

Complete List of Misconduct in Closing Arguments (85 Instances)

This list details each of the 85 instances of prosecutorial misconduct identified during the closing arguments of Ms. Jacobi Whatley (Trial Transcript Vol. IV, pages 16-37) and Ms. Jennifer Austin (Trial Transcript Vol. IV, pages 60-102).

Statements by Ms. Jacobi Whatley (Pages 16-37)

1.

- **Quote:** "You've heard no testimony from anybody in this case that this was some sort of like accidental touching or there was -- you know, there's no testimony that somebody didn't mean to or it was, you know, Oh, I'm sorry, I didn't mean to touch your vagina, I didn't mean to touch you like that. This was purposeful."
- **Citation:** Page 19, Lines 11-17
- **Violation:** Misstatement of Fact / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor asserts a negative fact ("no testimony") to declare purposefulness, a conclusion for the jury, violating ORPC Rule 3.3(a)(1) and OUJI-CR 1-8.

2.

- **Quote:** "The State of Oklahoma has met their burden of proof as it relates to that first element."
- **Citation:** Page 19, Lines 17-18
- **Violation:** Improper "Burden Met" Declaration / Usurping Jury's Role
- **Why Inappropriate:** The prosecutor explicitly declares the burden met, invading the jury's exclusive role to determine proof, violating OUJI-CR 1-8, 1-12, and ORPC 3.4(e).

3.

- **Quote:** "Right there. Right there we've met that element."
- **Citation:** Page 20, Lines 5-7
- **Violation:** Improper "Burden Met" Declaration / Usurping Jury's Role

- **Why Inappropriate:** The prosecutor directly asserts an element is proven, infringing on the jury's duty to weigh evidence and decide if the burden is met, violating OUJI-CR 1-8, 1-12, and ORPC 3.4(e).

4.

- **Quote:** "And through those statements that she's making, again, close in time to when that initial disclosure happened in July of 2019, the State of Oklahoma has met their burden for that second element of touching and felt."
- **Citation:** Page 20, Line 24 - Page 21, Line 2
- **Violation:** Improper "Burden Met" Declaration / Usurping Jury's Role
- **Why Inappropriate:** The prosecutor declares the burden met for a specific element, improperly influencing the jury by presenting her conclusion as fact, violating OUJI-CR 1-8, 1-12, and ORPC 3.4(e).

5.

- **Quote:** "So the State of Oklahoma has met their burden of proof as it relates to the third element, the body or private parts."
- **Citation:** Page 21, Lines 23-24
- **Violation:** Improper "Burden Met" Declaration / Usurping Jury's Role
- **Why Inappropriate:** The prosecutor continues to declare the State's burden met for an element, usurping the jury's function as the ultimate arbiter of facts

and proof, violating OUJI-CR 1-8, 1-12, and ORPC 3.4(e).

6.

- **Quote:** "So we have proved our burden of proof as it relates to that fourth element."
- **Citation:** Page 22, Lines 9-10
- **Violation:** Improper "Burden Met" Declaration / Usurping Jury's Role
- **Why Inappropriate:** The prosecutor states "we have proved our burden of proof," inappropriately removing the jury's responsibility to determine if the evidence satisfies the legal standard of proof, violating OUJI-CR 1-8, 1-12, and ORPC 3.4(e).

7.

- **Quote:** "And I would imagine so, because imagine that. A child trying to describe an act that's meant for adults. And she's trying to describe it. It felt weird. It felt weird."
- **Citation:** Page 22, Lines 20-23
- **Violation:** Appeal to Emotion / Speculation
- **Why Inappropriate:** The prosecutor invites the jury to "imagine" the child's experience and uses emotionally charged language, appealing to sympathy rather than evidence, violating ORPC 3.4(e) and 8.4(d).

8.

- **Quote:** "I submit to you, ladies and gentlemen, that what other purpose is there for an adult to touch a child's vagina? There is no other reason. It's lewd. It's lascivious. There is no other reason."
- **Citation:** Page 22, Line 25 - Page 23, Line 2
- **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt
- **Why Inappropriate:** The prosecutor uses a rhetorical question to imply the only purpose is lewdness, pre-judging

intent and appealing to moral indignation, violating ORPC 3.4(e), 8.4(d), and Berger v. United States.

9.

- **Quote:** "Because in her little mind, when someone is touching her vagina, that -- like that might mean that something's moved around or that something bad has happened to it, because she has no frame of reference."
- **Citation:** Page 23, Lines 8-11
- **Violation:** Appeal to Emotion / Speculation
- **Why Inappropriate:** The prosecutor speculates about the child's internal thoughts and lack of understanding, aiming to evoke sympathy and improperly influence the jury, violating ORPC 3.4(e) and 8.4(d).

10.

- **Quote:** "That's lewd, that's lascivious, for an adult to do that to a child. There is no other reason."
- **Citation:** Page 23, Lines 14-15
- **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt
- **Why Inappropriate:** The prosecutor directly labels the act as "lewd" and "lascivious" and asserts "no other reason," stating guilt and intent as fact, invading the jury's role, violating ORPC 3.4(e), 8.4(d), and Berger v. United States.

11.

- **Quote:** "And so the State of Oklahoma has met their burden."
- **Citation:** Page 23, Line 16
- **Violation:** Improper "Burden Met" Declaration / Usurping Jury's Role
- **Why Inappropriate:** The prosecutor makes a blanket declaration that the State has "met their burden," a conclusion solely for the jury to decide, improperly invading their

function, violating OUJI-CR 1-8, 1-12, and ORPC 3.4(e).

