Université PANTHÉON - ASSAS (PARIS II)

Droit - Economie - Sciences Sociales

UNIVERSITÉ PARIS II PANTHÉON-ASSAS

Session :	Janvier 2018
Année d'étude :	Troisième année de Licence Droit
Discipline :	***Anglais juridique***
Examen :	Premier semestre (UEC1 7296)
Durée :	1h30
Titulaires du cours :	M. Dino MELONI, Mme Emilie PERCHE

Les documents et les appareils électroniques ne sont pas autorisés.

I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)

1. On top of national citizenship ...
2. While a motion to dismiss ...
3. Despite the Sixth Amendment ...
4. Whenever a defendant is released on his/her own recognizance ...
5. Pursuant to the fruit of the poisonous tree doctrine ...

II. Read the following document and answer each of the questions below (approximately ten lines/100 words for each question). Use your own words: DO NOT QUOTE DIRECTLY FROM THE TEXT. (30 points)

Your Own Pacemaker Can Now Testify Against You in Court
Deanna Paul, *Wired*, July 29, 2017

When Ross Compton had a pacemaker installed, he had a constitutional right to remain silent. One would expect his body to have the same. But when the 59-year-old's Middletown, Ohio, home erupted in flames last September, the electronic data stored in his cardiac device eventually led to his arrest and subsequent indictment on charges of arson and insurance fraud. And despite his attorney's arguments to the contrary, earlier this month Butler county judge Charles Pater held that the functioning of Compton's own body — heartbeat included — could be used against him at the upcoming trial.

In September 2016, Compton told law enforcement, he awoke to find his home on fire; he survived, but the blaze caused $400,000 of damage and killed his cat. Before escaping, Compton managed to pack his belongings in multiple bags, grab his computer and medical device charger, break through a window with his cane, and throw his luggage out of it. Then, he abandoned the feline and fled.

Ohio authorities determined that the fire originated from multiple locations within the house,

leading them to conclude that a crime had occurred. They said statements Compton gave to fire officials at the scene differed from the story he later told investigators; in addition, investigators reported Compton's property smelled of gasoline and that his account was inconsistent with the available evidence.

Once police learned about Compton's pacemaker, the department decided to obtain a search warrant for the data recorded on it; this would reveal his heart rate and cardiac rhythms before, during, and after the fire. Medical technicians downloaded the information (the same information that would routinely be retrieved from a pacemaker during a doctor's visit) from the device, and law enforcement subsequently subpoenaed those records from the hospital.

The information corroborated one version of events, investigators argue. Unfortunately for Compton, it wasn't his.

Ohio authorities alleged the data showed that Compton was awake when he claimed to be sleeping. In addition, investigators stated that given Compton's medical condition and the few minutes that passed between the time Compton called 911 and police arrived on the scene, it was improbable that he would have been able to collect and remove his belongings and himself from the burning house so quickly.

This was, the involved parties agreed, the first case in which police obtained a search warrant for a pacemaker. Compton's defense attorney, Glenn Rossi, filed a motion to suppress the pacemaker data evidence as an unreasonable seizure of Compton's private information. Nevertheless, in court assistant prosecutor Jon Marshall argued that police have historically obtained personal information through search warrants and that doing so for a pacemaker should not be viewed differently. (...)

Law enforcement can use legally obtained blood samples and medical records as evidence. Investigators have also recently used data from less invasive smart devices, such as steps counted by activity trackers and queries made to speakers, to establish how a crime was committed. In Connecticut, Richard Dabase was charged with murdering his wife after police built a case based, in part, on the victim's Fitbit data. In Arkansas, James Bates was charged in the death of his coworker. After noticing an Amazon Echo smart speaker in his kitchen, investigators requested a search warrant for any audio recordings and data from the device.

In Compton's case, it may seem unnerving that information contained inside the body — as opposed to kept in the home or worn on the wrist — could be used in a criminal investigation. But courts have yet to distinguish between data interior to the body and data stored on the outside. Data isn't considered more protected or more private by virtue of its personal nature or where it is stored.

The more connected, convenient, and smart our devices are, the more they have the potential to expose the truth. "The reality is that we are no longer the sole proprietors or controllers of our personal information," says Stephanie Lacambra, the Electronic Frontier Foundation's criminal defense staff attorney. "For people worried about being monitored in that way, this ruling is chilling. If Compton didn't want doctors and law enforcement to have access to his heartbeat, what alternative did he have — decide against getting a pacemaker?" (...)

The law hasn't yet caught up with a world of endless data. In an era where consumers constantly reveal intimate information, perhaps privacy is a losing battle. But for people who are worried, rationally or irrationally, about being monitored, the reasonable solution certainly cannot be: If you want to maintain privacy interests, avoid pacemakers and activity trackers.

The Compton case may be one of the first internet of things prosecutions, but it's far from the last. Since Compton's arrest, Ohio police departments have used similar data in two homicide investigations. In Compton's case, where the smart device was a medical necessity, Judge Pater's position was that a recording of a heartbeat was "just not that big of a deal." If other courts look to his reasoning as a jumping-off point, consumers should begin to accept that using new smart technologies may cause them to forfeit what's left of their privacy.

1. **Sum up the facts of Mr. Compton's case. What similar examples are mentioned in the article?** ***(5 pts)***
2. **What constitutional issue did it raise? What are the arguments for and against Mr. Compton's constitutional rights having been violated in this case?** ***(15 pts)***
3. **Discuss the underlined sentence.** ***(10 pts)***

III. Choose <u>one</u> of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)

1/ Plea bargains, wrote the Wisconsin Supreme Court, are "hardly, if at all, distinguishable in principle from the direct sale of justice" (*Wight v. Rindskopf*, 1877). ***Discuss***.

2/ Julie Perkins is a well-known white supremacist. In the past, she has argued for the return of segregation, and she regularly makes racist and homophobic statements. The Student Debating Society at Springfield University has invited Perkins to speak at a meeting on campus. The meeting will take place when many students will be sitting exams. Some students are afraid that the disruption will affect their exams.
Many student groups and staff members are protesting about the visit and have asked the university administration to refuse Perkins permission to speak. The atmosphere on campus is very tense. There are fears that external far-right and anti-racist groups may come onto campus and that violence may result. Outside speakers are always asked to sign a document stating that they will not make any racist or homophobic statements, but Perkins has refused to sign this.

Advise the university administration on their legal position.