[2001] Inquest LR 101, para 109), which is why they must be accorded an appropriate level of participation: see also R (Amin) v Secretary of State for the Home Department [2004] 1 AC 653, [2003] Inquest LR 1. An uninformative jury verdict will be unlikely to meet what the House in Amin, para 31, held to be one of the purposes of an Art 2 investigation: "that those who have lost their relative may at least have the satisfaction of knowing that lessons learned from his death may save the lives of others."

79. There are no doubt cases in which public acknowledgment of failures on the part of agents of the state in a forum other than an inquest can indeed form part of the means by which the state discharges its investigative obligation. We are not suggesting that any admitted failings have to be included in every case. The manner in which the state discharges that obligation will, as Ms Dolan correctly submitted, vary from case to case. The position may be entirely different if, for example, a public inquiry or a criminal prosecution has taken place.

80. But this is not such a case. Here, there is real force in Ms Favata's submission that it was not reasonable or lawful for the admitted shortcomings in Mr O'Neill's medical care to be excluded from the Record of the Inquest, so that the conclusion as to the death was merely described as natural causes. The material facts leading up to the deceased's death included substandard care by agents of the state which, if they were to pass unmentioned, would render the bland short form "natural causes" verdict inadequate to describe properly the circumstances in which the deceased met his death.

81. In our judgment, the admitted failings of the Trust's medical staff were not otiose because they were admitted, as Ms Dolan submitted. On the contrary, they should have formed part of the inquest findings precisely because they were admitted, and formed part of the evidence heard by the jury.

82. We do wish to emphasise, however, that this does not mean the scope of investigations in inquests needs to be expanded. We are very far from saying that inquests should become more complex than they already are. That would be contrary to the public interest. It is not necessary to look into every possible issue. The narrative that ought to have been included in this case could have been expressed in a couple of brief sentences. This would have produced a more complete, publicly available, Record of Inquest.

83. To that extent only, the application is well founded and the inquest was deficient. However, a fresh inquest is unnecessary and would serve no useful purpose (as was decided, despite a misdirection, in R (P) v HM Coroner for the District of Avon [2009] Inquest LR 287; see para 33 of Maurice Kay LJ's judgment). The present application before the court, and the court's judgment, suffice to make good the deficiency, without any further order or relief being granted. The Record of Inquest should therefore not be quashed, and subject to hearing counsel, we do not consider that any further relief is required beyond a declaration that the application is well-founded to the extent identified in this judgment.

Burke-Monerville v HM Senior Coroner for Inner North London

Issue: Whether an injunctive order should be granted to prevent an inquest from proceeding until after the outcome of a judicial review permission hearing challenging a pre-inquest disclosure decision.

Court: Administrative Court

Judge: William Davis J

Date: 8 July 2016

Facts: The applicant's son, J, was fatally shot on 16 February 2013. Three men were charged with his murder but the trial did not proceed due to failings in the prosecution process. At a pre-inquest review hearing three working days prior to the start of the inquest, the coroner received various materials from the Metropolitan Police Service including intelligence and gang related operational material which, in part, related to the three men charged with the murder. The applicant argued that whether the police were in a position to put measures in place to prevent the shooting of J was a legitimate issue to be explored at the inquest. When the coroner refused disclosure of the material the applicant applied for permission to review that decision and sought injunctive relief to prevent the inquest from going ahead.

Decision: The application for urgent relief was dismissed.

The critical question for the coroner when determining the disclosure application had been whether the material concerned was relevant. The upcoming inquest was not one to which Art 2 ECHR applied.

The applicant speculatively asserted that armed individuals were able to act with impunity despite a high degree of police monitoring. If there were some real prospect of showing that the shooting of J – who was an entirely innocent victim unconnected to any gang – might have been due to some failure on the part of the police, the material would be of relevance. However no support for that proposition could be

found in the primary material available to the applicant. It could not sensibly be argued that the investigation into the circumstances in which J came to be shot should or could be informed by the detail of police operations of the kind sought. It followed that the decision of the coroner could not be impugned as unreasonable.

