A framework for the management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province, South Africa

By

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A thesis submitted in fulfilment of the requirements of the degree of Doctor of Philosophy in Library and Information Science

In the

Faculty of Accounting and Informatics

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2024

ABSTRACT

The advent of Information and Communication Technologies (ICTs) has led to exponential growth of digital or electronic records and has also revolutionised the creation, capture, use, management and preservation of these records. Courts like any other public organisations are increasingly harnessing ICT to manage all their records as well as using them for justice delivery processes. This study sought to investigate the management of digital court records for justice delivery in the selected High Courts in the Eastern Cape Province, South Africa, with the view to propose a framework for the study, guided by the following research objectives: to determine the extent to which digital court records are managed in High Courts in the Eastern Cape Province, to determine the availability of infrastructure for the management of digital court records in High Courts in the Eastern Cape Province, to ascertain the compliance with legal and statutory framework for the management of digital court records for justice delivery by High Courts in the Eastern Cape Province, to establish the barriers to effective management of digital court records in High Courts in the Eastern Cape Province, to propose a framework for management of court records for justice delivery in High Courts in the Eastern Cape Province and to make recommendations on the management of digital court records for justice delivery in High Courts in the Eastern Cape Province.

The current study adopted the pragmatism paradigm since it allows the use of Mixed Methods Research (MMR) and provides a rationale for paradigmatic pluralism. The population of the study consisted of the court managers, court registrars, chief registry clerks, registry clerks, and a librarian. Quantitative data was coded and analysed using Microsoft Excel 2016, while qualitative data was analysed using content analysis. The study established that digital court records are vital to the administration of justice. However, these records are fragile in nature. This underscores the necessity of High Courts having an efficient digital record management system.

The findings revealed several challenges to effective management of digital court records, which among others are inadequate technological infrastructure, inadequate technical support and inadequate skills and knowledge in the Information and Communication Technology (ICT). The study recommends the following: a continuous digital court records management training programme for court staff and other related or relevant personnel; the enhancement of the infrastructure; the management of digital court records within the national framework of the management of electronic public records.

Keywords: Digital court records, High Courts, Information and Communication Technologies, justice delivery, management of digital court records, records management.

DECLARATION

I, Khunjulwa Ntengenyane, declare that this study ***"A Framework for management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province, South Africa"*** is my original work. I have not previously submitted the thesis to any other University for an academic award. All the sources I have used or quoted in this study have been indicated and acknowledged.

Signature… …… **Date**2024-11-06……

Student: Khunjulwa Ntengenyane

Signature… …….. **Date**…27-01-2025……

Supervisor: Prof Tlou Maggie Masenya

ACKNOWLEDGEMENTS

I would like to express my gratitude to Almighty God, my savior for giving me the strength and ability to start and finish my thesis. I am forever grateful to God for His mercy upon me.

I would like to express my sincere gratitude and appreciation to my supervisor, Dr Tlou Maggie Masenya for her guidance, support, and words of encouragement from the beginning of the research proposal to the final submission of this thesis. Without her help, I would not have come through.

My heartfelt appreciation goes to Mr Festus Khayundi. I am forever grateful to him for always believing that I can achieve great strides in life and academics. I am also forever grateful for his continuous support, and his words of encouragement throughout the completion of my thesis. I would also like to express my gratitude to Mrs Vuyolwethu Feni-Fete for her support, words of encouragement, and always believing in me that I can finish my studies.

To my family, to my sister, Ncediswa Ntengenyane, and my brother Mfuneko Ntengenyane. Thank you so much for everything you have done for me and thank you for your support and undying love. I would like to thank all my friends that have supported me during this study period.

I would like to express my sincere gratitude and appreciation to the Office of Chief Justice (Mthatha High Court and Grahamstown/Makhanda High Court) for allowing me to conduct this study. I would like to thank all the staff on both High Courts for the time that they gave me in providing the valuable data to use for this research to be a success. Thank you so much.

DEDICATION

To: my son Luphawu Baraka Ntengenyane, my mom Nosizwe Nomvula Ntengenyane, my mentor F.E Khayundi, my nephew Migcobo Ntengenyane, and my niece Onwabe Ntengenyane.

