



Senator Jeffrey D. Klein
Senator David Carlucci

Protecting



Our Children:

How PokéMon Go and Augmented Reality Games Expose Children to Sex Offenders

AUGUST 2016

Introduction

Pokémon GO, a new mobile application for smart phones and tablets, has taken America by storm, resulting in over 100 million downloads from the Google Play and iOS App stores since its introduction on July 6, 2016.¹ The free-to-play augmented reality game encourages players to interact with their communities in a way they haven't before. Children go outside, become more physically active, and even engage in interesting new social interactions. However, the game's release, especially in light of its explosive popularity, also creates an alarming safety issue that must be addressed immediately.

This modern-day scavenger hunt, a seemingly innocuous challenge, creates the potential to lure unknowing children directly into danger by setting up locations and objectives within the game that are perilously close to the homes of registered, high-level sex offenders. Sex offenders' access to the game creates potentially dangerous situations where sites set up by the developer provide unfettered access to children who congregate in these locations.

In a Westchester/Rockland investigation into the potential dangers posed by augmented reality games, the offices of Senators Klein and Carlucci visited 100 primary addresses of registered sex offenders; to uncover the overlap between these individuals and the children playing the game.

As a result of this investigation, Senators Jeff Klein and David Carlucci found the current New York State law needed to be updated since augmented reality games had not been invented at the time the 2008 e-stop legislation that prevented sex offenders from using social media became law. No current law places any mandate on the developer to ensure the game doesn't send children to sex offenders' homes.

Key Findings

- Investigators using the Pokémon GO application across Rockland and Westchester counties caught 93 Pokémon characters directly in front of the residential addresses of sex offenders whose crimes involve the sexual abuse of children or the possession of child pornography.
- In total 14 Pokéstops or Gyms throughout Rockland and Westchester counties were located within a half-block of the 100 sex offenders' residences visited during the investigation.
- In total, the investigation found that 63 of the 100 sex offenders' addresses were within a half-block of a Pokémon GO related item (actual Pokémon, PokéStop and/or Gyms).

¹ <http://appleinsider.com/articles/16/08/02/pokemon-go-tops-100m-downloads-without-impacting-rest-of-mobile-game-industry>

Initial Investigation

Upon hearing disturbing reports across the country about children's interactions with sex offenders while playing Pokémon GO, the Offices of Senators Klein and Diane Savino conducted an investigation across New York City to determine if Pokémon locations can be found in front of Level 2 or 3 registered sex offenders' residences and how close developer created sites were to sex offenders' residences.

The findings in "Protecting Our Children: How Pokémon GO and Augmented Reality Games Expose Children to Sex Offenders," released on July 29, illustrated a disturbing correlation between the close proximity of in-game elements like pokéstops and gyms to Level 2 and 3 sex offenders in New York City. Investigators visited residences of 100 high-level sex offenders, finding a pokéstop or gym present 59 percent of the time. Investigators caught a Pokémon character directly in front of a dangerous predator's home 57 percent of the time, creating a dangerous scenario where a child could linger in front of a home while playing the game. Worse, 73 percent of the time one of these in-game elements presented itself near a pedophile's home.

Governor Cuomo Weighs in

Within 48 hours of these findings and reports being published, Governor Andrew Cuomo directed the New York State Department of Corrections and Community Supervision (DOCCS) to restrict sex offenders under community supervision from using Pokémon GO and similar games. To implement this change, DOCCS will be notifying registered sex offenders that they are prohibited from using internet enabled gaming activities such as Pokemon Go as a special condition of their parole. Pursuant to 9 NYCRR 8003.3, the Board of Parole or DOCCS may impose special conditions of parole on parolees prior to or subsequent to their release from a correctional facility.

This new special condition of parole states:

"I understand that I shall not download, access, or otherwise engage in any Internet enabled gaming activities to include Pokémon Go. I further understand that I shall not be in the company of any person who is engaged in any Internet enabled gaming activities nor will I have any gaming software on any Internet enabled device that I am permitted to access or otherwise possess."

Westchester and Rockland Investigation

This second investigation was conducted using a very similar methodology to the New York City investigation.