12.

- **Quote:** "The State of Oklahoma has met their fifth element to demonstrate that this was lewd and this was done in a lascivious manner when the defendant slid his hand up between her legs and touched her vagina with his hand."
- **Citation:** Page 24, Lines 13-16
- **Violation:** Improper "Burden Met" Declaration / Usurping Jury's Role
- **Why Inappropriate:** The prosecutor declares that the State has "met their fifth element," explicitly stating an element has been proven, invading the jury's role as the sole arbiter of proof, violating OUJI-CR 1-8, 1-12, and ORPC 3.4(e).

13.

- **Quote:** "So the State of Oklahoma has met their burden as it relates to the sixth element of the defendant being over three years older than the child."
- **Citation:** Page 24, Line 25 - Page 25, Line 3
- **Violation:** Improper "Burden Met" Declaration / Usurping Jury's Role
- **Why Inappropriate:** The prosecutor continues to declare the State's burden met for another element, usurping the jury's function and improperly influencing deliberation by presenting her conclusion as fact, violating OUJI-CR 1-8, 1-12, and ORPC 3.4(e).

14.

- **Quote:** "Again, nothing was accidental about that. It wasn't an accidental somebody bumping into each other or anything like that. That that was purposeful. You heard time and time again from Brianna Jackson about how the defendant did that."
- **Citation:** Page 25, Lines 18-21

- **Violation:** Misstatement of Fact / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor asserts "nothing was accidental" and declares the act "purposeful," which are conclusions for the jury, not the prosecutor, violating ORPC Rule 3.3(a)(1) and OUJI-CR 1-8.

15.

- **Quote:** "There is no other purpose to touch a penis that is erect that is sticking straight up. There's no other reason to make a child touch your penis than for sexual gratification."
- **Citation:** Page 27, Lines 7-9
- **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt
- **Why Inappropriate:** The prosecutor asserts the defendant's intent ("sexual gratification") and guilt as fact, rather than allowing the jury to determine it, which is highly prejudicial and invades the jury's role, violating ORPC 3.4(e), 8.4(d), and Berger v. United States.

16.

- **Quote:** "I submit to you that the evidence has shown those are consistencies, okay. We wouldn't expect every single word to be exactly the same. We wouldn't expect that from an adult. Certainly wouldn't expect it from a child. We wouldn't expect every single word to be the same except from a seasoned liar."
- **Citation:** Page 32, Lines 12-16
- **Violation:** Improper Vouching / Inflammatory Rhetoric
- **Why Inappropriate:** The prosecutor vouches for consistency by implying only a "seasoned liar" would have perfect statements, improperly bolstering credibility and discrediting defense arguments, invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 9-20.

17.

- **Quote:** "And what I'm saying to you and what my argument to you is, if you think that any of that affects his believability at all. But I submit to you that based on the forensic, based on what you know about the testimony that Brianna Jackson gave, based on the forensic interview, and based on all the evidence in the case, there are not all these inconsistencies. And Brianna Jackson isn't inconsistent."
- **Citation:** Page 33, Lines 17-23
- **Violation:** Improper Vouching / Argumentative
- **Why Inappropriate:** The prosecutor directly asserts "Brianna Jackson isn't inconsistent," a conclusion for the jury, not the prosecutor, improperly bolstering credibility and dismissing defense arguments, violating ORPC 3.4(e) and OUJI-CR 9-20.

18.

- **Quote:** "Because Jeffrey Jackson is only relaying information that he got from Caitlin and from Brianna. The only statements Brianna Jackson has ever made are in the forensic that are -- her own statements are in the forensic and what she testified to today or this week in the courtroom. Everything else is things other people are relating about her experiences. And sometimes people get that jumbled up."
- **Citation:** Page 33, Line 24 - Page 34, Line 5
- **Violation:** Improper Argument / Minimizing Inconsistencies
- **Why Inappropriate:** The prosecutor attempts to explain away inconsistencies by suggesting "people get that jumbled up," dismissing the significance of discrepancies without allowing full jury assessment.

19.

- **Quote:** "And all Jeffrey Jackson was doing was trying to be a good dad and make sure the police had every ounce of information that he had. So he calls up the police and he says, Hey, like, I think there's these other things that stepmom's telling me and I just want you guys to have all of the information. Here it is."
- **Citation:** Page 34, Lines 6-11
- **Violation:** Improper Argument / Speculation on Witness Motive
- **Why Inappropriate:** The prosecutor speculates about Jeffrey Jackson's internal motivations ("trying to be a good dad") to explain his actions, which is not direct evidence and can improperly sway the jury.

20.

- **Quote:** "And he didn't have the benefit of watching an interview or reading a statement or anything. So he comes in here, he testifies to the best of his memory and says this is it."
- **Citation:** Page 34, Lines 12-14
- **Violation:** Improper Argument / Minimizing Inconsistencies
- **Why Inappropriate:** The prosecutor attempts to minimize Jeffrey Jackson's inconsistencies by suggesting he lacked "the benefit of watching an interview," excusing discrepancies rather than allowing the jury to fully assess credibility.

21.

