

Tex. 1996)(1); *Doyle v. Ohio*, 426 U.S. 610, 618-19 (1976)(3).

Commenting, directly or indirectly, on the accused's failure to testify: *Griffin v. California*, 380 U.S. 609, 611-15 (1965)(3).

Commenting, directly or indirectly, on the accused's failure to testify: *United States v. Roberts*, 119 F.3d 1006, 1015 (1st Cir. 1997); *United States v. Wihbey*, 75 F.3d 761, 771 (1st Cir. 1996); *United States v. Kallin*, 50 F.3d 689, 693 (9th Cir. 1995); *United States v. Cotnam*, 88 F.3d 487, 497-500 (7th Cir. 1996); *United States v. Hardy*, 37 F.3d 753, 756-59 (1st Cir. 1994)(1).

Commenting, direct or indirect, upon the failure of the accused to testify: *United States v. LeQuire*, 943 F.2d 1554, 1565-568 (11th Cir. 1991); *United States v. Eltayib*, 88 F.3d 157, 172 (2d Cir. 1996)(2).

Commenting on the demeanor of the accused: *United States v. Leal*, 75 F.3d 219, 225 (6th Cir. 1996)(1).

Commenting, uninvited, upon the failure of the accused to present evidence, either generally or specifically: *United States v. Anchondo-Sandoval*, 910 F.2d 1234, 1237-238 (5th Cir. 1990)(2).

Commenting on the accused's invocation of his privilege against self-incrimination before the grand jury: *United States v. Bustamante*, 45 F.3d 933, 946 (5th Cir. 1995)(1).

Calling a witness the prosecutor knows will validly invoke a privilege with adverse inferences for the accused: *United States v. Brown*, 12 F.3d 52, 54 (5th Cir. 1994)(1).

Referring to invocation of the Fourth Amendment rights by the accused: *United States v. Thomas*, 93 F.3d 479, 487 (8th Cir. 1996)(1).

Inflammatory Remarks

Sympathy for witnesses: *United States v. Morgan*, 113 F.3d 85, 90 (7th Cir. 1997)(1).

Religious beliefs: *United States v. Levy-Cordero*, 67 F.3d 1002, 1008 (1st Cir. 1995); *United States v. Cartagena-Carrasquillo*, 70 F.3d 706, 712-14 (1st Cir. 1995); *United States v. Manning*, 23 F.3d 570, 573 (1st Cir. 1994); *Arrieta-Agressot v. United States*, 3 F.3d 525, 527 (1st Cir. 1993); *United States v. Giry*, 818 F.2d 120, 133 (1st Cir. 1987)(1).

Racial and/or provincial bias against the accused: *United States v. Cannon*, 88 F.3d 1495, 1052 (8th Cir. 1996)(1).

Inviting a guilty verdict based on the out of state residence of the accused: *United States v. Williams*, 989 F.2d 1061, 1071-72 (9th Cir. 1993)(2).

Calling upon the jury "to get even for all the wrongs imposed on the good people of our society" by convicting the accused: *United States v. Doe*, 860 F.2d 488, 492-94 (1st Cir. 1988)(2).

Graphic comment suggesting a lack of patriotism on the part of the accused: *United States v. Rodriguez*, 765 F.2d 1546, 1560 (11th Cir. 1985).

Persistent references to the poverty, to Christmas-time, to disadvantaged women and children, and to economic depression as appropriate backdrops to the crime with which the defendant was accused: *United States v. Payne*, 2 F.3d 706, 711-16 (6th Cir. 1993)(1).

Suggesting that funding for school districts was imperilled by the gambling related RICO activities of the accused: *United States v. Vaccaro*, 115 F.3d 1211, 1218 (5th Cir. 1997)(1).

Bad Character Remarks

Emphasizing the bad character (violent and vicious criminal) of the accused: *United States v. Procopio*, 88 F.3d 21, 30-31 (1st Cir. 1996)(1).

Repeated references to the past criminal record of the accused during closing argument: *United States v. Jackson*, 41 F.3d 1231, 1233 (8th Cir. 1994)(1).

Misrepresentation, in the presence of the jury, that the defendant accused of harbor-

ing illegal aliens had himself entered the country illegally: *United States v. Santana-Camacho*, 833 F.2d 371 (1st Cir. 1987)(2).

Presentation of emotional evidence of the violent acts of an accused charged with fraud, attempting to impeach a defense witness with prejudicial questions for which there was no evidentiary basis, and arguing guilt on the basis of counts dismissed by the court and contrary to the evidence: *United States v. McBride*, 862 F.2d 1316 (8th Cir. 1988)(2).