1. A list of primary addresses of sex offenders in each borough of New York City was compiled using the Division of Criminal Justice Services website database. The list was prioritized using residential addresses of sex offenders whose crimes involve the sexual abuse of children or the possession of child pornography.
2. Those addresses were then visited while using the Pokémon GO mobile application to see which in-game activities and objectives are located in the immediately surrounding area of these sex offenders' addresses. This information was compiled to show a pattern of dangerous in-game activity. This data reveals easy opportunities for sex offenders to interact with children playing the game.
3. Concurrently, maps of Pokéstops and Gyms (i.e. screenshots of a sex offender's address), provided by researchers, were cross-referenced with portals from a location-based game called Ingress that were the basis for Pokémon GO sites and was also made by the same company, Niantic Labs.

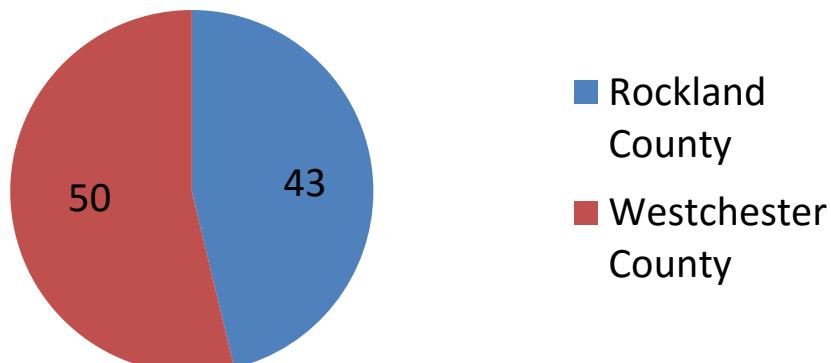
All of this information was then analyzed to identify patterns of increased opportunity for registered sex offenders to access children.

Investigative Findings

1. Pokémon and Characters Found Directly in Front of Sex Offenders' Residences

In the time spent in each neighborhood, 93 Pokémon were caught at the 100 addresses of the time directly in front of a sex offender's residence. These are offenders whose crimes involve the sexual abuse of children or the possession of child pornography. In the game, a player must try to capture various creatures that randomly appear as a player walks. In order to capture these creatures (Pokémon), a player is required to stop frequently and remain in that location, in order to successfully capture it.

