

Story Battles in Deliberation

Trial advocacy is essentially a form of story-battle. In the courtroom, each attorney will tell the jury a different story, call witnesses to support that story, and make arguments for what a just verdict looks like according to the plot of the advocate's told story. After hearing the opposing stories, a juror is faced with choosing between the tales, or creating a new one. The advocates' stories may battle in or all of the following:

- **Plot** (what actually happened)
- **Motive of Central Characters** (why it happened)
- **Appropriate Consequences** (what would constitute justice)

There is compelling evidence to suggest that jurors "**re-story**" trial evidence during deliberations. Trials are, by nature, woven with ambivalent threads. Importing stories is one strategy jurors use to fill the factual holes the legal system tolerates in trial advocacy.

Conducting the first known study to analyze natural storytelling during real deliberations, I found that jurors use story talk throughout their deliberations, performing story battles in their attempts to persuade one another. Four separate criminal trial deliberations were analyzed, consisting of deliberations that were twelve hours, nine and one-half hours, three hours, and 45 minutes, respectively. I was primarily interested in the use of story as an integral part of a jury's deliberative work and found that storytelling was used by jurors in group argument in different ways, across all four trials. Deliberations contained:

1. personal stories,
2. stories about the experiences of other people (not in the trial),