*), then the sentence is more likely to be an evidence sentence.
 8. If the sentence contains no legal terminology or concepts from legal rules, especially those in the rule tree for the legal area, then the sentence is more likely to be an evidence sentence.
 9. If the sentence occurs in a paragraph in which the first sentence is likely to be an evidence sentence, and the sentence is not a citation sentence, legal-rule sentence, or finding sentence, then the sentence is more likely to be an evidence sentence.
 10. If the sentence is likely to be an evidence sentence under any of the criteria above, and it occurs in a document section headed "REASONS AND BASES

FOR FINDINGS AND CONCLUSIONS,” then it is more likely to be an evidence sentence.

11. If the sentence occurs in a document section headed “REASONS AND BASES FOR FINDINGS AND CONCLUSIONS,” and it is not likely to be a citation sentence, a legal-rule sentence, a finding sentence, or an evidentiary-reasoning sentence, then it is more likely to be an evidence sentence.

Part II: Lists of Examples (Organized into 3 lists)

List A: Normal Form -- A sentence in "normal form" is one for which we are highly confident that it states evidence descriptively, and this confidence is based on some evidence from the text of the sentence (the "linguistic cue"). Also, a sentence in "normal form" has a certain fixed format or pattern, which we find recurring numerous times. These should be the easiest types of sentences for computer software to identify.

There are two kinds of normal form for sentences that describe or state the evidence descriptively: (1) a sentence that is followed immediately by a citation to the evidentiary record, and which also references only the specific veteran or specific events involved in the case; (2) a sentence that contains an explicit attribution to an evidentiary source (e.g., a witness, a medical record, etc.).

1. Sentences Followed by a Citation to the Evidentiary Record. Typical format: {Sentence Referring Only to the Specific Veteran or Specific Events Involved in the Case} {Citation to the Evidentiary Record}.

EXAMPLES (assume that the sentence immediately following each example was an appropriate citation to the evidentiary record):

The Veteran testified that his tinnitus first started when he was working as a combat engineer without hearing protection around a lot of explosives in service.

At times, the Veteran has exhibited improvement in his psychiatric symptoms.

This diagnosis is confirmed throughout the Veteran's VA treatment records, including in VA treatment records dated October 2010, December 2010, April 2011, July 2011, October 2011, November 2011, January 2012, March 2012, May 2012, July 2012, August 2012, October 2012, December 2012, March 2013, and July 2013.

2. Sentences Containing Attribution to the Evidentiary Source. Typical format: {Evidentiary Source} {Attribution Cue} {Proposition Being Stated}, where the evidentiary source = a noun or noun phrase that refers to the person or document that is the subject of the attribution (e.g., the veteran, a lay witness, a VA examiner, a military record, etc.), the attribution cue = appropriate verb+*that* (the cue is the evidence of attribution, such as *testified that*, *reported that*, *did not state that*), and the proposition being stated is a complete clause.

EXAMPLES:

Again here, the September 2011 VA examiner marked the box in the DBQ indicating that the condition “was clearly and unmistakably not aggravated” by service.

In this case, the Veteran contends that he has PTSD attributable to alleged in-service sexual assaults by higher ranking male officers while in the Navy from June 1967 to September 1968.

In this respect, the VA examiner stated that there was a difference in how the Veteran’s avoidance of others while he was shopping was categorized as a symptom.

The evidentiary record showed that the Veteran has been treated by VA for psychiatric problems since December 2006.

List B: Linguistic Transforms of Normal Forms -- A sentence that is a “linguistic transform” of a “normal form” is one for which we are also highly confident that it states or describes the evidence, a confidence based on some cues from the text of the sentence (the “linguistic cue”). However, while a sentence in “normal form” has a certain recurring format or pattern, a “linguistic transform” has a more unusual linguistic pattern. Yet there might be some linguistic rules that would make it easier for computer software to identify them. So here we are looking for merely grammatical variants of the normal form evidence sentences.

Noteworthy in this list are sentences that would be in normal form, except for the fact that they contain a noun phrase referring to some situation or event, instead of a clause stating a proposition.

Note that it is sometimes necessary to decide whether a sentence merely reports or states the evidence, or whether it is a finding of fact. It is often difficult to decide which annotation to use. Often, it is the nature of the attribution cue and the content of the proposition being stated that are the deciding factors. For example, cues that might indicate a finding of fact, even in a sentence whose grammatical subject refers to the evidence, are “conclusively show that” and “establish that”. Such strong cues might indicate more than a mere recital of evidence, but actually a finding of fact or evidentiary reasoning, based on the evidence.

EXAMPLES:

On the third examination in May 2011, the Veteran was specifically evaluated for PTSD and was not found to even have this disorder.

Most recently, a VA clinical psychologist made a diagnosis in June 2011 of “schizoaffective and PTSD features (Childhood and MST).”

Though explicitly noting these facts, in the context of the Veteran’s contentions, the VA examiner did not identify the event as a stressor that was sufficient to support a diagnosis of PTSD.

The relevant evidence on this question includes a February VA examination report where the examiner opined that it was at least as likely as not that the Veteran suffered PTSD in her youth and that this was “possibly aggravated” by service.