**93 Instances that a Pokémon appeared in front
of a registered sex offender's residence during
the research window**

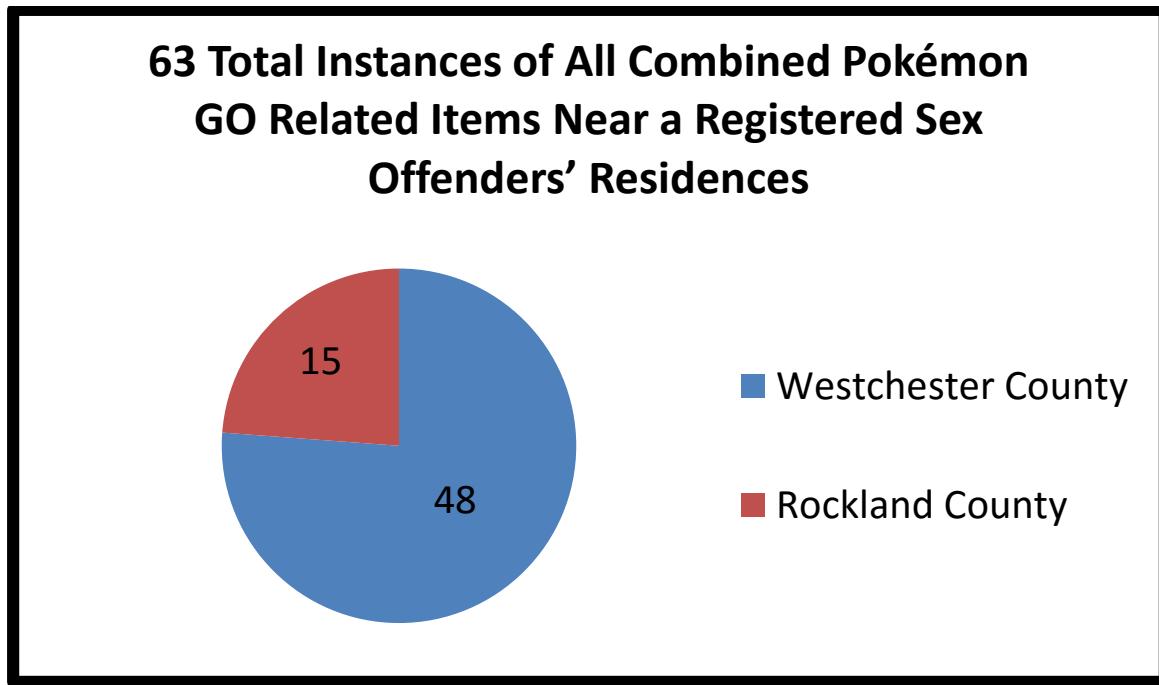


2. Pokéstops and/or Gyms Located Near a Sex Offenders' Residences

There were also 14 total pokéstops or Gyms found throughout the Westchester and Rockland counties in close proximity during the investigative period of 100 addresses. That means 14% of the time a Pokémon player was near a sex offender's residence, there was a pokéstop or Gym located nearby for just the addresses we actually searched. There are still remaining addresses outside of our search filed. These pokéstops and Gym are the locations in the game where a player (i.e. sex offender) can use the "Lure" feature of the Pokémon GO game to draw others to that location or where a player can go to strengthen their character. Any child playing this game could be lured to a public location where a sex offender could be playing and waiting for the child.

3. Total Instances of All Combined Pokémon GO Related Items located near a Registered Sex Offenders' Residences

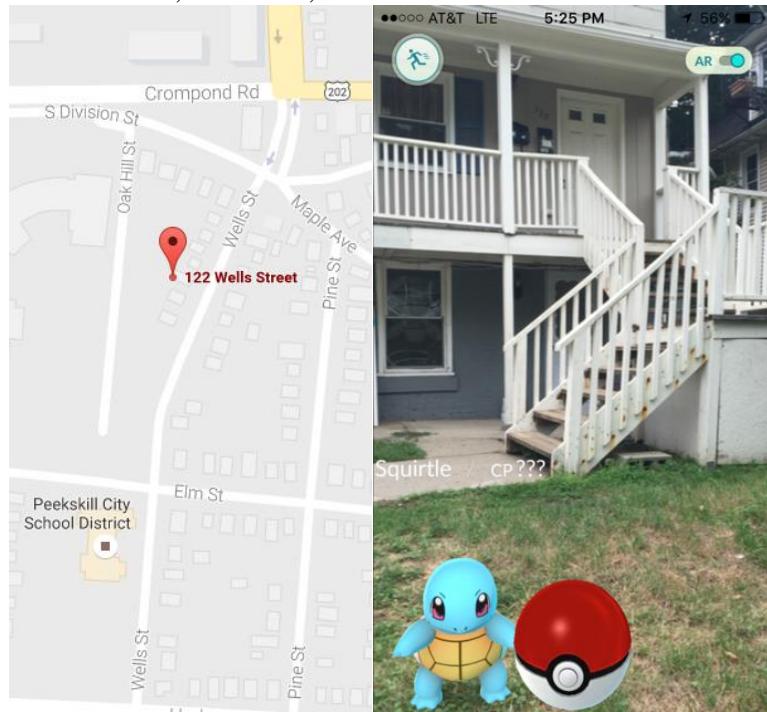
In total, the investigation found that 63 of the 100 sex offenders address were near a Pokémon GO related item (actual Pokémon, PokéStop and/or Gyms).



Below are a set of screen shots from the Pokémon GO game in front an actual registered sex offender's primary registered address.

