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# ONE MINUTE BRIEF

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NUMBER: 2019-21    DATE: 09-26-19    BY: Devallis Rutledge    TOPIC: The *Corpus Delicti* Rule

**ISSUE**: How does the “*corpus delicti* rule” affect the requirements for convicting an accused defendant?

In cases where the defendant’s self-incriminating extrajudicial statements are admitted in evidence, “*the jury must be instructed that conviction requires some additional proof the crime occurred.*” *People v. Alvarez* (2002) 27 Cal.4<sup>th</sup> 1161, 1165; CALCRIM 359. To avoid convicting an innocent person for a non-existent crime based on a false confession, the prosecution must also present **independent proof** of the “body of the crime”—the *corpus delicti*. *Ibid*.

- Once upon a time, the *corpus delicti* rule barred the **admissibility** of a defendant’s statements until the *corpus* had been established. **That rule changed** with adoption of the “Truth-in-Evidence” amendment to the California Constitution. Art. I, § 28(f)(2). That provision “**did abrogate** the *corpus delicti* basis for **excluding** the defendant’s extrajudicial statements from evidence ... [but] **did not abrogate** the *corpus delicti* rule insofar as it provides that every **conviction** must be supported by some proof of the *corpus delicti* **aside from and in addition to such statements....**” *Alvarez, supra*, at 1165.

- Once upon a time, it was widely thought that the *corpus delicti* of a crime included **every element** of the **offense**. This may be because some appellate decisions spoke of the “elements of the *corpus*” without stressing that this **does not mean** the “elements of the crime.” But the courts long ago clarified that the **two** “elements” of a *corpus delicti* are **always** (1) **injury, loss or harm** and (2) some **criminal agency** as the cause. **This is not the same thing as the “elements” of the particular crime charged** (which **vary** from crime to crime).

“The **corpus delicti** consists of **two elements**, namely, (1) the injury or loss or harm; and (2) a criminal agency causing them....” *People v. Wong* (1973) 35 Cal.App.3d 812, 839.

“Once *prima facie* proof of the *corpus delicti* is made, the extrajudicial statements, admissions and confessions of a defendant may be considered in determining whether **all the elements of the crime** have been established.” *People v. Duncan* (1959) 51 Cal.2d 523, 528.

“[O]nce *prima facie* proof of the *corpus delicti* has been offered, and a defendant’s confessions or admissions have been admitted, those **statements** may be considered in determining **all of the elements of the charged offenses** that have been established.” *People v. Mattson* (1990) 50 Cal.3d 826, 874.

To establish *corpus delicti*, “There is **no requirement** of independent evidence of **every** physical act constituting an **element** of the **offense**, so long as there is some **slight** or *prima facie* showing of injury, loss or harm by a criminal agency.” *People v. Alvarez* (2002) 27 Cal.4<sup>th</sup> 1161, 1171.

- The *corpus* rule applies to **preliminary hearings**, *People v. Powers-Monachello* (2010) 189 Cal.App.4<sup>th</sup> 400, 409, and to **special circumstance allegations** requiring proof of a crime **other than** the murder, *People v. Hamilton* (1989) 48 Cal.3d 1142, 1175; however, the *corpus* rule does **not** apply to **special circumstances** enumerated in PC § 190.2(a)(17) or **sentence enhancements** not requiring proof of another crime. PC § 190.41; *Tapia v. Superior Court* (1991) 53 Cal.3d 282, 297-98 (special circumstances); *People v. Shoemaker* (1993) 16 Cal.App.4<sup>th</sup> 243, 256 (PC § 12022.85 enhancement).

- *Corpus delicti* **does not include** such facts as **venue**, *Casey v. Superior Court* (1989) 207 Cal.App.3d 837, 842, fn. 5; **motive**, *People v. Daly* (1992) 8 Cal.App.4<sup>th</sup> 47, 59; or **identity** of the perpetrator or **degree** of the crime, *People v. Capers* (2019) 7 Cal.5<sup>th</sup> 989, all of which may be proven by the defendant’s admissible statements.

**BOTTOM LINE:** A defendant’s out-of-court statements are not sufficient for conviction unless at least slight proof of injury/loss/harm by criminal agency is shown by other evidence.

(Emphases added and citations omitted in quoted material.)

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