

# Life Esidimeni Inquest Fact Sheet



In September 2019, the National Prosecuting Authority (NPA) reported it did not have enough evidence to bring charges against officials and NGO owners in the 144 deaths it had been investigating relating to the Life Esidimeni tragedy.

The NPA did, however, announce that a Formal Joint Judicial Inquest into all the deaths relating to the Life Esidimeni Tragedy would be instituted at the Pretoria High Court.

In April 2021, Judge Mmonoa Teffo was appointed to preside over the Inquest. The Inquest is scheduled to begin on the 19th of July 2021 at 10am.

SECTION27 is representing the families of 44 of the mental healthcare users who died in the Life Esidimeni tragedy of 2016 and The South African Depression and Anxiety Group (SADAG), in the Inquest. Our counsel for the Inquest are Adv Adila Hassim SC, Adv Nasreen Rajab-Budlender SC, and Adv Thabang Pooe.

Judge Teffo will assess expert evidence, witness testimony, police files and investigations - including post-mortem reports, where they are available - as well as evidence from the Arbitration hearings and other documentation surrounding the circumstances of the deaths, to ascertain, for each of the mental healthcare users (MHCUs) who passed away during the Gauteng Mental Health Marathon Project:

1. the identity of the deceased;
2. the cause or likely cause of death;
3. the date of death; and
4. whether the death was brought about by criminal actions or omissions.

## - **What is an Inquest?**

An inquest is a judicial inquiry to ascertain the facts relating to an unnatural death. An inquest is held when someone dies from other than natural causes. The Inquest Act 1959 provides for the holding of these kinds of inquiries.

There are no 'accused' parties and no 'defence'. An Inquest is not a trial, and no one will be 'found guilty' or sentenced at the end of the Inquest. An Inquest is like a public inquiry, presided over by a judge; its purpose is to establish the truth of how death came about. The judge will decide whether there is *prima facie* (on the face of it) evidence of any criminal offence or negligence, and whether this might have been responsible for any of the deaths.

The findings from the presiding judge will help the NPA decide whether to take criminal prosecutions forward in future.

## - **How will the Inquest work?**

In most cases, inquests are held in public, which means that the public is welcome to attend. In some cases, the designated judicial authority may decide that the inquest should be held behind closed doors or without the presence of any particular person.

Due to lockdown level 4 restrictions, the Pretoria High Court has moved all proceedings online, where possible. The Life Esidimeni Inquest will be held over Microsoft Teams. Judge Teffo has said that **the public and members of the press can watch the proceedings online via a live stream hosted on the Judiciary's YouTube Channel, which you can access here: <https://www.youtube.com/c/JudiciaryRSA>**. SECTION27 and SADAG will share links for these proceedings on Twitter and Facebook when they become available. Follow our social media pages (@SECTION27news @theSADAG @LifeEsidimeni) for updates. Journalists can apply for access to the legal papers from Caselines by contacting the secretary of the judge.

It is a crime to give false evidence (either orally or in a written statement) at an Inquest. A criminal offence is committed by anyone who prejudices, affects, or predicts the findings of an inquest.

During the first week of the Inquest (19-23 July 2021), parties will make "opening statements", setting the scene for the Inquest. Thereafter, witnesses will give oral evidence. The evidence leader, Adv Pieter Luyt, or other lawyers, will ask the witnesses certain questions to tell what they know about what happened in the Life Esidimeni tragedy. This is called "evidence-in-chief". Other lawyers are then allowed to "cross-examine" witnesses.

At present, we do not know how long the Inquest will continue for, and we do not know exactly when witnesses are going to be called to give evidence. When this information becomes available, we will communicate it with the press.

The Inquest will only focus on the deaths that we know about. The Inquest will not investigate the treatment or suffering of MHCUs who survived the tragedy or the situation of MHCUs who may still be missing.

## - **Why does the Inquest matter?**

After establishing the legal causes of the deaths of MHCUs who were transferred from Life Esidimeni, Judge Teffo will present their findings. These findings will inform possible criminal prosecutions. So the Inquest is an important step towards achieving criminal accountability for the 144 MHCUs who died in the Life Esidimeni tragedy.

**For a timeline of the events that led up to the Life Esidimeni tragedy, and what has happened since the deaths of the 144 MHCUs, read this timeline here:**

<https://section27.org.za/wp-content/uploads/2021/07/LE-Factsheet-2017-2021-inquest-timeline.docx.pdf>

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