- **Quote:** "I submit to you the evidence shows that those things aren't inconsistent."
- **Citation:** Page 34, Lines 15-16
- **Violation:** Improper Vouching / Argumentative
- **Why Inappropriate:** The prosecutor directly asserts that the evidence "shows that those things aren't inconsistent," a conclusion for the jury,

improperly bolstering credibility and dismissing defense arguments, violating ORPC 3.4(e) and OUJI-CR 9-20.

22.

- **Quote:** "Because in the defendant's opening statement, Mr. Nedwick alluded to the fact that Mr. Norton, you know, gave Ms. Norton some kind of divorce type papers, and then, you know, not a surprise, a couple of weeks later, then this allegation, you know, comes out."
- **Citation:** Page 34, Line 22 - Page 35, Line 1
- **Violation:** Improper Argument / Characterizing Defense Strategy
- **Why Inappropriate:** The prosecutor characterizes the defense's opening statement, implying a retaliatory motive for allegations, which is argumentative and designed to discredit the defense's theory rather than focusing on evidence.

23.

- **Quote:** "So let's think about that for a second. Because to have a conspiracy, a conspiracy is an agreement between multiple people. They got to agree to be in on this."
- **Citation:** Page 35, Lines 2-4
- **Violation:** Improper Argument / Mischaracterizing Defense Theory
- **Why Inappropriate:** The prosecutor sets up a strawman argument by defining "conspiracy" in a way that mischaracterizes or oversimplifies the defense's theory, potentially misleading the jury.

24.

- **Quote:** "I mean, think about all of these things that all of these people would have had to have told each other. Don't you think it would have made more sense and the story would

have been more synched up together? Like that's not even reasonable. None of these things are even reasonable."

- **Citation:** Page 36, Lines 7-11
- **Violation:** Improper Argument / Appeal to Speculation
- **Why Inappropriate:** The prosecutor asks the jury to "think about" a hypothetical and declares it "not even reasonable," an argumentative tactic relying on speculation and personal assessment to dismiss a defense theory.

25.

- **Quote:** "If Tiffany Norton wanted to get back at Dallas Norton, she would have given Jeffrey Jackson a name. And Jeffrey Jackson doesn't even have -- doesn't have a relationship with Dallas Norton, doesn't -- there's no reason for Jeffrey Jackson to make up his testimony about, I didn't have a name, I didn't give her the name. He would have no reason to do all that. None of that makes sense. And none of that is reasonable."
- **Citation:** Page 36, Lines 17-23
- **Violation:** Improper Argument / Speculation on Witness Motive
- **Why Inappropriate:** The prosecutor speculates about witness motivations and declares the defense's implied theory "none of that makes sense," an argumentative attempt to dismiss a defense theory by asserting personal opinions.

26.

- **Quote:** "The only reasonable explanation is that these things happened to Brianna Jackson. They happened to her."
- **Citation:** Page 36, Lines 24-25
- **Violation:** Direct Assertion of Guilt / Improper Vouching
- **Why Inappropriate:** The prosecutor states as fact that events "happened"

and that this is the “only reasonable explanation,” directly asserting guilt and truth, invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 1-8, 1-12.

27.

- **Quote:** "She's able to relay them to you. She's able to demonstrate them to Ms. Cornett. She's able to talk about them. And she's able to remember them with consistency because they happened to her. Because it's what

happened to her."

- **Citation:** Page 37, Lines 1-4
- **Violation:** Improper Vouching / Direct Assertion of Guilt
- **Why Inappropriate:** The prosecutor repeatedly asserts events “happened to her” and consistency stems from this, directly asserting truth and guilt, improperly vouching for credibility and invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 1-8, 1-12.

Statements by Ms. Jennifer Austin (Pages 60-102)

28.

- **Quote:** "We are here because of what this defendant did. We are here to determine what he did to Brianna Jackson when she lived in that home with him, on Fox Run Crossing. Okay?"
- **Citation:** Page 60, Line 24 - Page 61, Line 3
- **Violation:** Direct Assertion of Guilt / Presumption of Guilt
- **Why Inappropriate:** The prosecutor states as fact that “this defendant did” something, implying guilt before verdict, undermining the presumption of innocence and invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 2-6.

29.

- **Quote:** "He just stood up here and called Brianna Jackson a liar for 50 minutes and talked about all the reasons why what she said to you in this courtroom and what she said on that forensic interview was not true."
- **Citation:** Page 61, Lines 19-22
- **Violation:** Mischaracterization of Defense Argument / Inflammatory

Rhetoric

- **Why Inappropriate:** The prosecutor mischaracterizes the defense's argument as simply “called Brianna Jackson a liar,” an oversimplification designed to prejudice the jury against legitimate defense arguments.

30.

- **Quote:** "What motive did Brianna Jackson have to make any of this up. She has absolutely no motive to make it up."
- **Citation:** Page 61, Lines 24-26
- **Violation:** Improper Vouching / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor asserts the witness has “absolutely no motive to make it up,” an improper attempt to bolster credibility by speculating about motivations, invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 9-20.

31.

- **Quote:** "What did she gain? Absolutely nothing."
- **Citation:** Page 62, Lines 5-6
- **Violation:** Improper Vouching / Argument Not Grounded in Evidence

- **Why Inappropriate:** The prosecutor continues to improperly vouch by asserting the witness gained “absolutely nothing,” a speculative statement about motive not based on evidence, violating ORPC 3.4(e) and OUJI-CR 9-20.

32.