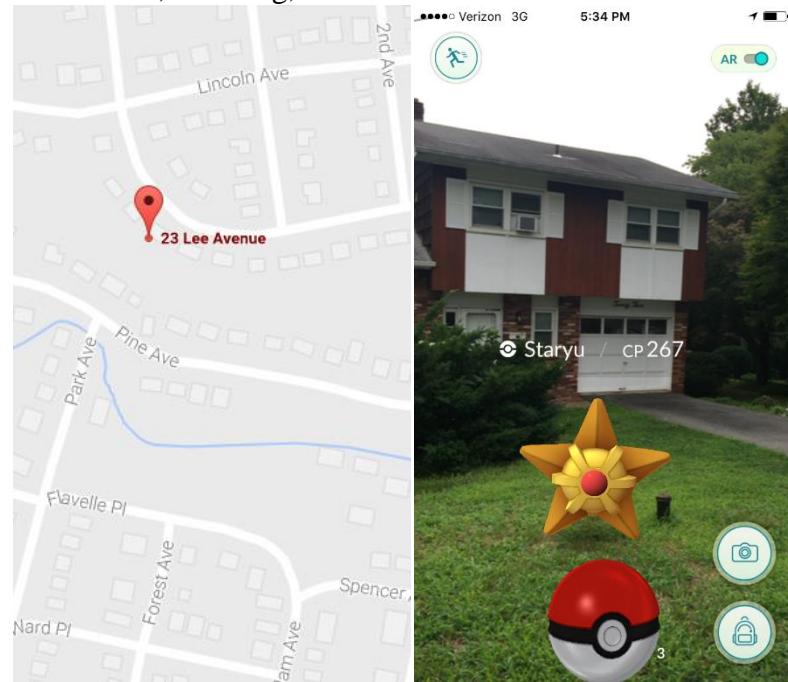
Peekskill

122 Wells St, Peekskill, NY 10566



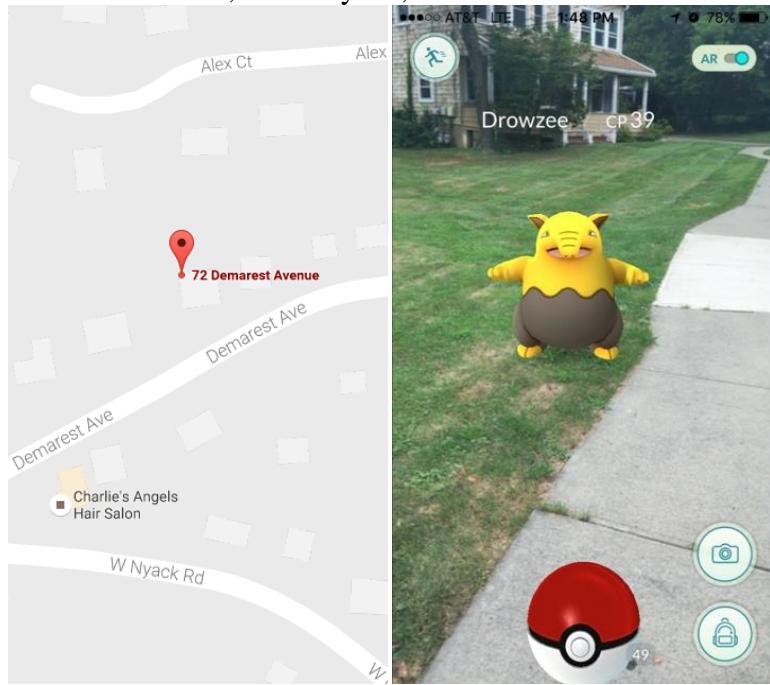
Ossining

23 Lee Ave, Ossining, NY 10562



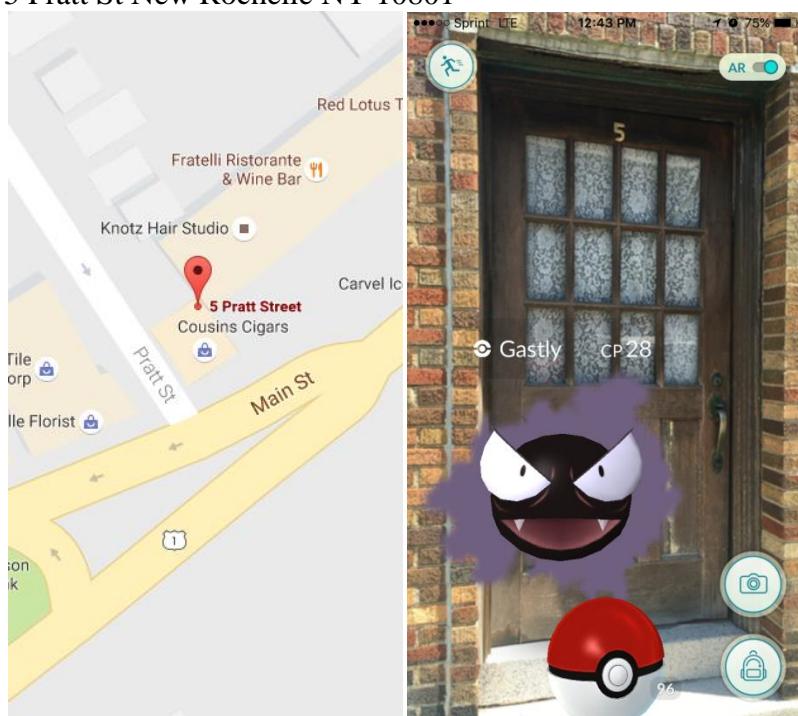
Nyack

72 Demarest Ave, West Nyack, NY 10994



New Rochelle

5 Pratt St New Rochelle NY 10801



Augmented Reality Games

An augmented reality game is a digital application or game, typically accessed on mobile devices such as smart phones, tablets, augmented reality glasses, etc., which cause users to physically move to and/or personally interact with real-world locations (outside of the user's home). The purpose is to achieve goals by visiting real-world locations to find and interact with objectives inside the game.

One of the more popular augmented reality games on the market now is Pokémon GO. Pokémon GO allows players to capture, battle, and train virtual creatures, called Pokémons, which appear on mobile device screens as though they exist in reality by using GPS and the camera on compatible devices. Pokémon GO Plus, a related Bluetooth-connected hardware device, is planned for future release and will alert users when Pokémons are "nearby" with an audible tone and/or physical vibration. The prospect of this hardware device will likely induce even more consumers to begin playing the game on a regular basis, increasing its popularity.

With the large influx of people who are using Pokémon GO, the chances for misuse by sex offenders has increased substantially. Notably, this free to download game is accessible by people of all ages, both very young children and adults of any age. By extension, this includes sex offenders. Because it is a game where people must "interact" in real time in the real world, it has created the potential for dangerous situations arising between children and sex offenders.

Recent Events across the Country with Sex Offenders and Pokémon GO