Attacking Defense Counsel or the Role of Defense Counsel

Ridiculing defense counsel and offering personal opinions on credibility of defense witnesses: *United States v. Collins*, 78 F.3d 1021, 1039-40 (6th Cir. 1996); *United States v. Barr*, 892 F.Supp. 51, 57 (D.Conn. 1995); *United States v. Bautista*, 23 F.3d 725, 733-34 (2d Cir. 1994)(1).

Stating or implying to the jury that defense counsel has suborned perjury: *United States v. Verna*, 113 F.3d 499, 504 (4th Cir. 1997)(1).

Suggesting or implying that the purpose of defense counsel is to prevent the jury from discerning the truth: *United States v. Frederick*, 78 F.3d 1370, 1379-380 (9th Cir. 1996); *United States v. Vaccaro*, 115 F.3d 1211, 1218 (5th Cir. 1997) (prosecutor's statement to the jury that it was the job of defense attorneys to muddle the issues was clearly improper)(1).

Repeatedly accusing defense counsel, in the presence of the jury, of intentionally misleading the jurors and witnesses and of lying in court: *United States v. McLain*, 823 F.2d 1457, 1462 (11th Cir. 1987)(2).

Attacking the role of defense counsel and the integrity of defense counsel: *United States v. Friedman*, 909 F.2d 705, 707-10 (2d Cir. 1990)(2).

Improper Characterization of Defense Witnesses or Evidence

Attacking witness credibility with evidence not on the record: *United States v. Zehrbach*, 47 F.3d 1252, 1264 (3d Cir. 1995); *United States v. Mueller*, 74 F.3d 1152, 1157 (11th Cir. 1996); *United States v. Crutchfield*, 26 F.3d 1098, 1100-103 (11th Cir. 1994)(1).

Arguing that the accused and witnesses for the defense have lied: *United States v. Moore*, 11 F.3d 475, 480-81 (4th Cir. 1993)(1).

Characterizing the testimony of the accused and defense witnesses as lies: *United States v. Smith*, 982 F.2d 681, 684 (1st Cir. 1993); *United States v. Anchondo-Sandoval*, 910 F.2d 1234, 1237-238 (5th Cir. 1990)(2).

Puffing Up The Government's Case

Urging conviction on the basis of the prestige of the court, the government, or the prosecutors: *United States v. Catillo*, 77 F.3d 1480, 1498 (5th Cir. 1996); *United States v. Melendez*, 57 F.3d 238, 240-241 (2d Cir. 1995); *United States v. Richardson*, XXX F.3d XXX, (7th Cir. 1997); *United States v. Carroll*, 26 F.3d 1380, 1389-390 (6th Cir. 1994)(1).

Bolstering witness credibility with evidence not on the record: *United States v. Henry*, 47 F.3d 17, 21 (2d Cir. 1995); *United States v. Johnson-Dix*, 54 F.3d 1295, 1304 (7th Cir. 1995)(1).

Vouching for government witness's credibility: *United States v. Cotnam*, 88 F.3d 487, 500 (7th Cir. 1996); *United States v. Manning*, 25 F.3d 570, 572-74 (1st Cir. 1994); *United States v. Carroll*, 26 F.3d 1380, 1389-390 (6th Cir. 1994)(1).

Vouching for the credibility of government witnesses: *United States v. Williams*, 989 F.2d 1061, 1071-72 (9th Cir. 1993); *United States v. Kerr*, 981 F.2d 1050, 1054 (9th Cir. 1992); *United States v. Eyster*, 948 U.S. 1196, 1204-206 (11th Cir. 1991); *United States v. Simtob*, 901 F.2d 799, 805-6 (9th Cir. 1990); *United States v. Eltayib*, 88 F.3d 157, 172 (2d Cir. 1996)(2).

Telling the jury how uncalled witness would testify if called: *United States v. Molina-Guevara*, 96 F.3d 698, 703, 704-5 (3d Cir. 1996).

Arguing to the jury, after repeated admonishment by the court, that the government only prosecutes the guilty: *United States v. Stefan*, 784 F.2d 1093, 1099-1100 (11th Cir. 1986); *United States v. Smith*, 982 F.2d 681, 684 (1st Cir. 1993)(2).

Reliance on Facts Not Evidence

Knowing reference to inadmissible or unsupported evidence during the prosecution's opening statement: *United States v. Millan*, 812 F.Supp. 1086, 1088-89 (S.D.N.Y. 1993)(1).

Urging conviction by reference to inadmissible evidence: *United States v. Adams*, 74 F.3d 1093, 1096-98 (11th Cir. 1996)(1).