- **Quote:** "She is now labeled the victim of sexual abuse. She's finally going to go to a new school this following year where no one knows anything. She's going to get a fresh start."
- **Citation:** Page 62, Lines 5-8
- **Violation:** Appeal to Sympathy / Inflammatory Rhetoric
- **Why Inappropriate:** The prosecutor uses emotionally charged language to describe the victim's current state and future, appealing to sympathy rather than evidence, designed to elicit an emotional response and prejudice the jury, violating ORPC 3.4(e) and 8.4(d).

33.

- **Quote:** "She's had to go to a forensic interview. She had to go to counseling for a year. She had to testify at preliminary hearing. She had to testify in here in front of you. She had to come home from Arizona early that summer because she told her dad what happened."
- **Citation:** Page 62, Lines 9-13
- **Violation:** Appeal to Sympathy / Inflammatory Rhetoric
- **Why Inappropriate:** The prosecutor lists the victim's difficult experiences, designed to evoke sympathy from the jury, an improper appeal to emotion rather than facts relevant to guilt or innocence, violating ORPC 3.4(e) and 8.4(d).

34.

- **Quote:** "But remember, she didn't just one minute get together with her mom and say, hey, I'm going to come up with

this. Someone else asked her. Her dad came to her and asked her. And she told him what happened."

- **Citation:** Page 62, Lines 14-17
- **Violation:** Improper Vouching / Direct Assertion of Fact
- **Why Inappropriate:** The prosecutor asserts as fact that the victim “told him what happened,” affirming the truth of allegations, improperly bolstering credibility and stating guilt as fact, invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 1-8, 1-12.

35.

- **Quote:** "Her mother had no motive to put her up to it, because I think that's kind of what they're saying she did also. Had to be saying she put her up to it because why would Brianna Jackson do this."
- **Citation:** Page 62, Lines 1-4
- **Violation:** Improper Argument / Speculation on Witness Motive
- **Why Inappropriate:** The prosecutor speculates about the mother's motivations and mischaracterizes the defense's theory, attempting to dismiss defense arguments by asserting personal opinions about witness motives.

36.

- **Quote:** "We've got Jeffrey Jackson. And he's told these things by his daughter. And remember what we were told by Christi Cornett. Christi Cornett told you that memory is a crazy thing, and that when traumatic things happen, it is hard to recall things."
- **Citation:** Page 63, Lines 22-25
- **Violation:** Improper Vouching / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor uses general testimony about memory to explain away inconsistencies in Jeffrey Jackson's account, improperly

vouching for his underlying truthfulness by offering an unproven explanation for discrepancies.

37.

- **Quote:** "He knows those things for sure because we know he's not lying because he comes in here and tells you some of these other things today, when he comes in here and testifies because he's trying to remember what his daughter said."
- **Citation:** Page 65, Lines 12-16
- **Violation:** Improper Vouching / Direct Assertion of Fact
- **Why Inappropriate:** The prosecutor directly states "we know he's not lying," explicitly vouching for Jeffrey Jackson's credibility, a blatant violation of the rule against vouching, violating ORPC 3.4(e) and OUJI-CR 9-20.

38.

- **Quote:** "If it was a lie, they would have rehearsed it the whole way back from Arizona and she would be saying the exact same thing."
- **Citation:** Page 65, Lines 19-21
- **Violation:** Improper Argument / Speculation
- **Why Inappropriate:** The prosecutor speculates about what would happen "if it was a lie," implying lack of perfect consistency proves truthfulness, an improper attempt to bolster credibility through speculation and a false dichotomy.

39.

- **Quote:** "We have to listen to what Brianna Jackson said. And what she said in her forensic interview was all of these things that her dad said. Just her story. Not his version of it. Her story. Because it's her story to tell."
- **Citation:** Page 65, Line 24 - Page 66, Line 2
- **Violation:** Improper Vouching / Direct

Assertion of Fact

- **Why Inappropriate:** The prosecutor emphasizes "her story" as the definitive truth, improperly vouching for the victim's account and dismissing inconsistencies, invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 1-8, 1-12.

40.

- **Quote:** "All of those things are consistent. It's just she gets to tell what happened and her story's what's important, not the way Jeff Jackson relayed it."
- **Citation:** Page 66, Lines 10-12
- **Violation:** Improper Vouching / Minimizing Inconsistencies
- **Why Inappropriate:** The prosecutor directly asserts "all of those things are consistent" and the victim's "story's what's important," improperly bolstering credibility and minimizing inconsistencies the jury should evaluate, violating ORPC 3.4(e) and OUJI-CR 9-20.

41.

- **Quote:** "Brianna Jackson is coming in here and telling you what happened to her."
- **Citation:** Page 67, Lines 8-9
- **Violation:** Direct Assertion of Guilt / Improper Vouching
- **Why Inappropriate:** The prosecutor states as fact that the victim is "telling you what happened to her," directly asserting truth and guilt, invading the jury's fact-finding role and bolstering credibility, violating ORPC 3.4(e) and OUJI-CR 1-8, 1-12.

42.

