



A place for Dennis: Housing child sex offenders in the community

In July 2008, notorious paedophile Dennis Ferguson was unexpectedly released from prison in Queensland. Just over one week later, news had leaked that he was living in Miles, a small, inland country town. A mob of incensed residents quickly assembled to demand his expulsion. Authorities then relocated Ferguson to a house on the fringes of Brisbane where he was under constant supervision by a church group. Similar scenes ensued (*Exhibit A*) including the burning of effigies. Police were called in to control the angry crowds and provide Ferguson with 24-hour protection. A fortnight later he was relocated again, this time to an inner-city apartment where he remained for approximately nine months. By early 2009, funding for this arrangement had run out and Ferguson had decided to return to his home state of New South Wales. He eventually signed a five-year lease for a public-housing apartment in Ryde located in suburban Sydney. But he wouldn't be at his new address for long. Within two weeks of his arrival in September, outraged neighbours were rallying outside his home. Their protests utilised banners, mock coffins, threats and (alleged) physical violence. Queensland's problem now belonged to NSW and the Minister of Housing, David Borger, was under great pressure to act under intense public scrutiny.

A victimised villain

Dennis Ferguson (*Exhibit B*) was well acquainted with removal vans. He had been relocated regularly since finishing a 14-year sentence in Queensland in 2003 for the high-profile 1987 abduction and assault of three children under 10 years of age. He and his accomplice Alex Brookes had been known to the family previously; they had met the children's father in Sydney's Long Bay Jail while Ferguson was serving time for a different crime. Born in 1948, Ferguson first appeared in court aged 15 where he was deemed to be a neglected child and was briefly taken into care. By 20, he was back but this time as an offender. During the decades that followed, he was frequently in court and custody for a variety of offences –

This case was written by Marinella Padula, Australia and New Zealand School of Government for Professor John Alford as a basis for class discussion rather than to illustrate either effective or ineffective handling of a managerial situation.

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typically theft and fraud. However, he had also accrued multiple convictions for indecent assault and indecent dealings with children. Ferguson had difficulty admitting to his paedophilic tendencies and publicly asserted his innocence on many occasions, although he would also often make contradictory statements alluding to some culpability. He refused to take part in sex offender treatment programs whilst incarcerated but was ineligible in any case – acceptance was contingent on an admission of guilt. Severely visually impaired and reviled by most of his fellow inmates, he was subject to regular beatings. Ferguson served his full sentence and within months of his 2003 release, the Queensland government had passed the *Dangerous Prisoners Sexual Offenders Act*. This permitted judges to order sex offenders back to jail after their release, even though no further crime had been committed. The Act was the first of its kind in Australia, although it was passed too late to apply to Ferguson himself.

Nonetheless, Ferguson was soon back behind bars for a breach of his release conditions by entering a New South Wales primary school. He was returned to prison until December 2004. Following his release, he moved to Queensland but media attention, public protest, vandalism and death threats compelled him to flee a number of towns including Bundaberg, Toowoomba, Murgon and Ipswich. In late 2005, whilst living with another convicted sex offender in the Queensland town of Dalby, Ferguson once again came to police attention. He and his housemate were charged with the sexual assault of a five-year-old girl whose family they had befriended. Ferguson was remanded in custody whilst awaiting trial, though he was released on bail in 2008. The charges were eventually dropped in 2009 due to insufficient evidence and the high probability that he would not receive a fair hearing. He was now free to leave Queensland and return to New South Wales again. But by this stage the cycle of protest and relocation was well and truly underway.