Since the game was published less than a month ago, there have been multiple instances where the game goals and objectives have overlapped with sex offenders across the US.

In Arizona, a Pokéstop was located at the same location as a hotel that had been turned into a halfway house where 43 registered sex offenders were currently living.

In another instance, a registered sex offender in Indiana was caught and arrested for actually playing the game with a 16-year-old boy on the local courthouse lawn when he was recognized by two local probation officers.²

In an additional instance, one Pokéstop was placed at the outdoor sign of Sunny Acres, a San Luis Obispo sober-living facility which caters to, among other populations, recovering alcohol and drug addicts, and released sex offenders.³

² <http://www.nydailynews.com/news/crime/indiana-sex-offender-arrested-playing-Pokémon-teen-article-1.2710477>

On July 21, 2016, CNN.com released a Parents' Guide to Pokémon GO, which urges caution at Pokémon "Pokéstops" and "Gyms," because of encounters with strangers. While the guide does not mention sex offenders specifically, there is a suggestion of discussing "stranger danger" with children who are playing this game; because the guide mentions that this game requires face-to-face interaction with other players, there are often lengthy in-person encounters, as players gather at these meeting locations.⁴

Even more recently a New Jersey man has filed a federal suit against game makers Niantic Inc., Nintendo Co., and the Pokémon Company after he had numerous people knock on his door who he did not know and who asked to come onto his property to catch a specific Pokémon that was in his yard. He is now seeking class action status so others who have had Pokéstops and Gyms placed on their property can join him.⁵ This is another instance of the interaction between the players of the Pokémon GO game and people they do not know and places that they are unfamiliar with.