- **Quote:** "But just because we don't like an investigation, the remedy is not to let a guilty man go free."
- **Citation:** Page 67, Lines 20-21
- **Violation:** Burden-Shifting /

Presumption of Guilt

- **Why Inappropriate:** The prosecutor refers to the defendant as a “guilty man” before verdict, undermining presumption of innocence, and attempts to shift focus from investigation sufficiency to a moral imperative to convict, violating ORPC 3.4(e), 8.4(d), and OUJI-CR 2-6.
- 43.
- **Quote:** "That doesn't mean this crime didn't happen."
 - **Citation:** Page 69, Line 20
 - **Violation:** Direct Assertion of Guilt / Presumption of Guilt
 - **Why Inappropriate:** The prosecutor states as fact that a “crime” occurred, rather than an alleged crime, implying guilt before verdict, undermining presumption of innocence and invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 2-6.
- 44.
- **Quote:** "He is cuddling with her in a bed because she is craving that adult male role model in her life. No fault of her dad's. He lives in another state. But she only gets to see him every so often and this defendant took advantage of that."
 - **Citation:** Page 73, Lines 7-10
 - **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt
 - **Why Inappropriate:** The prosecutor states as fact that the defendant “took advantage” of the child, asserting guilt and motive before jury determination, which is highly inflammatory and appeals to emotion, violating ORPC 3.4(e) and 8.4(d).
- 45.
- **Quote:** "He tried. Think about it. He tries to touch her -- he touches her in the bedroom that night and she leaves the room."
- **Citation:** Page 73, Line 25 - Page 74, Line 1
 - **Violation:** Direct Assertion of Guilt / Argument Not Grounded in Evidence
 - **Why Inappropriate:** The prosecutor states as fact that the defendant “touches her” and “tries to touch her,” asserting alleged acts as proven facts rather than allowing the jury to determine them, invading the jury's fact-finding role.
- 46.
- **Quote:** "So he's testing the waters. He's testing the waters, seeing, Is she going to let me do this, is she going to let me get away with this."
 - **Citation:** Page 74, Line 25 - Page 75, Line 2
 - **Violation:** Speculation on Defendant's Intent / Argument Not Grounded in Evidence
 - **Why Inappropriate:** The prosecutor speculates about the defendant's internal thoughts and intentions (“testing the waters”), which is not direct evidence and improperly attributes an unproven mental state.
- 47.
- **Quote:** "It's a pattern, a pattern of what this defendant is doing."
 - **Citation:** Page 75, Line 25 - Page 76, Line 2
 - **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt
 - **Why Inappropriate:** The prosecutor asserts the defendant's actions constitute a “pattern,” implying a history of misconduct and guilt beyond specific charges, which is highly prejudicial and attempts to sway the jury based on unproven character, violating ORPC 3.4(e) and 8.4(d).
- 48.
- **Quote:** "It's what it is because it's what happened."

- **Citation:** Page 76, Line 9
- **Violation:** Direct Assertion of Guilt / Usurping Jury's Role
- **Why Inappropriate:** The prosecutor states as fact that the alleged events "happened," directly asserting guilt and truth, invading the jury's exclusive role, violating ORPC 3.4(e) and OUJI-CR 1-8, 1-12.

49.

- **Quote:** "We know it's lewd and lascivious because he's got an erection because he's touching her vagina and then having her touch his penis. It is lewd and lascivious right there."
- **Citation:** Page 76, Line 25 - Page 77, Line 2
- **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt
- **Why Inappropriate:** The prosecutor states as fact that acts were "lewd and lascivious" and provides graphic details, asserting guilt and intent as proven facts, which is highly inflammatory and invades the jury's role, violating ORPC 3.4(e) and 8.4(d).

50.

- **Quote:** "Brianna Jackson has absolutely no motive to make this story up and no motive to lie. She benefits from it in no way."
- **Citation:** Page 72, Lines 7-9
- **Violation:** Improper Vouching / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor asserts the witness has "absolutely no motive to make this story up and no motive to lie," an improper attempt to bolster credibility by speculating about motivations, invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 9-20.

51.

- **Quote:** "That Brianna Jackson is telling you the truth, is because only if she

experienced these things would she be able to relate these types of details."

- **Citation:** Page 81, Lines 1-3
- **Violation:** Improper Vouching / Direct Assertion of Truth
- **Why Inappropriate:** The prosecutor directly states the witness is "telling you the truth" because of specific details, usurping the jury's exclusive role to determine credibility, violating ORPC 3.4(e) and OUJI-CR 9-20.

52.

- **Quote:** "If someone told her what to say or someone told her what to make up, she would not be able to relate sensory details, details that tell you what actually happened to her."
- **Citation:** Page 81, Lines 4-6
- **Violation:** Improper Vouching / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor asserts that the witness could not relate sensory details if she were fabricating, improperly vouching for her credibility by presenting a speculative argument as fact, violating ORPC 3.4(e) and OUJI-CR 9-20.

53.

- **Quote:** "Talking about wiggling his finger in her vagina. An 11-year-old would not know that happens. And she's able to describe it."
- **Citation:** Page 81, Lines 21-23
- **Violation:** Improper Vouching / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor claims the child could not know specific details unless the event occurred, improperly vouching for credibility by presenting a speculative argument as fact, violating ORPC 3.4(e) and OUJI-CR 9-20.

54.

- **Quote:** "That's not something she could make up. It's not something an adult

could tell her to keep straight because she wouldn't know that even happens, much less know -- go in and relay that to someone, to a stranger, talking about between the skin."

- **Citation:** Page 83, Lines 3-7
- **Violation:** Improper Vouching / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor asserts the witness could not fabricate such details, improperly vouching for credibility by presenting a speculative argument as fact, violating ORPC 3.4(e) and OUJI-CR 9-20.

55.