Characteristics of child sex offenders

Technically, the term paedophile refers to adults or older adolescents who experience persistent sexual urges towards pre-pubescent children, urges that may or may not be acted upon. However, in common parlance, the word is often used to describe anyone who has sexual interest in or sexual contact with minors below the age of consent. The vast majority of child sex offenders are male and commonly a relative of the victim or family associate.¹ Fathers and stepfathers were amongst those most likely to be implicated in cases of intra-familial abuse. Child sex offenders were more prone to report a history of child abuse or neglect, mental health issues and drug dependency than the general population but most did not meet the diagnostic criteria for psychiatric illness at the time of arrest. A large proportion (more than half in some studies) did have criminal records but not typically for child sex offences. The majority offenders were over 30 years old when they were first arrested for child sex abuse, though there was often a substantial delay between the commission of offences and the reporting of them.²

As many as one in three women and one in ten men in Australia were estimated to have experienced some form of sexual abuse during childhood.³ However, research suggested that fewer than 20 percent of all sexual offences against children or adults were ever reported and

¹ 'Sexual Abuse' Adults Surviving Child Abuse www.asca.org.au accessed: April 2010.

² Gelb, K. 'Recidivism of Sex Offenders Research Paper' Sentencing Advisory Council, January 2007, pp.14-15.

³ opcit.

only around 1 percent were pursued to trial.⁴ Just over half of convicted offenders received custodial sentences. Child sexual abuse encompasses a wide variety of acts spanning indecent exposure to aggravated rape, and perpetrators relied on a variety of methods from persuasion to physical violence. Although abuse could take many forms, child sex offenders were often divided into two main categories: situational offenders and preferential offenders.

Situational offenders were by far the most common type of child sex offender but were not specifically attracted to children. Many were or had previously engaged in adult sexual relationships. Their offences tended to be more opportunistic and their victims were likely to be children who were proximate or otherwise accessible. They also differed considerably in their motivations and approaches. Situational offenders were relatively unlikely to reoffend after conviction, compared to other types of child sex offenders. They also tended to have far fewer victims, although victims were frequently reluctant to implicate perpetrators who they were closely connected to, especially family members.

Preferential offenders by contrast were highly and often exclusively sexually fixated on children. Unlike most situational offenders, they could go to great lengths to find and prepare or “groom” victims. Preferential offenders ranged from the archetypal “dirty old man” who loitered near schools and shopping centres to proverbial “pillar of society” types who cultivated respectable facades. A very small subset of preferential offenders pursued children for the purposes of sexual torture and murder. In general, recidivism rates were much higher for preferential offenders and despite being far less prevalent than situational offenders, they typically had many more victims. It was not uncommon for these offenders to victimise dozens or even hundreds of children before being apprehended.

Overall, the recidivism rate for child sex offenders was significantly lower than for people convicted of most other crimes. According to international estimates, close to 15 per cent of all sex offenders are charged with or convicted of another sex crime within four to five years of release. Close to 25 per cent reoffend within 15 years.⁵ These figures didn’t account for offences that weren’t reported or that were investigated but not pursued further. Perpetrators likeliest to commit further sex-related offences were those who:

- chose young male victims;
- had committed previous sexual offences;
- began offending at an early age;
- targeted strangers;
- had stable deviant sexual preferences;
- displayed antisocial and/or psychopathic personality traits;
- lived or mixed with other offenders;
- used violence in their sex offending; and/or
- had few personal connections and little social support.⁶

⁴ Gelb, K. ‘Recidivism of Sex Offenders Research Paper’ Sentencing Advisory Council, January 2007, p.3.

⁵ *ibid*, p.28.

⁶ Gelb, K. ‘Recidivism of Sex Offenders Research Paper’ Sentencing Advisory Council, January 2007, pp.30-31.

Treatment and rehabilitation

Treatment options for sex offenders usually consisted of some form of psychological therapy, which could be combined with libido-lowering medication. Most Australian jurisdictions had some form of prison-based sex offender treatment programs but accessibility was sometimes an issue and acceptance was typically contingent on admission of guilt. Participation in such programs usually occurred towards the end of an offender's sentence and was usually a condition of parole. Some programs were specifically targeted towards child-sex offenders, others were more general. In addition to prison-based therapy, there was also a range of community-based programs that offenders could attend upon release.