The inquest could not be a route for the applicant to air his grievances, even if real and wholly genuine. The fact that the applicant felt that material was being withheld from him did not make that material relevant.

No question of procedural unfairness arose. The coroner had reached her decision in relation to disclosure after hearing full submissions. That her decision was questioned in relation to its substance did not render it procedurally unfair. Nor would the inquest be rendered procedurally unfair due to the non-disclosure. If there was any unfairness, which there was not, it would have been substantive.

Appearances: A Munroe for the applicant.

Judgment:

1. John Monerville is the father of Joseph Monerville who was shot on 16 February 2013 whilst in a car stationary on Hindley Road, Hackney in East London. On 11 July 2016 the inquest into the death of Joseph is due to be conducted by HM Coroner for St Pancras, the inquest being due to last around 2 days. John Monerville seeks an injunctive order preventing the inquest from commencing until after the outcome of an application for permission to judicially review the decision of HM Coroner to refuse disclosure of documents held by the Metropolitan Police.

2. The documents of which disclosure is sought are threefold. First, there are intelligence and other documents arising from a police operation known as Operation Narmen in respect of which a man named Reid was a target. This operation was authorised as live on the day before the death of Joseph. Second, there are minutes of Integrated Gangs Unit meetings and other material emanating from that unit relating to three men, namely Andrews, Reid and Nowaz. Third, there is material emanating from Operation Trident in relation to an intensive police operation in December 2012 concerning a criminal gang known as the Pembury Gang.

3. The three men named were charged with the murder of Joseph Monerville. For reasons which are not of direct relevance to this application the trial of those men which was due to take place in May 2015 at the Central Criminal Court ended abruptly before it even began. I understand that a police/CPS review of the case with Mr Monerville and other members of Joseph's family has accepted that there were failings in the prosecution process.

4. HM Coroner held a PIR on 6 July 2016. She was then provided with the material of which disclosure was sought. Although she had not reviewed the material prior to the PIR she did so prior to making her decision. Moreover, she reviewed the material in the light of the submission made by counsel (Ms Allison Munroe) which invited her to order disclosure of the documents set out above. I have been provided with copies of the written submissions provided to the coroner. I have heard oral submissions this evening from counsel in relation to the application generally. She confirmed that the submissions she made on 6 July 2016 did not add materially to the written submissions. I have not seen the material in question. But that does prevent me from reaching a conclusion as to whether there is any sensible prospect of the decision of HM Coroner being found to have been unreasonable.

5. The inquest due to commence on Monday is not an Art 2 inquest. It is not in reality a *Jamieson* inquest. When making submissions to me this evening, counsel accepted that there was no clear allegation that a lack of police care had led to the death of Joseph. As she put it the case being put involved a degree of speculation. The critical question for HM Coroner was whether the material concerned was relevant. Although she had the advantage of reading the material, it is possible to reach a proper conclusion on the issue of relevance simply by reference to the nature of the material as described in the statement of the Borough Commander, a DCS Laurence.

6. The core of the submission made by counsel to HM Coroner is set out at paras 21 and 22 of the submission dated 17 June 2016. It is said that armed individuals were able to act with impunity despite a high degree of police monitoring. Whether the police were in a position to put measures in place to prevent the shooting of Joseph is said to be a legitimate issue to be explored at the inquest. If there were some real prospect of showing that the shooting of Joseph – who was an entirely innocent victim unconnected to any gang – might have been due to some failure on the part of the police, the material would be of relevance. Nothing in the primary material which is available to Joseph's family and which I have seen provides any support for that proposition. As counsel accepted in the course of the telephone hearing this evening, this inquest cannot be a route for Joseph's family to air their grievances – which are very real and wholly genuine. The fact that the family feel that material is being withheld from them cannot make that material relevant. It was argued in the hearing before me that the recent history involving the relevant gangs ought to have alerted the police to the likelihood of reprisals. That may be so. Indeed the

actions taken by the police as described by DCS Laurence indicate that the police did consider that to be likely. It cannot sensibly be argued that the investigation into the circumstances in which Joseph came to be shot can or will be informed by the detail of police operations of the kind referred to by DCS Laurence. It follows that the decision of HM Coroner cannot be impugned as unreasonable.