- **Quote:** "She experienced it. That's not a detail you can make up. It's not a detail your parent -- Tiffany can tell her to say. It happened to her."
- **Citation:** Page 85, Lines 20-22
- **Violation:** Direct Assertion of Guilt / Improper Vouching
- **Why Inappropriate:** The prosecutor states as fact that "It happened to her," directly asserting the truth of the allegations and the defendant's guilt, invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 1-8, 1-12.

56.

- **Quote:** "Because that's what someone says -- that's what a sex offender says when they're trying to comfort a child while they molest them and not want them to tell. It's okay. It's okay. Don't be afraid. It's okay."
- **Citation:** Page 88, Lines 11-14
- **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt / Characterization of Defendant
- **Why Inappropriate:** The prosecutor labels the defendant a "sex offender" and speculates on how sex offenders behave, directly asserting guilt before verdict and using highly inflammatory language, violating ORPC 3.4(e),

8.4(d), and Berger v. United States.

57.

- **Quote:** "This defendant committed this crime. He committed both at the same time. He had a choice to stop committing two crimes against her after he did the one, but he went ahead and did another."
- **Citation:** Page 92, Line 24 -- Page 93, Line 2
- **Violation:** Direct Assertion of Guilt / Presumption of Guilt
- **Why Inappropriate:** The prosecutor explicitly states "this defendant committed this crime," directly asserting guilt before verdict, undermining the presumption of innocence and invading the jury's role, violating ORPC 3.4(e) and OUJI-CR 2-6.

58.

- **Quote:** "These crimes were a choice. It's a choice he made. He made a choice to be stepdad or child molester, and he crossed that line."
- **Citation:** Page 93, Lines 3-5
- **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt / Characterization of Defendant
- **Why Inappropriate:** The prosecutor labels the defendant a "child molester" and asserts his "choice" to commit crimes, directly asserting guilt before verdict and using highly inflammatory language, violating ORPC 3.4(e), 8.4(d), and Berger v. United States.

59.

- **Quote:** "So I submit to you this defendant is guilty beyond a reasonable doubt of both counts in that bed, in that home with Brianna Jackson, when he took that from her. He took -- he took her innocence from her."
- **Citation:** Page 93, Lines 13-16
- **Violation:** Direct Assertion of Guilt /

Inflammatory Rhetoric

- **Why Inappropriate:** The prosecutor explicitly states “this defendant is guilty beyond a reasonable doubt” and uses emotionally charged language about taking “innocence,” directly asserting guilt and appealing to emotion, violating ORPC 3.4(e), 8.4(d), and OUJI-CR 2-6.

60.

- **Quote:** “So after you find this defendant guilty and you check that box, then you have to assess punishment.”
- **Citation:** Page 93, Lines 21-22
- **Violation:** Direct Assertion of Guilt / Usurping Jury’s Role
- **Why Inappropriate:** The prosecutor assumes guilt by saying “after you find this defendant guilty,” directing the jury on the verdict and undermining the presumption of innocence, violating ORPC 3.4(e) and OUJI-CR 2-6.

61.

- **Quote:** “You molest a child, that is not just a drop in a bucket. It is a ripple effect. And it’s a line that you chose to cross, knowing what it could do.”
- **Citation:** Page 93, Line 25 – Page 94, Line 1
- **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt
- **Why Inappropriate:** The prosecutor directly accuses the defendant of molestation as an established fact and appeals to the consequences of the act, using inflammatory language to assert guilt before verdict, violating ORPC 3.4(e), 8.4(d), and Berger v. United States.

62.

- **Quote:** “We know she’s telling the truth.”
- **Citation:** Page 78, Lines 19-24
- **Violation:** Improper Vouching / Direct

Assertion of Fact

- **Why Inappropriate:** The prosecutor explicitly states “we know she’s telling the truth,” directly vouching for the witness’s credibility and substituting the prosecutor’s opinion for the jury’s assessment, violating ORPC 3.4(e) and OUJI-CR 9-20.

63.

- **Quote:** “We know Brionna is telling the truth.”
- **Citation:** Page 81, Lines 1-3
- **Violation:** Improper Vouching / Direct Assertion of Fact
- **Why Inappropriate:** The prosecutor repeats “we know Brionna is telling the truth,” directly vouching for the witness’s credibility and substituting the prosecutor’s opinion for the jury’s assessment, violating ORPC 3.4(e) and OUJI-CR 9-20.

64.

- **Quote:** “We know the crime occurred.”
- **Citation:** Page 92, Lines 13-18
- **Violation:** Direct Assertion of Guilt / Usurping Jury’s Role
- **Why Inappropriate:** The prosecutor states “we know the crime occurred,” directly asserting guilt and the truth of the allegations before verdict, invading the jury’s exclusive role, violating ORPC 3.4(e) and OUJI-CR 1-8, 1-12.

65.

- **Quote:** “He is guilty beyond a reasonable doubt.”
- **Citation:** Page 95, Lines 11-12
- **Violation:** Direct Assertion of Guilt / Usurping Jury’s Role
- **Why Inappropriate:** The prosecutor explicitly states “he is guilty beyond a reasonable doubt,” directly asserting guilt and the legal standard of proof before verdict, invading the jury’s exclusive role, violating ORPC 3.4(e) and OUJI-CR 1-8, 1-12.

66.