Most programs drew on principles of cognitive behavioural therapy which prompted offenders to: reflect on the impact of their behaviour; avoid relapse triggers; and improve interpersonal skills. However, difficulties in comparing programs, variable criteria for "recidivism" and relatively low reoffending rates made it hard to judge the efficacy of intervention. Overall, offenders who had participated in treatment programs were somewhat less likely to reoffend. Treatment also seemed to benefit offenders who didn't acknowledge their crimes, if programs were available to them. The most effective interventions tended to be those that were specifically aimed at child sex offenders, conducted in the community and that addressed the offender's need for social support. Programs that used networks of volunteers to help participants reintegrate into society could achieve results significantly better than average.⁷

The social isolation of child sex offenders was recognised as a risk factor for relapse, partly because it could exacerbate the kind of issues that precipitated offending but also because it often compelled offenders to congregate with the few people who would tolerate them – other offenders. This could reinforce deviant interests, create new opportunities for offending and ultimately thwart rehabilitative efforts. By contrast, a circle of "normal" friends and acquaintances plus appropriate employment could help keep offenders healthy, productive and accountable. But the idea of child sex offenders living in the community was an anathema to large swathes of the public, especially parents.

Flashpoint at Ryde

By mid-September 2009, word had spread that Ferguson was in Ryde and news crews were keeping vigil outside his apartment, trying to catch a glimpse of the man at the centre of another furore. Reporters were also keen to canvass the opinion of local residents. The mood was not a welcoming one:

"He's a criminal you know, he's done bad things, so I just think, protect our kids."

"Paedophiles have always got that thing inside of them, to do these crimes, and it's always going to be there, why should we put our kids at risk for it?"

"The person that signed the lease needs to get the sack, that person should be fired. The person above and the person above that, right to the top."⁸

⁷ *ibid*, pp.36-37.

⁸ 'Facing Dennis Ferguson' *Four Corners*, Australian Broadcasting Corporation, Broadcast: 2 November 2009.

Neighbours and Ryde denizens believed that Ferguson did not belong in their suburb, a “family” area (*Exhibit C*). Like the residents of numerous Queensland towns before them, they were not reassured by the fact that Ferguson had only ever molested children personally known to him. Talkback radio, internet forums and newspapers were abuzz with indignation that Ferguson had been released from prison and/or permitted to settle in the community. Many suggested that he be incarcerated permanently, or face even harsher penalties. Meanwhile some just wanted him to be removed to a remote location. But under the terms of his lease, the NSW government lacked the power to force him out. Ryde resident Sean Killgallon set up an online petition, attracting more than 800 signatures. It said:

“We, the undersigned, call on the State Government’s Minister of Housing, David Borger, to introduce new laws giving the Government the power to move convicted paedophile Dennis Ferguson out of his unit in Ryde and to tighten the rules that dictate appropriate residency for convicted paedophiles. New rules should absolutely ensure that no further paedophiles are ever placed in this residence or anywhere else in the surrounding area due to ease of access to hundreds of young children. Convicted felons of this nature would have easy access to the numerous schools, scout halls, playing fields, parks and bushland.”⁹

Brett Collins, Coordinator of Justice Action (JA) and one of Ferguson’s few supporters believed that Dennis Ferguson was an elderly, frail man who was being unfairly hounded by the media and public yet presented no danger to anyone. JA was a community-based organisation of criminal justice activists which aimed to improve correctional services and post-release support for former inmates. However, revelations that Ferguson was selling pens, magnets and toys in Kings Cross on behalf of charity organisation, Diabetes Australia was taken as further proof that Ferguson was not a reformed character.¹⁰

The Dennis Ferguson situation was also playing out against a backdrop of heightened anxiety about paedophilia. In May 2008, just before Ferguson’s release prompted groups of angry residents to mobilise in Queensland, renowned photographer Bill Henson became the subject of a heated national debate. It concerned whether some of his images (which featured naked children and adolescents) were pornographic. A brief police investigation failed to lead to any charges but not before Prime Minister Kevin Rudd described the works as “revolting”.¹¹ The Henson controversy was linked to broad-based and growing unease about the hyper-sexualisation of children in advertising and the media, particularly in the marketing of products like cosmetics and clothing to young girls. The internet was another source of concern with regular reports highlighting how paedophiles were increasingly using chat rooms and social networking tools to find and befriend children.