Pokémon GO and New York Sex Offenders

There are inherent dangers that Pokémon GO presents as it relates to New York children and dangerous sex offenders. The first danger for a child playing Pokémon GO can occur the instant a child leaves his/her house to play this game. As a child walks down any street to play this game, in any neighborhood, a Pokémon character can appear on a child's device at any time. Because the object of the game is to immediately stop in order to catch a character, a player must linger in the spot where a character appears on their screen. This creates a serious, imminent danger for children who, unknowingly, stop directly in front of a sex offender's home.

Aside from catching a Pokémon randomly in front of the home of a potential predator, other in-game elements called "Pokéstops," "Gyms," and "Lures" present similar dangers with the potential for sex offenders playing the game to easily identify where large crowds of children will be at any given time. Elements of the game that have high value to its users tend to attract large groups of people who are playing the game in a certain location in the real world. This happened on Friday, July 15, 2016 in Central Park, when hundreds of people showed up to capture a rare Pokémon, one of the valuable in-game elements.⁶ In addition, developer-generated sites are frequently situated within feet of sex offender homes. All of these are elements and/ or locations that the developer or a player can manipulate or monitor in the real world.

³ <http://www.cbsnews.com/news/Pokémon-go-sex-offender-home-california-leads-players/>

⁴ <http://www.cnn.com/2016/07/21/health/pokemon-go-advice-for-parents/>

⁵ <http://bigstory.ap.org/44f3cb1b9d8b4499ad2bd709b3d90b45>

⁶ http://gothamist.com/2016/07/16/watch_hundreds_of_Pokémon_go_player.php

“Pokéstop”: This is a location placed by the game developer that the player must find and use in order to collect objects necessary to continue playing the game. Pokéstops are stationed around the world at important cultural spots, such as statues, public buildings, as well as other types of locations like playgrounds. These locations do not change in the game. An actual real world example where this could be worrisome is a location where a high concentration of children under the age of 18 may be visiting, such as the Palisades Center or a Rockland Boulders baseball game.

“Lure”: This is an item used to entice Pokémon to show up at a specific Pokéstop. Any user, once they attain a certain level (easily achieved), can place a “lure” module at any Pokéstop. A registered sex offender could play this game, and set up a lure outside of his or her home, at a playground, or any other location that is also a Pokéstop in order to entice children to his or her location. Lures are inexpensive and easy to obtain. Achieving certain levels within the game rewards a player with free lures, and players can purchase lures in the game’s shop. One lure module costs 100 Pokécoins and 8 lure modules costs 680 Pokécoins. Coins can be purchased by players with real-world money:

| Number of Coins | Cost (U.S. Dollars) |
|-----------------|---------------------|
| 100 | \$0.99 |
| 550 | \$4.99 |
| 1,200 | \$9.99 |
| 2,500 | \$19.99 |
| 5,200 | \$39.99 |
| 14,500 | \$99.99 |

At this rate, a sex offender could quickly and easily purchase 28 lure modules for only \$19.99.

“Gym”: This is a separate physical location where a player must go to train and strengthen their collection of Pokémon. Multiple players must physically go to these “Gym” locations in order to participate.

Removing the Dangers from the Pokémon GO Game

Upon review, currently, the augmented reality game developer of Pokémon GO, Niantic Labs, does have a formal process to remove a Pokéstop from the game. A user must provide the developer with certain information in order to report an address. The user must be able to say why the location needs to be removed, the exact name of the Pokéstop, the exact address of the Pokéstop, and if possible, the latitude and longitude. This is only one in-game element though, and there is no mechanism for a user to ask that Pokémon do not appear at specific addresses, although the existence of this complaint mechanism does seem to indicate that the developer currently *does* have the ability to exclude currently established in-game locations.

Submit a request

Your email address*

[REDACTED]

Subject*

How do i get a address removed?

Suggested articles

Pokémon GO Trainer guidelines

Additional info/reason for your request*

How do I get a specific address removed from the Pokemon GO game?