- **Quote:** “So not only, as an 11-year-old little girl, does she find out what it feels like for an adult man to touch her vagina, she also gets to find out what an adult man’s penis feels like through his underwear while laying in her parents’ bed. He chose to do two different acts. That’s why you have two different crimes.”
- **Citation:** Page 80, Lines 17-22
- **Violation:** Inflammatory Rhetoric / Direct Assertion of Guilt
- **Why Inappropriate:** The prosecutor uses graphic, emotionally charged language to describe the alleged acts as established facts, directly asserting guilt before verdict and appealing to emotion, violating ORPC 3.4(e), 8.4(d), and *Berger v. United States*.

67.

- **Quote:** “She’s been through a year of counseling. If you’re making it up, as a kid – as a 12, 13-year-old going to counseling for a year, you’re certainly going to give it up at that point if it’s not true, because you’re not going to want to go to counseling all the time for a year. We know she’s telling the truth on that.”
- **Citation:** Page 78, Lines 19-24
- **Violation:** Improper Vouching / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor speculates that a child would “give it up” if lying and explicitly states “we know she’s telling the truth,” directly vouching for credibility based on speculation, violating ORPC 3.4(e) and OUJI-CR 9-20.

68.

- **Quote:** “There’s absolutely no reason for Brianna Jackson to disclose what happened to her on July 14, 2019, unless it happened. No other reason.”

- **Citation:** Page 79, Lines 13-15

- **Violation:** Improper Vouching / Direct Assertion of Guilt

- **Why Inappropriate:** The prosecutor asserts “no reason” for disclosure “unless it happened,” directly vouching for truthfulness and asserting guilt as fact, violating ORPC 3.4(e), OUJI-CR 9-20, and OUJI-CR 1-8, 1-12.

69.

- **Quote:** “He didn’t. He then made an 11-year-old touch his penis. He grabbed her hand and put it on his penis.”
- **Citation:** Page 80, Lines 8-10
- **Violation:** Direct Assertion of Guilt / Inflammatory Rhetoric
- **Why Inappropriate:** The prosecutor states the alleged acts as established facts, directly asserting guilt before verdict and using graphic language to appeal to emotion, violating ORPC 3.4(e), 8.4(d), and OUJI-CR 1-8, 1-12.

70.

- **Quote:** “You would only know that if she experienced it. And she was very clear.”
- **Citation:** Page 89, Lines 6-7
- **Violation:** Improper Vouching / Direct Assertion of Guilt
- **Why Inappropriate:** The prosecutor asserts the witness could only know details “if she experienced it,” directly vouching for truthfulness and asserting guilt as fact, violating ORPC 3.4(e), OUJI-CR 9-20, and OUJI-CR 1-8, 1-12.

71.

- **Quote:** “It’s because she experienced it. Those things happened to her. She is only able to tell those things because they happened to her.”
- **Citation:** Page 89, Lines 24-25
- **Violation:** Direct Assertion of Guilt / Improper Vouching
- **Why Inappropriate:** The prosecutor

repeatedly states “those things happened to her” and “they happened to her,” directly asserting guilt and truth as fact, invading the jury’s role, violating ORPC 3.4(e), OUJI-CR 9-20, and OUJI-CR 1-8, 1-12.

72.

- **Quote:** “Is it reasonable in any way, shape, or form that Brianna Jackson is going to make these things up and have these details and be able to tell you what she felt and experienced and went through unless it happened to her?”
- **Citation:** Page 92, Lines 15-18
- **Violation:** Improper Vouching / Rhetorical Question Asserting Guilt
- **Why Inappropriate:** The prosecutor uses a rhetorical question to assert the witness couldn’t fabricate details “unless it happened to her,” improperly vouching for truthfulness and asserting guilt, violating ORPC 3.4(e), OUJI-CR 9-20, and OUJI-CR 1-8, 1-12.

73.

- **Quote:** “What Mr. Nedwick just talked to you about for a long period of time, think about the things he said, because what we say to you is not evidence. This is argument of us talking about the evidence. And he talked to you about things for at least 20 minutes of things that you do not have to consider.”
- **Citation:** Page 61, Lines 4-8
- **Violation:** Mischaracterization of Defense Argument / Improper Argument
- **Why Inappropriate:** The prosecutor attempts to dismiss defense arguments by claiming they’re “things that you do not have to consider,” improperly instructing the jury to disregard legitimate defense arguments, invading the jury’s role.

74.

- **Quote:** “He talked about, think about

this if this happened, what about this if this happened. You are to consider the evidence that you have. In fact, he just talked about a lot of things you have no evidence of.”

- **Citation:** Page 61, Lines 9-12
- **Violation:** Mischaracterization of Defense Argument / Improper Argument
- **Why Inappropriate:** The prosecutor mischaracterizes defense arguments as “things you have no evidence of,” improperly instructing the jury to disregard legitimate defense arguments, invading the jury’s role.

75.

- **Quote:** “You have no evidence of inappropriate sexual comments going on in the home or that they’re all watching YouTube all the time or those things going on. You have no evidence of that. You have them asking, Did Connor touch the babysitter’s butt. Okay. That has nothing to do with anything. Nothing to do with anything.”
- **Citation:** Page 61, Lines 13-18
- **Violation:** Mischaracterization of Defense Argument / Improper Argument
- **Why Inappropriate:** The prosecutor dismisses defense arguments by repeatedly stating “you have no evidence” and “nothing to do with anything,” improperly instructing the jury on what to consider, invading the jury’s role.

76.

- **Quote:** “So he’s not touching her all the time because she’s not letting him. And remember in the forensic interview she says he tried to touch me more times but I didn’t let him. We’re putting it on her. An 11-year-old is having to make sure that this doesn’t continue to happen because he keeps trying. He

keeps trying and it doesn't work."