For his part, Ferguson was resolved to ride out the hysteria, stating publicly: “I am not moving. The only way I’ll move out of here is in a pine box.”¹² A series of Housing NSW officials had been visiting regularly since the situation arose in the attempt to broker some kind of solution. But local residents, including Sean Killgallon, were not prepared to wait. He was filmed approaching Ferguson’s apartment with a makeshift coffin, saying: “Dennis

⁹ ‘Remove Dennis Ferguson from the Ryde Community’ <http://www.gopetition.com/online/30774.html> posted: September 15, 2009.

¹⁰ Walters, A. ‘Convicted paedophile Dennis Ferguson sold kids’ toys for charity’ www.news.com.au posted: September 16, 2009.

¹¹ Westwood, M. ‘PM says Henson photos have no artistic merit’ *The Australian*, 23 May 2008.

¹² ‘Fire bomb found outside Ferguson home’ *Lateline*, Australian Broadcasting Corporation, Broadcast: 16 September 2009.

Ferguson, apparently you'll only leave in a pine box. Well we're a very caring community and I made you one. I'm ready for you to get in it"¹³ The same day, a suspected petrol bomb was found outside Ferguson's home. While police called for calm, the NSW Premier Nathan Rees convened a meeting of senior officers from the departments of Housing, Fair Trading, Corrective Services, the Attorney-General and Premier and Cabinet to explore the options and receive legal advice regarding relocation. In the meantime, Ferguson would leave his home temporarily until the protests could be brought under control.

"Australia's least wanted"

"Here we go again," thought Hetty Johnston, as she observed the situation unfold from Queensland. The high-profile founder of Bravehearts did not endorse vigilante action but she understood why offenders such as Ferguson provoked such a visceral and violent reaction. Bravehearts was a community-based support and advocacy group formed to raise awareness of child sexual assault and influence government policy on child protection issues. "Roughly one in five Australians are sexually assaulted before they are 18" explained Johnston, "so there are issues for each one of those people and when the subject of child sexual assault comes up and particularly when an offender moves into an area it's going to push their buttons and they're going to flare up."¹⁴ But calming them down would be altogether more challenging. During previous protests in Queensland, University of Sydney psychiatrist Chris Tennant noted that:

"This level of community uproar, angst and hatred is both very, very unhealthy for the community, unhelpful in the situation and could lead to, really, a tragedy...What you can say is in the midst of high levels of emotion, both at an individual level and at a community level, people are incapable of making rational decisions. I think it's a quite understandable response, but it's not a helpful response. It sounds as if this community has already made up its mind, like individuals sometimes do. Their attitudes reinforce each other within the community, and no amount of attempts to educate at that particular point in time in the midst of anger and anxiety will have any effect."¹⁵

Former Queensland police minister Judy Spence witnessed first-hand how true that could be. She had spoken at public meetings of agitated residents to little effect: "It really drove home to me how little people generally think about these issues or understand these issues. There were many people there who just, you know, didn't want to listen to any sort of reasonable explanations. They just came there with one point of view and that's get Dennis out and that was that was all they were there for. ...I've been watching the New South Wales experience [which is] very similar to the Queensland experience...We really do need to start talking to the community more about these issues and explaining that Dennis is not alone."¹⁶

And he certainly wasn't. According to estimates, there were in excess of 2,000 registered child sex offenders living in New South Wales.¹⁷ Many had committed equally heinous crimes. Some were obliged as a condition of release to undergo chemical castration, or wear

¹³ *ibid.*

¹⁴ Video: Interview with Hetty Johnson 'Facing Dennis Ferguson' *Four Corners*, Australian Broadcasting Corporation, www.abc.net.au/4corners accessed: April, 2010.

¹⁵ 'Paedophile's release sparks angry protests' *7.30 Report*, Australian Broadcasting Corporation, Broadcast: 10 July 2008

¹⁶ 'Facing Dennis Ferguson' *Four Corners*, Australian Broadcasting Corporation, Broadcast: 2 November 2009.