The reported PokéStop/Gym is

Dangerous

PokéStop/Gym is dangerous because it is*

On a major roadway, highway, freeway, or bridge

Exact name of PokéStop*

Please fill in this field if you are reporting an issue with a PokéStop or Gym

Address of the PokéStop/Gym*

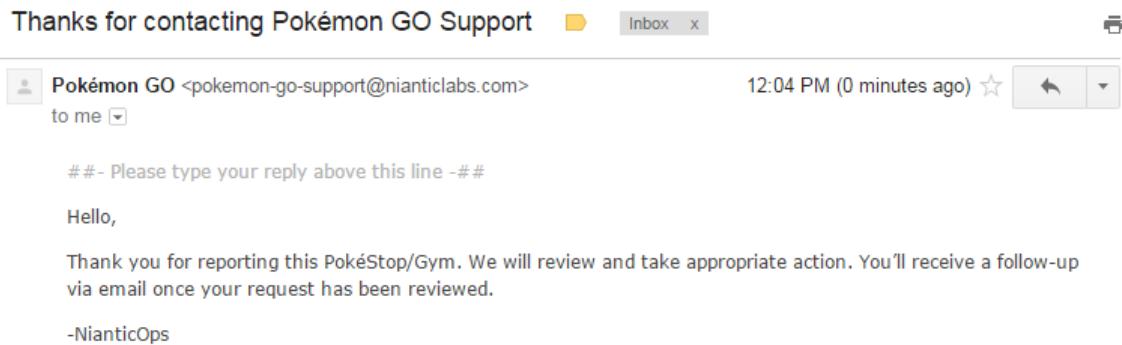
Latitude / Longitude of the PokéStop/Gym (optional)

Attachments

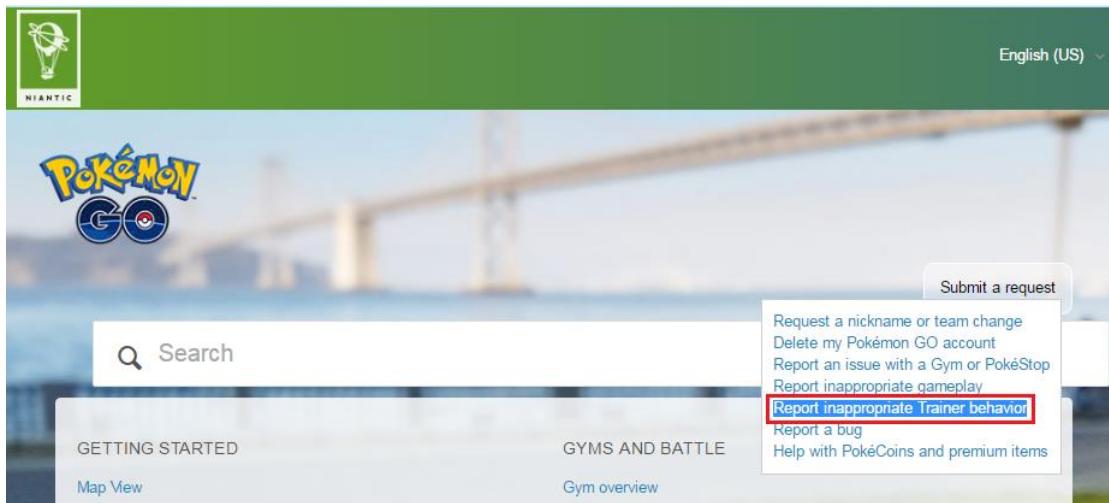
Add file or drop files here

Submit

The response that is received after this is sent is a short statement saying they will look into the issue.



If a user desires to report an instance of inappropriate behavior by another player in the game via their site, the user must fill out a generic email form and wait for a response.



When a response does come from the company, the user receives the following email merely instructing them to reach out to local law enforcement:

 Pokémon GO <pokemon-go-support@nianticlabs.com> 9:26 AM (47 minutes ago)   

to me 

##- Please type your reply above this line -##

Trainer,

Please contact your local police or law enforcement for further assistance if you feel you are in danger.

Thank you for contacting us about this issue - we've received your report. Please be assured that we investigate all reports, but we can't discuss actions taken on other Trainers. We will reach out to you if we need any further information.