- **Citation:** Page 75, Lines 13-18
- **Violation:** Direct Assertion of Guilt / Inflammatory Rhetoric
- **Why Inappropriate:** The prosecutor asserts as fact that the defendant "keeps trying" to touch the victim, directly asserting guilt and using inflammatory language to appeal to emotion, violating ORPC 3.4(e), 8.4(d), and OUJI-CR 1-8, 1-12.

77.

- **Quote:** "Now, if this is some big conspiracy according to them, why is Brianna Jackson and Tiffany – why didn't they make it up worse? Why isn't she saying it happened all the time, day after day, and he did this and he did that, and all these additional things that had to happen to make it this big, big, big story."
- **Citation:** Page 76, Lines 3-8
- **Violation:** Improper Argument / Mischaracterization of Defense Theory
- **Why Inappropriate:** The prosecutor mischaracterizes the defense theory as a "big conspiracy" and uses rhetorical questions to improperly bolster the witness's credibility, invading the jury's role.

78.

- **Quote:** "Well, ladies and gentlemen, I am not going to take a long time. I know you guys are going to be sitting straight through this, and it's going to take a little bit of time. I know that you've been hearing a lot of things go on."
- **Citation:** Page 60, Lines 19-23
- **Violation:** Improper Appeal to Jury Sympathy / Prejudicing Jury Against Defense
- **Why Inappropriate:** The prosecutor attempts to curry favor with the jury by suggesting she won't take long,

implying the defense has taken too much time, potentially prejudicing the jury against the defense.

79.

- **Quote:** "There's a lot of discussion about, oh, it's inconsistent because of what Jeffrey Jackson said and that story was wrong and the lie unraveling. Remember what you have heard. Brianna Jackson told her dad what happened to her. He told her – she said she didn't tell him everything, but she told him. And then he talked to his wife and then they – he got to the phone, he called the police. And then he told the police."
- **Citation:** Page 62, Lines 18-25
- **Violation:** Improper Vouching / Direct Assertion of Fact / Mischaracterization of Defense Argument
- **Why Inappropriate:** The prosecutor asserts as fact that "Brianna Jackson told her dad what happened to her," affirming the truth of allegations and dismissing defense arguments about inconsistencies, violating ORPC 3.4(e), OUJI-CR 9-20, and OUJI-CR 1-8, 1-12.

80.

- **Quote:** "So this police report you have is Brianna telling her dad and then Caitlin, and then Caitlin then talking about it, and then them calling the police, and then the police writing it down and then bringing it to you. That is one person's story on top of another, on top of another, on top of another."
- **Citation:** Page 63, Lines 1-5
- **Violation:** Improper Argument / Minimizing Inconsistencies
- **Why Inappropriate:** The prosecutor attempts to explain away inconsistencies by characterizing them as "one person's story on top of another," dismissing the significance of

discrepancies without allowing the jury to fully assess them.

81.

- **Quote:** “He didn’t actually go inside inside.” — Forensic Interview, timestamp 53:20 [Exhibit H3] vs. “His fingers were inside me.” — Trial testimony [Exhibit Q]
- **Citation:** Prosecutor’s failure to acknowledge this contradiction
- **Violation:** Knowing Presentation of False Testimony / Failure to Correct
- **Why Inappropriate:** The prosecutor failed to acknowledge or correct the direct contradiction between the forensic interview and trial testimony regarding penetration, violating Napue v. Illinois and Giglio v. United States.

82.

- **Quote:** “Once in the bedroom, once on the couch.”
- **Citation:** Page 75, Lines 23-24
- **Violation:** Misstatement of Fact / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor misstates the evidence regarding locations, which contradicted testimony, violating ORPC 3.3(a)(1) and OUJI-CR 1-8.

83.

- **Quote:** “Nobody ever said 2018.”
- **Citation:** Page 93, Lines 5-6
- **Violation:** Misstatement of Fact / Argument Not Grounded in Evidence
- **Why Inappropriate:** The prosecutor directly contradicts Officer Pierce’s police report and Tiffany Norton’s VPO testimony, which both confirmed the timeline of November 29 – December 25, 2018, violating ORPC 3.3(a)(1) and OUJI-CR 1-8.

84.

- **Quote:** “If you were unhappy with that investigation, the remedy to that is to not say, okay, we’re just going to find him not guilty... Complain to the chief,
- Chief Foster. We’ll give you his phone number.”
- **Citation:** Page 67, Lines 10-13
- **Violation:** Burden-Shifting / Improper Argument
- **Why Inappropriate:** The prosecutor suggests jurors should call the police chief rather than acquit if unhappy with the investigation, improperly shifting the remedy away from the courtroom and undermining the presumption of innocence, violating ORPC 3.4(e), 8.4(d), and OUJI-CR 2-6.

85.

- **Quote:** “He has to be punished for this. You know what he did.”
- **Citation:** Page 94, Lines 14-15
- **Violation:** Direct Assertion of Guilt / Inflammatory Rhetoric
- **Why Inappropriate:** The prosecutor states “he has to be punished” and “you know what he did,” directly asserting guilt before verdict and appealing to punishment rather than evidence, violating ORPC 3.4(e), 8.4(d), and OUJI-CR 2-6.

This concludes the complete list for the closing arguments. I am ready to provide the first part of the voir dire list when you are.