



Phantom Risk: Scientific Inference and the Law

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Phantom risks are risks whose very existence is unproven and perhaps unprovable, yet they raise real problems at the interface of science and the law. Phantom Risk surveys a dozen scientific issues that have led to public controversy and litigation - among them, miscarriage from the use of video display terminals, birth defects in children whose mothers used the drug Bendectin, and cancer from low-intensity magnetic fields, and from airborne asbestos. It presents the scientific evidence behind these and other issues and summarizes the resulting litigation. Focusing on the great disparity between the scientific evidence that is sufficient to arouse public fears and that needed to establish a hazard or its absence, these original contributions probe the problem of scientific ambiguity in risk assessment, and the mayhem this creates in the courtroom. Although the authors are clearly optimistic about the use of science to detect and evaluate risks, they recognize the difficulty of inferring cause-and-effect relationships from epidemiological (observational) evidence and of inferring risks to humans from high-dose animal experiments, the two major sources of evidence. The final chapter reviews the exceptionally difficult problem of how the legal impact of disputes about phantom risks can be reduced. Kenneth R. Foster is Associate Professor in the Department of Bioengineering at the University of Pennsylvania. David E. Bernstein is an attorney at the law firm of Crowell & Moring. Peter W. Huber is a Senior Fellow of the Manhattan Institute for Policy Research and serves as Counsel to the law firm of Mayer, Brown & Platt.

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