

The Harvard Crimson ONLINE EDITION

News

Schools Law Ups Drug Penalty

Law enforcers have not been hesitant to apply school zone drug laws to Harvard students

Published On 1/12/2007 3:12:49 AM

By **REBECCA M. ANDERS**

Crimson Staff Writer

Eliot House might be no more than a stroll away from Winthrop House, but for students caught dabbling in drugs, the two can feel years apart. Two years, to be exact.

Penalty minimums for suspects convicted of drug possession with intent to distribute 1,000 feet from a school disproportionately affects an unlikely group, besides inner-city dwellers and the poor: Harvard students.

Ten of the school's 12 undergraduate residential Houses fall, at least partially, within that 1,000-foot radius—a designation that would tack on a mandatory minimum of two years to a convict's sentence.

The [Martin Luther King, Jr. School](#) on Putnam Avenue covers Mather House and much of Dunster House; the [Cambridge Montessori School](#) and the [Graham and Parks Alternative Public School](#) covers the Quad Houses; and the [Radcliffe Child Care Center](#) directly below the DeWolfe apartments covers Adams House, Leverett House, Quincy House, Lowell House, and part of Winthrop House, leaving only Kirkland House and Eliot House free from the statute.

And authorities have not shied away from exercising the law against Harvard drug suspects in recent years. Out of the seven students charged with drug possession in the past three years, five faced intent to distribute within a school zone.

In 2004, it was a [Mather resident](#) allegedly found with 16 bags of psilocybin mushrooms. Last year, [three of the four students](#) allegedly caught smoking marijuana in a DeWolfe dorm room were slapped with the two-year charge. And later that same year, after a student admittedly struck police officers while under the influence of LSD, [his roommate](#) had the charge added to his rap sheet after police said they found 38 "hits" of the drug in his room.

The charges were ultimately unsuccessful against four of the suspects; the case of the fifth is still pending.

AN ELEMENTARY CHARGE

And while Cambridge officials tout the law for keeping drugs off the streets, two administrators from schools near Harvard say they are skeptical.

"We support the law to its fullest extent," says Justin T. Martin, director of public information and communications for the Cambridge Public Schools. "We find that it's another tool to help us prevent the distribution of narcotics of any kind or any illegal substance in the vicinity of school children."

But David B. Harris, the head of Cambridge Montessori School, an elementary school, says he finds Harvard an odd target.

“I think it’s a little bizarre if a student in a Harvard dorm is caught with drugs that they will have to go to jail for two years because there’s an elementary school down the street,” he says. “The law is part of an answer, but it’s not a simplistic answer.”

Kathy Amon, whose Radcliffe Child Care Center caters to pre-schoolers, says that at least in her school’s case, the law is fruitless.

“For a drug-dealing relationship on a top floor of the dorm to have an impact on our children is just nearly impossible,” she says. What’s more, Amon adds, law enforcement never informed her that three DeWolfe residents were dealt the extra penalty for her pre-school’s first-floor location, an omission she said surprised her.

Quincy Resident Dean Judith Chapman, whose son attends the child care center in DeWolfe, says she finds charges of intent to distribute to pre-schoolers “interesting.”

“I don’t think anyone’s going to sell drugs to my two-and-a-half-year-old son. But at the same time, I don’t want people smoking pot at DeWolfe with my two-and-a-half-year-old son playing right there,” she says. “I think the intent of the law is to prevent dealers from distributing to elementary and middle school....It’s interesting that pre-school counts.”

In all of the five recent cases, there was no evidence to suggest that the students were distributing drugs to children. But neither that, nor an awareness on behalf of suspects that they are inside a school zone, must be shown to be convicted under the law.

SERVING TWO TO 15

The school-zone statute was enacted in 1989 as part of then-Governor Dukakis’ plan to “make school drug-free by 1990.” It imposes a mandatory minimum two-year prison sentence, and no more than 15 years, if defendants are convicted of possession with intent to distribute. In Massachusetts there is no set number for what constitutes intent to distribute and can be based on a variety of factors, including how the drugs are packaged.

Harvard University Police Department (HUPD) declined through spokesman Steven G. Catalano to release which segments of which Houses fall within a school zone.

“We are aware of what buildings fall within a 1,000 [radius] of a ‘school’” but they “have not mapped out the campus,” Catalano wrote in an e-mail.

He adds that HUPD officers use discretion when filing charges.

“We treat drug distribution as a serious crime,” he wrote. “When officers are confronted with drug dealing they use their discretion, based on the totality of the circumstances, on the most appropriate charges. Once arraigned, the courts...decide how the case will proceed.”

Chapman says there is no official campus policy regarding educating Harvard students of the statute.

“The assumption would be that our students are not dealing drugs, and that if they are, they can deal with the consequences,” she says. “I personally don’t feel a responsibility to educate Harvard College students about Massachusetts law.”

Harvard undergraduates might have a general knowledge of school-zone charges, but few know the details, students say.

“The school doesn’t tell you about anything else that’s illegal under federal or state law. As an adult, it’s kind of like, you need to know what you’re doing,” says Andrew R. Granoff ’09.

The DeWolfe marijuana case last year helped to publicize the issue, Michael A. Bagdley ’08 said, though he still thinks “most students aren’t aware of the harsher penalty that they would suffer.”

“I remember last year when the kids got busted. I thought that it was a little harsh—a [possible] jail sentence [of] two years. It would be difficult to prove intent to distribute,” he adds. “It sounds harsh, but I agree that we need to keep drugs away from schools for sure.”

Last May, a Cambridge district court judge dismissed all charges against the four DeWolfe students, including the charge of intent to distribute within a school zone.

As a Leverett resident, Lauren P.S. Epstein ’07 lives within the school zone, and she says she believes that the law could be useful for keeping drug-dealers away. But because it is imposed for all schools during all hours, she adds that this may be “a case of a law being too widely written.”

‘IRRATIONAL APPLICATIONS’

Attorney William N. Brownsberger ’78, who graduated from the Law School in 1983, co-authored a report on the statute and concluded that “the problem with the law is that it basically applies everywhere, and so there is no extra protection for schools.”

According to Brownsberger’s report, 29 percent of the areas that the study cites—Fall River, New Bedford, and Springfield—fall within a school zone, and 56 percent of the high-poverty areas within these cities are within the school zone.

To address this, Brownsberger proposes contracting the radius of the school-zone, and “increas[ing] the penalties within that zone, because that would give a much stronger message: to stay away from schools.”

The American Civil Liberties Union (ACLU) of Massachusetts is dead-set against the law, in effect and in principle. A lawyer sitting on the group’s legislative council, Ann K. Lambert, says that “people who live in Boston are always in school zones.”

“There’s no requirement that your possession have anything to do with the fact that a school is nearby,” she says. “Your actions don’t have to relate to the students or the staff or anything to do with the school. The ACLU has been opposed to that kind of a law, and more generally, mandatory minimum sentencing for a long time.”

But Brownsberger, despite his criticisms, believes that the statute is important to keep away drug dealers and protect children from exposure to drugs.

The problem, he says, is that “there are some irrational applications of the law.”

—Staff writer Rebecca M. Anders can be reached at rmanders@fas.harvard.edu.

<http://www.thecrimson.com/article.aspx?ref=516615>