



NATIONAL DISTRICT ATTORNEYS ASSOCIATION

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Nation's Prosecutors Sound the Alarm on MeToo Kits and Admissibility of Forensic Evidence in the Courtroom

ARLINGTON, Va – Today, the National District Attorneys Association (NDAA) expressed serious concerns with the use of at-home rape kits as a substitute for professional forensic examinations conducted by medical professionals, which jeopardizes necessary evidence collection for prosecutors and law enforcement to seek justice for victims of crime. Recently, private companies have marketed products such as the “MeToo Kit” to the general public, claiming these products will allow victims of sexual assault to “take back control”¹ by performing do-it-yourself forensic evidence collection. In reality, at-home kits are no substitute for the complicated forensic medical exams conducted by professionals and have little chance of admissibility in a court of law, meaning these products could deny justice for thousands of victims throughout the country.

Following the public release of these at-home kits, NDAA has become concerned that misinformation will lead victims and survivors to falsely rely on the marketing practices of these companies that have prioritized profit over safety. For example, advertising from some companies has falsely claimed that these kits will allow victims to retain control over “precisely the information you want to share.”² This could not be further from the truth. Should a victim attempt to use an at-home rape kit in the course of a criminal investigation, this evidence would be subject to open discovery by defense counsel and could potentially fall short of many long-standing legal standards for admissibility and accuracy in a criminal proceeding. Without a proper forensic exam by medical professionals, victims face the potential of drawn out pretrial hearings, uncomfortable pretrial interviews, and embarrassing cross examinations.

Further, there is no clear guidance on whether these kits would be admissible in a court of law, once again establishing a new roadblock for victims seeking justice. Should one of these kits be introduced in a criminal proceeding, labs may have to place multiple disclaimers on any evidence collected leading many courts to deny admissibility of any forensic evidence collected at-home. Yet again, the use of these kits would exacerbate re-victimization for those who turn to the criminal justice system and prevent prosecutors from holding offenders accountable. NDAA joins sexual assault advocates, the law enforcement community, and victims’ rights organizations in denouncing the use of these at-home rape kits as a substitute for legitimate forensic evidence collection.

Formed in 1950, NDAA is the oldest and largest national organization representing state and local prosecutors in the country. With more than 5,300 members representing over two thirds of the state and local prosecutors’ offices, NDAA is recognized as the leading source of national expertise on the prosecution function and is a valuable resource for the media, academia, government, and community leaders. NDAA’s mission is to provide state and local prosecutors with the knowledge, skills, and support they need to ensure that justice is done and that public safety rights are protected.

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¹ <https://www.vox.com/identities/2019/9/5/20850965/me-too-kit-metoo-rape-sexual-assault>.

² <http://www.metookit.com/>.