

**BEST INTEREST FACT-OR-
FICTION: CONSIDERING
DECEPTION AND DANGER FACING
CHILDREN WHOSE PARENTS
WORK UNDERCOVER**

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Undercover agents, confidential informants, spies, and operatives (herein, “undercovers”) may be forced to lie to their children and conscript their children into undercover work. When agents work undercover, their children may be emotionally, physically, and psychologically neglected or harmed. This Article discusses undercover work in which families maintain covert identities. Section Two discusses deep deception required to maintain covers. This Section describes the systemic lack of instruction, debriefing, or institutional concern for children in undercover families; and explains the importance of therapeutic treatment as a regular part of debriefing undercovers. Section Three compares undercover family life to the Witness Protection Program; and compares various governmental policies on minor informants and child spies to argue that undercovers’ children may be vulnerable and

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deserve legal safeguards. Section Four explains why parental rights may not extend to situations in which undercover parents conscript their children into risky or illegal situations. Section Four analyzes criminal liability for undercovers and potential criminal liability for children who willfully collude with their parents' illegal spying. Constitutional limitations on undercover parents discussed in Section Four include limitations on the First Amendment, Fourth Amendment, and Fifth Amendment. Section Five proposes that a best interest standard derived from family law should be expanded to apply to undercovers' children. Section Six concludes that undercovers' agencies should attend to possible risks facing children and provide therapeutic treatment.