Securing conviction on allegations stated as facts but not in evidence: *United States v. Berry*, 92 F.3d 597, 598-99 (7th Cir. 1996); *United States v. Morseley*, 64 F.3d 907, 912 (4th Cir. 1995) (it was unquestionably improper for the prosecutor to tell the jury in his closing argument that the accused had confessed when he had not); *United States v. Anderson*, 61 F.3d 1290, 1299 (7th Cir. 1995) (it was improper for the prosecutor to inform the jury that the accused had ruined "literally thousands and thousands of lives" even though the government offered no evidence to support such a statement); *United States v. Blakey*, 14 F.3d 1557 (11th Cir. 1994) (unsupported argument to the jury that the accused was a "professional criminal"); *United States v. Bautista*, 23 F.3d 725, 733-34 (2d Cir. 1994)(1).

Reliance on Perjury or Deception

Presentation of false evidence: *Napue v. Illinois*, 360 U.S. 264, 269 (1959).

Misleading the court and jury: *United States v. Forlorma*, 94 F.3d 91, 94-5 (2d Cir. 1996); *United States v. Vozzella*, 124 F.3d 389, 391, 392 (2d Cir. 1997); *United States v. Alzate*, 47 F.3d 1103, 1107-11 (11th Cir. 1995); *United States v. Udechukwu*, 11 F.3d 1101, 1104-106 (1st Cir. 1993); *United States v. Kojayan*, 8 F.3d 1315, 1316-325 (9th Cir. 1993)(1).

Offering perjurious testimony: *United States v. Brown*, 121 F.3d 700 (1997)(1).

Using or failing to correct clearly perjurious testimony: *United States v. Rivera Pedin*, 861 F.2d 1522, 1529-530 (11th Cir. 1988)(2).

Intentionally misrepresenting the state of the law to the jury: *United States v. Thomas*, 943 F.Supp. 693, 699-701 (E.D. Tex. 1996)(1).

Intentionally failing to correct erroneous testimony: *United States v. Young*, 17 F.3d 1201, 1202-203 (9th Cir. 1994)(1).

Encouraging misrepresentations in order to bolster the perjured testimony of a government witness: *United States v. Eyster*, 948 U.S. 1196, 1204-206 (11th Cir. 1991)(2).

Post-Trial

Contact in the Absence of Counsel

Questioning a defendant, without notifying his counsel, concerning matters arising in a sentencing-related medical examination: *United States v. Adonis*, 744 F.Supp. 336, 345-47 (D.D.C. 1990)(2).

TRIBUTE TO MATTIE SIMS

HON. BILL PASCARELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1998

Mr. PASCARELL. Mr. Speaker, it is my pleasure to introduce you to Mattie Sims. Mattie is a wonderful person, and an outstanding asset to our community, my hometown of Paterson, New Jersey.

Mattie's roots are in the south. She was born in Alabama and raised in Florida. Eventually, she made her way north to New Jersey,

where she raised her family. She is the proud mother two children, a daughter, Stacey, and a son, Richard. Her favorite pursuits include collecting miniature elephants, solving crossword puzzles, and playing bingo.

For well over thirty years, Mattie has served the residents of Paterson as an employee of the Post Office. Her commitment to public service is combined with a sincere interest in private enterprise. In Keeping with this interest, Mattie works part-time as a real estate agent for Shriver Realty of Paterson.

In addition to her professional and familial responsibilities, Mattie is also actively engaged in a number of religious and service-oriented organizations. A faithful member of the Grace Chapel Baptist Church, she serves the congregation as the President of the Senior Usher Ministry. Mattie is also a participant in the Hospitality and Pastor Aide Ministries. She is also a member and the financial secretary of the Passaic County African American Woman organization. She is also member of Chapter 22 of the Matron Star of Bethlehem, the Order of the Eastern Star, and the Royal Matron of Lady Love, Chapter #7.

Mr. Speaker, I ask that you join me, our colleagues, the people of Paterson, and Mattie's family and friends as we honor her for here extraordinary contributions to the community.

CONGRATULATIONS SOUTH
MIDDLE SCHOOL

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1998

Mr. BARCIA. Mr. Speaker, schools provide a foundation for both learning and growing. For three quarters of a century South Middle School has been able to provide students with a rigorous academic curriculum that is essential to prepare students for the future. Since the opening of South Middle School in 1922 there has been a strong emphasis placed on academic excellence, involvement in school co-curricular and athletic activities, and self-discipline and pride in taking responsibility for the development of each student reaching their academic height. I rise today to pay tribute to South Middle School, who ceremoniously celebrated its seventy-fifth anniversary on Thursday, February 26, 1998.

Since its opening, South Middle School has provided the student body with elective classes and organizations that cater to even some of the most diverse interests. Even in the early days students were encouraged to join clubs, organizations, play sports and even become hall monitors. Today the students still have many opportunities to participate in school social functions and have even undergone recent changes that help move the school forward. These changes have included the universal use of school ID cards, and the introduction of such classes as technical education and computers.