¹⁷ *ibid*

electronic tracking devices. Ferguson was not subject to those kinds of conditions, though he was required to report at least annually to ANCOR, the Australian National Child Offenders Register. Containing the details of more than ten thousand child sex offenders, the database was set up so that law-enforcement officials could access current information on the whereabouts of registered offenders. Information held on ANCOR was not accessible to the general public. Many American states did have community notification programs alerting residents when a sex offender moved into the vicinity. However, research on such programs typically concluded that they were often ineffectual or even counterproductive when it came to child protection. Moreover, the expense of maintaining these systems was high.

One problem many experts and commentators raised was that excessive attention on rare cases like Ferguson's often drew attention away from the real dangers facing children – dangers that were more likely to be encountered in the family home. A 2007 research paper by the Victorian Sentencing Council canvassed the issue: “Despite the fact that much more is now known about sex offenders, the nature of their offending, their risk of reoffending and their amenability to treatment, public perceptions remain focussed on the notion of ‘sick’, incurable offenders and the primary threat of ‘stranger danger’ from offenders who inevitably reoffend.... Such views have serious implications, as they ‘limit the focus, conceptualisation and approach to social policies and programs aimed at stopping sexual violence and the treatment of sex offenders’.”¹⁸ As a result, government responses were often aimed at assuaging public fear and anger, rather than dealing with the underlying problem. Furthermore, there was the prospect that initiatives designed for serious but uncommon offenders could inadvertently engender parental complacency.

Such concerns had been discussed in relation to Queensland's *Dangerous Prisoners Sexual Offenders Act* and similar legislation around Australia which could keep offenders in prison after the completion of their sentences or subject them to intensive and extended supervision orders. At Ararat Prison in Victoria for example, there was a residential facility for offenders who had completed their sentences but were deemed high-risk and hard to house in the community. Located with the prison's perimeter, offenders were not technically in custody yet their movements were closely supervised. Though popular with the community, critics believed that it was simply “jail” by another name and undermined the justice system. These types of facilities were also expensive and, according to the Sentencing Council, were not “an optimal allocation of crime prevention resources.”¹⁹ Criminologist and forensic psychologist Steven Smallbone had studied hundreds of sex offenders, including Dennis Ferguson, and cautioned against mainstream use of such options:

“I think as a matter of principle that there may be cases in which extended detention or extended supervision orders may be helpful from a public safety point of view. But the problem that remains for me is that this relies on judgements being made by professionals about the likelihood of this person at an individual level reoffending. And I'm very clear that those judgements are really very unreliable. We're not very good as a profession at being able to categorically decide for whom this legislation ought to apply and for whom it oughtn't. And the practical outcome is that because of the anxiety about the problem in the professional's mind as well as the government's mind, the outcome is likely to be an over-inclusion rather than an under-inclusion...If we have 1000 offenders we can be very confident that, given a certain risk score, a certain percentage will reoffend. The problem comes when

¹⁸ Gelb, K.. ‘Recidivism of Sex Offenders Research Paper’ Sentencing Advisory Council, January 2007, p.10.

¹⁹ *ibid*, p.29.

we try to do this on a case by case basis... Professionals in correctional systems tend to over-predict risk.”²⁰

Smallbone believed that more effort needed to be directed towards early rehabilitation and prevention. “If we looked over the whole course of Dennis Ferguson’s life, or any of these very serious offenders,” he said, “I would bet that we would find many, many opportunities that had been missed in the past to arrest the problem. You know, what was happening in his life when he was five-years-old?”²¹ Added Smallbone: “The public debate has descended into an argument about ‘soft’ and ‘hard’ versus ‘effective’ and ‘not effective’. Just because something might not appear as hard as people would like doesn’t mean it’s not effective. I think we should be directing policy towards effective outcomes”²² Hetty Johnston was also strongly in favour of treatment and preventative measures, but not for everyone. She believed in permanent incarceration for all repeat offenders:

“When [intervention] doesn’t work we don’t believe that they should have another chance at destroying another human life. Because when these particular criminals commit another offence it’s not a car or a television set or a wallet they steal. It’s nothing that can be replaced. A child’s entire life is going to be changed because of the civil liberties we’ve extended to a person who’s already proven that they can’t stop themselves.”²³

As for Ferguson, Johnston conceded that he probably did not present a grave risk to most of the community but felt that he was a chance not worth taking: “Dennis Ferguson has never walked along the street and snatched a child,” she said, “but who’s to say he’s not going to? He can’t sit there and tell you [he] will never offend again anymore than I can or a psychologist can. The truth is, we don’t know.”²⁴ She also believed that his release was an issue that should have been addressed long before he left prison walls.