7. The draft application for permission to apply for judicial review cites Osborn v Parole Board [2014] 1 AC 1115. It is said that this decision is relevant in the context of this case by reference to the requirement for procedural fairness. Having had cause to consider the case of Osborn in some detail when I decided Morgan v Secretary of State for Justice [2016] EWHC 106 (Admin) earlier this year, it is not clear to me how any question of procedural fairness arises in this case. HM Coroner reached her decision in relation to disclosure after hearing full submissions. That her decision is questioned in relation to its substance does not render it procedurally unfair. Nor will the inquest be rendered procedurally unfair due to the non-disclosure. If there is any unfairness (which I do not consider there is) it is substantive.

8. I am very grateful to Ms Munroe for her submissions both written and oral as indeed should be the Monerville family. She has said all that possibly could be said in favour of this application. However, I conclude that it cannot succeed. The inquest must proceed on Monday. This does not prevent an application for permission to apply for judicial review but any such application will have to follow the event.

R (Hicks and Ors) v HM Senior Coroner for Inner North London

Issue: Whether an order excluding family members from the main hearing room and restricting them to listen to some witnesses' evidence via an audio link was lawful.

Court and Reference: Administrative Court, CO/3084/2016

Neutral Citation: [2016] EWHC 1726 (Admin)

Judges: Gross LJ and Irwin J

Date: 15 July 2016

Facts: Henry Hicks died on 19 December 2013 when his moped collided with a stationary car in Islington. He had been reported as failing to stop by police, and two unmarked police cars were following him at the time. Very shortly after the death, hostility to the police officers in question was widely expressed on social media in strong language, often obscene and graphic. This included comments from Mr Hicks' father and sister.

On 15 June 2015, on application, the coroner granted an anonymity order to the four police officers involved pursuant to r18 Coroners (Inquests) Rules (screening witnesses) and Arts 2 and 3 ECHR. This order was not, however, based on the social media material, which was unknown to the coroner at the time, rather it was based on a police risk assessment and review of police intelligence held since the death of Mr Hicks. Due to practical limitations with the courtroom not being able to accommodate "special measures" for witnesses the coroner directed that, during the evidence of the four officer witnesses, only the coroner, the jury, coroner's officers, the legal teams "and the immediate family of Henry Hicks" would be present in court.

In the period intervening that order and the scheduled hearing of the inquest the officers became separately represented. On the Friday before the first listed day of the inquest, those representing the individual police officers supplied the social media material to the coroner and applied for a direction that the family should not be permitted to see the faces of the four officers. The application was heard in the absence of counsel for the family with representations in opposition being heard in advance.

The coroner varied her order and ruled that the family would be excluded from the main hearing room while the four witnesses gave their evidence. Family members would be able to follow the evidence from the secondary room, listening on the audio link.

The Claimant challenged this decision as being contrary to the principle of open justice.

Decision: The application was refused.

The common law principle of open justice was fundamental and applied to inquests just as to other courts of record. It was supported by Art 10 ECHR and by the freestanding obligation of investigation pursuant to Art 2 ECHR. It was fundamental that any investigation into fatal events was heard in public. Orders such as in the present case should only be made where necessary and to the extent necessary.

The starting point for considering the lawfulness of approach taken by the coroner was her order of June 2015. That order anonymised the witnesses on the basis of the evidence of threat then before the court. There was no challenge to that order. The making of that order was a proper step to take as matters then stood, to protect the lives and safety of the four police officers concerned. Anonymity was a critical element