

an Assistant United States Attorney, are, and were on July 3, 1960, available to the police twenty-four hours a day.⁶ The fact that it was more than twenty-eight hours after the arrest before the appellant was finally taken before a magistrate indicates at least that getting her there "without unnecessary delay" was less than uppermost in their minds.

The Government argues that, in any event, the admission of the written confession was harmless error,⁷ being merely cumulative. It may be seriously questioned whether any written and signed confession in a criminal case can ever be merely cumulative.⁸ A confession is a most persuasive form of proof. It is difficult to conceive its admission being non-prejudicial to the defendant under any circumstances.⁹

⁶ This arrangement with the United States Attorney and the Municipal Court has been in effect for several years.

⁷ Rule 52(a), F.R.Cr.P.

⁸ With reference to a coerced confession, in *Payne v. Arkansas*, 356 U.S. 560, 568, the Court stated:

"* * * But where, as here, a coerced confession constitutes a part of the evidence before the jury and a general verdict is returned, no one can say what credit and weight the jury gave to the confession. And in these circumstances this Court has uniformly held that even though there may have been sufficient evidence, apart from the coerced confession, to support a judgment of conviction, the admission in evidence, over objection, of the coerced confession vitiates the judgment because it violates the Due Process Clause of the Fourteenth Amendment."

See also, *Lyons v. Oklahoma*, 322 U.S. 596, 597, n. 1; *Bram v. United States*, 168 U.S. 532.

⁹ The right not to be a witness against one's self, like the right to counsel, is "too fundamental and absolute to allow courts to indulge in nice calculations as to the amount of prejudice arising from its denial." *Glasser v. United States*, 315 U.S. 60, 76.