Moving on

From the beginning, NSW Housing Minister David Borger made it clear that he didn’t support Ferguson’s wish to stay. “I’ve found the team that made the decision and as I said to the director-general, it was a dopey decision - I think it was wrong,” Borger said, “I understand that he [Ferguson] technically ticked a number of boxes but I can’t believe that anyone who works in a government department that turns on the telly once in a year wouldn’t know who this fellow was. The fact that they made the decision without sending it up the line was stupid.”²⁵

A week after the situation erupted in Ryde, the government passed the Housing Amendment (Registrable Persons) Bill 2009 allowing Housing NSW to terminate the public housing leases of registered child-sex offenders. Twenty-four hours later, on September 24, Ferguson’s lease was cancelled. Under the legislation, Housing NSW could only evict a tenant on a recommendation from the NSW Police Commissioner, prompted by concern

²⁰ Video: Interview with Steven Smallbone ‘Facing Dennis Ferguson’ Four Corners, Australian Broadcasting Corporation, www.abc.net.au/4corners accessed: April, 2010.

²¹ ‘Paedophile’s release sparks angry protests’ 7.30 Report, Australian Broadcast Corporation, Broadcast: 10 July 2008.

²² *opcit.*

²³ Video: Interview with Hetty Johnston ‘Facing Dennis Ferguson’ *Four Corners*, Australian Broadcasting Corporation, www.abc.net.au/4corners accessed: April, 2010.

²⁴ *ibid.*

²⁵ ‘Paedophile Dennis Ferguson evicted’ ABC News www.abc.net.au posted: 24 September 2009.

about the safety of a tenant or the community. However, the Department was obliged to offer the tenant suitable alternative accommodation. Dubbed the “Dennis Ferguson Act”, the government was accused of pandering to vigilantism.

“Certainly I think that housing Dennis Ferguson in North Ryde wasn’t the right thing,” said Borger, reflecting on the case, “But equally there’s no perfect location for someone with the notoriety of Dennis Ferguson. So there are only really better and worse locations. But we are conducting a review. I’m absolutely committed to improving processes so we don’t see a repeat of this...I think that in a suburban setting like North Ryde with many families living close to that precinct, it was inevitable that there was going to be such a degree of community concern that it was untenable. And I think it did become untenable.”²⁶ He continued:

“I have absolutely no doubt that in that community, if we had allowed the situation to go to a logical conclusion, there would’ve been violence... I know what young guys are like, full of testosterone, reacting to these situations. They wouldn’t have left this person alone and they wouldn’t have left that community alone ... It was the safety, it was the concern that laws be upheld and I think that’s very important. I think that the community would’ve expected us...to have taken action. And that’s why we did act.”²⁷

Borger denied that the government’s response would set a precedent: “This is legislation that I don’t believe will be used in numerous cases,” he said “I think that it’s fairly limited and it’s a measured response to a very difficult problem that presented itself to us.”²⁸ Ferguson was gone from Ryde but his tenure in the headlines was to continue. News that he attempted to contact a former accomplice and visit a public pool generated further concern, whilst a picture of him taken at a crowded beach prompted media censure. Ferguson was eventually relocated to an undisclosed address but rumours abounded regarding Ferguson’s new location. Some reports suggested that he had been moved to Ballarat in Victoria, others to NSW’s Central Coast. So far his location remained secret but – NSW Housing officials had to wonder – for how long?

²⁶ Interview Transcript: David Borger ‘Facing Dennis Ferguson’ Four Corners, Australian Broadcasting Corporation, www.abc.net.au/4corners accessed: April, 2010.