Each year 800 to 1,200 students attend South Middle School, which is dedicated to providing its students with a racially diverse urban environment. Six times a year 200 of the school's white, black, hispanic and disabled male and female students will attend a dance at the school. It is activities such as these that provide students from all different

backgrounds with the chance to enjoy each other's company in such a positive setting.

The community has played a crucial part in making South Middle School an academic success and continues to take an active role in providing success for the future. The South Middle School staff is on a mission to provide comprehensive education to all students. The staff provides for the students' social, emotional, physical and intellectual needs, as well as their interests and special talents. Success is monitored through input and feedback from students, parents and the staff of the high schools they will eventually attend.

Mr. Speaker, the South Middle School has been an academic success as well as a strong foundation for both the students and the community. I encourage you and our colleagues to join me in recognizing the incredible contributions to the community and in congratulating them on 75 magnificent years of success, commitment and dedication.

TRIBUTE TO BERNADETTE
PLOTNIKOFF

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1998

Ms. ESHOO. Mr. Speaker, I rise today to honor Bernadette Plotnikoff, a dedicated community leader who is being honored as an inductee into the San Mateo County Women's Hall of Fame.

Bernadette Plotnikoff began her career in education as a teacher at Carlmont High School in 1953. She has devoted herself professionally and in all her volunteer activities to educating children and teaching the community about child abuse and neglect. Through her work on county commissions and task forces, she has helped make San Mateo County a leader on issues affecting children. Ms. Plotnikoff has created several programs to benefit children, including the Male Adolescent Awareness Program to help sexually abused boys overcome the trauma associated with abuse.

Mr. Speaker, Bernadette Plotnikoff is an outstanding citizen and I salute her for her remarkable contributions and commitment to our community. I ask my colleagues to join me in honoring and congratulating her on being inducted into the San Mateo County Women's Hall of Fame.

TRIBUTE TO SANDRA WHYTE

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1998

Mr. TIERNEY. Mr. Speaker, I rise today to recognize and congratulate the accomplishments of my constituent, Ms. Sandra Whyte of Saugus, Massachusetts. She was a member of the Women's Olympic Hockey Team that captured the gold medal at the XVIII Olympic games in Nagano, Japan. Not only was she a member of a victorious team, but she will also go down in history as a member of the first United States Women's Hockey Team ever to compete at the Winter games.

Sandra was a member of the team, and a prominent one at that. At her forward position she scored two goals and acquired numerous assists during the course of the Olympics; these helped carry the team to the gold medal against Canada. Her playing ability as well as her sportsmanship throughout the games should be commended. Mr. Speaker, Massachusetts' Sixth District is proud to honor Sandra in her pursuits of excellence and in her representation not only of the district, but of the United States as well.

TRIBUTE TO FRANK LEONE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 5, 1998

Mr. PASCRELL. Mr. Speaker, I would like to introduce you to Mr. Frank Leone. On March 31, 1998, Frank will be honored as the Distinguished Citizen of the Year by the Passaic Valley Council Boy Scouts of America.

Frank was born and raised in the Fort Apache section of the Bronx, New York. After graduating from James Monroe High School in 1945, Frank joined the United States Navy. During the Second World War, he served with distinction aboard the aircraft carrier, USS Keersage. When Frank returned home, he studied electronic engineering at Farleigh Dickinson University and the Stevens Institute of Technology.

Upon graduation, Frank moved from New York to his current home in Oakland, New Jersey. It is there that Frank and his wife, Ellen, have raised their three children. Making use of his education, he began a brilliant career in the private sector, specializing in electronic engineering and sales. During this time, Frank was able to glean valuable business insight through his interactions with companies such as Allen and Dumont Labs, Curtiss Wright, and the Walter Kidde & Company. Characteristically, Frank used his knowledge to help the residents of Oakland. For twelve years, beginning in the late 1960s, Frank was President of the Oakland Chamber of Commerce, where he fostered a positive environment for the local business community.

In 1963, Frank began his auspicious career in public service when he was elected to serve on the Oakland Borough Council. After leaving the Council in 1965, Frank became the Acting Postmaster of the United States Post Office in Oakland. In June 1967, he received an official appointment to the post from President Lyndon B. Johnson.

In addition to his duties as Postmaster, Frank's reaffirmed his commitment to the people of Oakland by serving as the Civil Defense Director and the head of the Oakland Office of Emergency Management for twelve years. During the 1984 flood of the Ramapo River, Frank coordinated the relief effort in the Oakland area and toured the affected areas with Governor Thomas Kean.

Frank belongs to an extensive array of professional and service oriented organizations. In the past, Frank has held a number of important posts in these groups, including terms as the Vice President, the Legislative Chairman, and a National Presidential Aide for the National Association of Postmasters. Currently, he is the State Vice President and