If it would make you feel more comfortable, we can change your nickname without any impact to your progress. We can also delete your current account so you can start playing with a new email address. If you prefer one of these options, please reply to this email and let us know.

If you have additional information you'd like to send regarding this particular report, please reply to this email instead of filling out our contact form again.

-NianticOps

Sex Offender Laws in New York

Residency Restrictions for Sex Offenders

In order to protect communities from the dangers posed by released sex offenders on probation or parole, New York State places several restrictions on them with respect to residency and movement. Level 1 or Level 2 sex offenders whose victim was under the age of 18, as well as all Level 3 sex offenders, are prohibited from entering school grounds or being within 1,000 feet of any school or institution used primarily for the care or treatment of persons under the age of 18. The Executive Law § 259-c (14) and Penal Law § 65.10 (4-a) state that Level 3 sex offenders or those sex offenders with victims under the age of 18 on parole or probation:

“shall refrain from knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of the Penal Law, or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present.”

Section 220.00 of the Penal Law then goes on to define school grounds as:

“(a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high,

vocational, or high school, or (b) any area accessible to the public located within one thousand feet of the real property boundary line comprising any such school or any parked automobile or other parked vehicle located within one thousand feet of the real property boundary line comprising any such school. For the purposes of this section an ‘area accessible to the public’ shall mean sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.”

The New York State Department of Corrections and Community Supervision (DOCCS) has interpreted these statutes as prohibiting sex offenders from knowingly residing within 1,000 feet of school buildings and from knowingly traveling within 1,000 feet of school buildings.

Internet Usage for Sex Offenders

Current law, Section 65.10 of the penal law, states that Level 1 or Level 2 sex offenders whose victim was under the age of 18, as well as all Level 3 sex offenders, are prohibited from using the internet to access pornographic material, access a commercial social networking website, or communicate with other individuals or groups for the purpose of promoting sexual relations with persons under the age of eighteen. However, it is unclear if this explicitly prevents sex offenders from playing augmented reality games, which utilize the internet to allow players to interact socially and arrange for encounters. While it is conceivable these games could fall under the category of a social networking website via judicial interpretation, they are not social networking in the traditional sense, nor are they websites. A statutory clarification would make clear that the legislative intent is to prevent sex offenders from accessing these games.

Legislative Solutions

While immediate steps were necessary to protect New York's children before the legislative session resumes, we must ensure that we codify language that prohibits high-level sexual predators from using augmented reality games to prey on children. The members of the Independent Democratic Conference introduced S. 8174 which would ban Level 2 and 3 sex offenders on parole or probation from downloading and playing these games.

It is also incumbent upon game developers to ensure children enjoying its products are safe. While members of the IDC encouraged the maker of Pokémon GO to remove the addresses of dangerous pedophiles, the members of the IDC introduced S.8173 which would require game developers to regularly consult the Division of Criminal Justice Service's New York State Sex Offender Registry and remove all in-game objectives from within 100-feet of the game.

1. Legislation: Active Sex Offender Ban on Augmented Reality Games

Currently, sex offenders in this category are banned from using social media, but the statute is not clear on whether a game such as this constitutes social media. The lack of clarity is what creates the need for the codification of this legislation. This legislation uses the IDC's new definition of "augmented reality games" to ban sex offenders on probation or conditional discharge pursuant to §65.10 of the New York Penal Law from downloading or playing any augmented reality game. This bill would keep the game out of the hands of known sex offenders with a recent history of offenses against children.

2. Legislation: In-Game Sex Offender Residence Restriction

This new legislation would place restrictions inside the game that would prevent children from playing the game near a sex offender's primary residence. The provisions include the following:

- In-game objectives cannot be located within a 100-foot radius of the sex offender's home.
- The game developer must obtain information regarding all publicly-listed sex offender addresses from the Department of Criminal Justice Services (DCJS) website, and must update this information on a monthly basis.
- The attorney general will have the power to enforce the provisions of the act, including issuing cease and desist orders against the game developer in the event that they are not complying with the act.
- Penalties include a maximum \$100 per day fine for each location in the game that does not comply with the exclusion requirements in the act. These fines could be substantial, as there are thousands of sex offender residences around the state.