**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.4th 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.4th 1161, 1171.

- The corpus rule applies to preliminary hearings, People v. Powers-Monachello (2010) 189 Cal.App.4th 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. Shoemake (1993) 16 Cal.App.4th 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.4th 47, 59; or identity of the perpetrator or degree of the crime, People v. Capers (2019) 7 Cal.5th 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.)