As best summarized by a VA examiner in September 2011, the Veteran has reported at various times that he experienced traumatic events as a child.

[NOTE: in the above sentence, the important item of evidence might be that “he experienced traumatic events as a child,” or it might be the fact that “the Veteran has reported at various times that he experienced traumatic events as a child.” The latter interpretation might be the important one if the consistency of the veteran’s account over time is at issue. Although this raises the question of the scope of the attribution object, this is nevertheless clearly an evidence sentence.]

The statement of J.P.S. tends to support this view of events by the Veteran.

While the Veteran reported a positive history for nervousness on the Report of Medical History, and a service examiner elaborated in section 40 of the report that the Veteran had mild anxiety, ultimately, the Report of Medical Examination does not contain a DSM diagnosis of a psychiatric disorder.

First, as previously stated, a February 2010 letter from a VA physician and a February 2010 VA treatment record together reflect that the Veteran has been diagnosed with PTSD in accordance with the DSM-IV.

The History and Physical Exam performed upon admission to the hospital prior to these surgeries do not indicate a diagnosis of asthma, COPD or any other respiratory condition.

List C: Aberrant Forms of Normal Forms -- Some sentences have very unusual linguistic structures, but we are still confident that they state or describe the evidence. This confidence might be based more on the context than on linguistic cues within the sentence itself (e.g., co-references to words or phrases in other sentences). These we will have to study to determine what evidence we have that they probably state the evidence descriptively.

Note that it is sometimes necessary to decide whether a sentence merely reports or states the evidence, or whether it is a finding of fact or a statement of evidentiary reasoning. It is often difficult to decide which annotation to use. Often, it is the context of the sentence that is the deciding factor. Consider the sentence “Thus, there is evidence of record that indicates that the Veteran has a current diagnosis of PTSD related to his alleged combat stressors in service.” While this sentence, on its face, might appear to be an evidence sentence, its position at the end of a long recital of evidence and immediately before positive findings for the veteran, and in a case where the claim for service connection for PTSD is granted, might make it a statement of evidentiary reasoning.

EXAMPLES:

He does not allege that he was in combat.

In one instance, he has stated that he was attacked by six or seven officers who kissed him all over his body leaving hickeys while serving in the Navy choir group.

He has added that he was ashamed of these memories and repressed them.

He has indicated he did not report the sexual abuse while in service.

He noted the Veteran was treated in the clinic for PTSD related to the pre-service sexual trauma.

[NOTE: the coreference for “he” is in the immediately preceding sentence, which states the reasoning of the fact-finder: “The May 2008 letter from the VA physician does not support the Veteran’s claim.”]

In his October 2007 stressor statement, the Veteran listed four stressors. First, he stated that “I witness[ed] Pvt. [name omitted] trying to kill [an] instructor by drawing his weapon on [an] instructor.”

Second, he asserted that "I witness[ed] in Ft. Rucker a group of Privates force bathing another Private with a steel brush." Third, he wrote that "I witness[ed] a group of Privates giving [a] Private a G.I. Party. (Blanket Party)....If I had turned them in then I could have been next!" Fourth, he averred that "At Ft. Jackson, [South Carolina] during Basic, one of the trainees dropped a live grenade in the bunker.

[NOTE: taken individually, the last four sentences belong in this list, while the first sentence is a linguistic transform of a normal form.]

Post-service treatment records show a current diagnosis of PTSD with depression.

[NOTE: the above sentence may be an evidence sentence, but it also may be a finding of fact, depending on the context.]

When he was assessed in 1999 the Veteran did not mention anything relating to his military experiences as he claimed in the current examination. There was insufficient evidence to warrant a diagnosis of PTSD related to the Veteran's military experiences.

[NOTE: these sentences occur in the same paragraph, following the normal-form sentence "The examiner determined that the Veteran did not have PTSD." Also, these sentences were followed immediately by this normal-form sentence: "The examiner also said he did not see any exacerbation of symptoms that was specifically linked to experiences that the Veteran had in the military." The second sentence in this example, stating "there was insufficient evidence to warrant," does not refer to the evidence in the evidentiary record of this claim, but rather the evidence before the examiner at the time of the examination.]

Diagnoses of schizoaffective disorder were made in VA treatment records and at the February 2008 VA mental disorders examination. A VA treatment record also documents a diagnosis of posttraumatic stress disorder (PTSD).

The service treatment records reflect no findings or histories indicative of a psychiatric disorder. October 1994 treatment records do reflect histories of increased drinking.

The Board notes that VA examination reports authored by the same clinician in February 2009 and April 2010 reflect the examiner's finding that, although the Veteran reported some symptoms consistent with a PTSD diagnosis, he did not report sufficient symptoms to meet the diagnostic criteria for PTSD.

The VA examiner did not review the claims file and rendered her diagnosis based entirely on the Veteran's self-reported medical history.

His service treatment records (STRs) affirmatively show treatment in December 1983 for "[m]ild depression" associated with his expectation that his father would "die [at] any time [and he] worries about this."

[NOTE: "affirmatively show" might be strong enough to indicate a finding, or it might simply be pointing out that the service treatment records are not merely silent on the matter. We would rely on context to determine whether this is an evidence sentence or a finding sentence.]