²⁷ *ibid.*

²⁸ *ibid.*

Exhibit A: Queensland Protests – July 2008

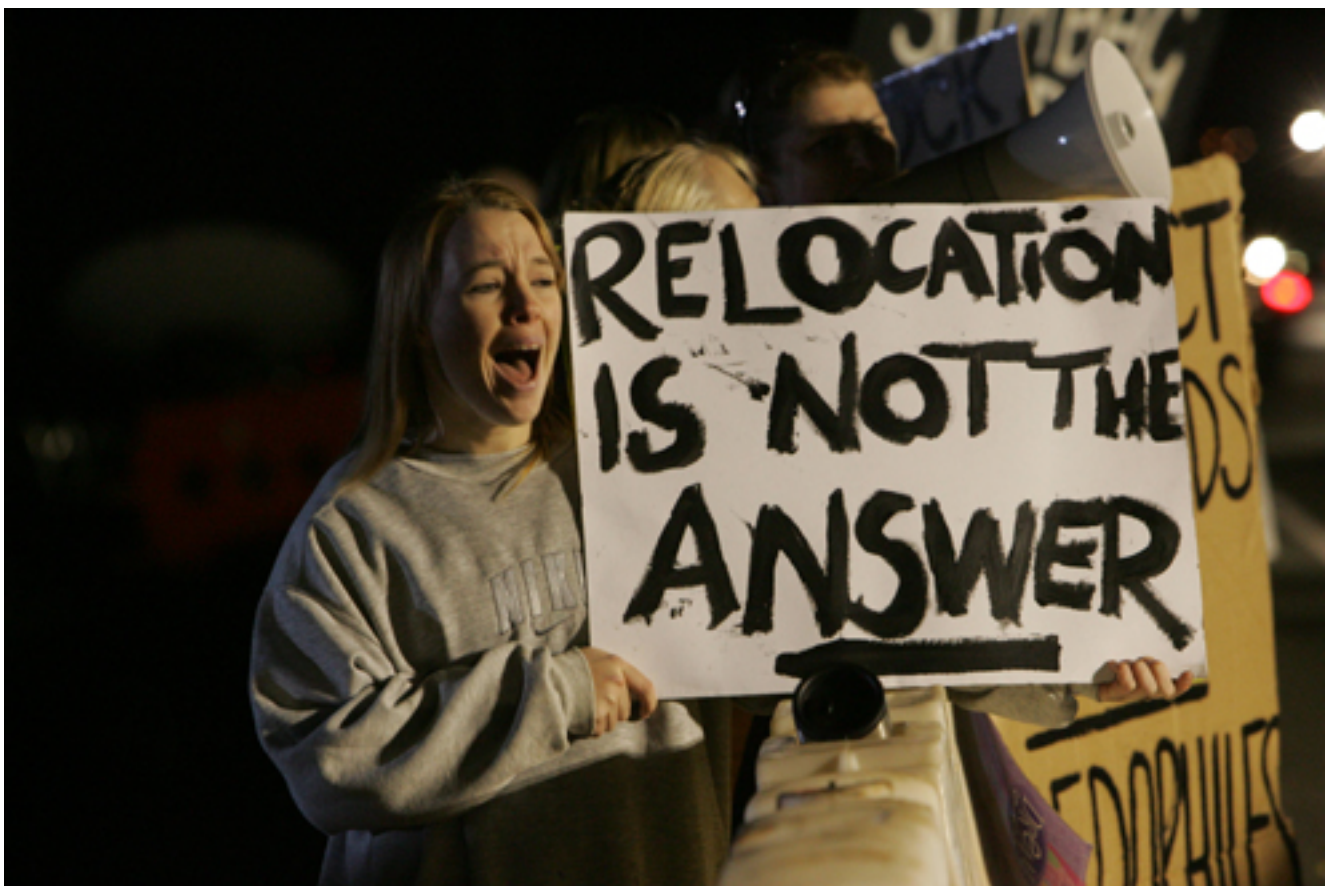


Exhibit B: Dennis Ferguson – 2010



Exhibit B: Ryde Protest – September 2009