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LIST OF ABBREVIATIONS

AJJF: African Judges and Jurists Forum

CAO: Commonwealth Archives Office

CCPA: California Consumer Privacy Act

CPIC: Canadian Police Information Center

CRMS: Computerized Court Records Management System

CRMS: Court Records Management System

CRS: Commonwealth Record Series

DLM: Document Life-cycle Management

DOI: Diffusion of Innovation

DOJ & CD: Department of Justice and Constitutional Development

ECTA: Electronic Communications and Transactions Act

EDMS: Electronic Document Management System

EDRMS: Electronic Document and Records Management System

ERA: Electronic Records and Archives

ERMS: Electronic Records Management System

EROS: Electronic Records in Office Systems

EU: European Commission

GDPR: General Data Protection Regulation

HR: Human Resource

ICT: Information and Communication Technology

ICTs: Information and Communication Technologies

InterPARES: International Research on Permanent Authentic Records in Electronic Systems

ISO: International Standard Organization

IT: Information Technology

MoReq: Model Requirements for the Management of Electronic Records

NARSSA: National Archives and Records Service of South Africa Act

NDAD: National Digital Archive of Datasets

OCJ: Office of the Chief Justice

PACE: Police and Criminal Evidence Act

PAJA: Promotion of Administrative Justice Act

POPIA: Protection of Personal Information Act

RCM: Records and Continuum Model

RICA: Regulation of Interception of Communications Act

UK: United Kingdom

US: United States

USA: United States of America

CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

1.1. Introduction

Electronic and digital records have grown exponentially since the advent of Information and Communication Technologies (ICTs). It has also transformed the way in which these documents are created, captured, organized, managed, and preserved (Huni and Dewah 2019: 134; Legodi 2021; Lowry 2013; Masenya 2021: 55; Mosweu 2021; Ntengenyane and Khayundi 2021; Ntengenyane and Masenya 2022). According to Amofah (2017: 8), the influence of technology has changed the traditional ways of court case operations such as case filing, case fees, and case list.

Like other public sector organisations, courts are increasingly using digital records for the delivery of justice (Huni and Dewah 2019: 134; Mosweu and Kenosi 2018; Masenya and Ngulube 2019; Ntengenyane and Masenya 2022). Essentially, a record captures authentic, reliable, integral, and useable information that is kept as evidence of activities and transactions of an organisation. The International Council on Archives (ICA) standard for records management defines “a record as an information created, received, and maintained as evidence and an asset by an organisation or person, in pursuit of legal obligations or in the transaction of business” (ISO 15489-1; 2016: 2). The Judicial Council of California (2020:7) defines an electronic court record as a record that needs to be accessed using an electronic device. Both electronically filed records and electronic copies or versions of paper-filed records are included in the phrase "electronic court record."

It is noteworthy that, like paper-based records, digital records must be precisely kept, operate as a basis for confidence, and continue to serve as proof of the organisation's operations for as long as necessary (ICA 2016). As Aljneibi (2014) points out, digital records, like other court documents, play an important part in the successful prosecution of a crime, thus they must be properly managed. Huni and Dewah (2019: 134) noted that digital records are comparable to paper records in that they may be used as evidence in court and are considered legal documents. In support, Mosweu and Kenosi (2018) state that digital or electronic court records are a vital and irreplaceable source of information in the delivery of justice because they are used by the courts and the parties involved.

Furthermore, digital court records can facilitate the investigation and prosecution of criminals by law enforcement officials and give the public easier access to court services (Huni and Dewah 2019: 135; Legodi 2021). Notably, the administration of justice by courts has an impact on fundamental rights of citizens, it is crucial that the judiciary upholds these rights via cases that are thoroughly recorded and comply with stringent record-keeping standards.

However, it is worth noting that digital records are extremely vulnerable to loss, and some cannot be retrieved due to negligence or mismanagement (Masenya 2021: 55). Therefore, digital records need always be available, protected, and managed effectively to ensure effective delivery of justice in the courts (Issa and Wamukoya 2018: 30). ISO 15489 Records Management Standard defines “records management as a process of managing records for the efficient and systematic control of the creation, receipt, maintenance, use, and disposition” (ISO 15489-1 (2016: 3). Records management, in whatever format, is essential to ensure the authenticity, integrity,

reliability, and usability of records if they are required (Drabo 2021: 13; Duranti 2010: 6).

Furthermore, managing court documents is a foundation of efficient and effective delivery of services by courts. Undoubtedly, this is of special interest to court users, who often cannot afford the consequences of delays, corruption, and inaccuracies. Moreover, McKemmish (2013) indicates that efficient records administration is vital in maintaining credibility, protecting human rights, combating corruption, and ensuring openness of information. Records management not only helps to secure documents but also improves operational efficiency, governance, and the reputation of organisations.

Equally important, records management is a technique for improving effective business practices and efficient administration (Guto and Jumba 2021: 54). Mosweu and Rakemane (2020: 103) opine that promoting good governance requires effective records management. Efficient and successful records management is largely dependent on good governance principles including accountability, openness, and the rule of law.

Unfortunately, it is not possible to manage digital or electronic records programme within the traditional paper-based registry systems. Electronic records management programme is efficient and effective within appropriate legislation, technology infrastructure, knowledge and skills, staff and user support, and risk management plan for fragility of digital media, the absence of accurate metadata, and rapid obsolescence of software and computer information systems (Johare, Hussin and Jamaludin 2011; Masenya and Ngulube 2019; ISO 23081-1 2006; ISO 16175-2 2011; Saman and Haider 2012).

Notably, electronic records management systems offer instant access to information in networked environments, while at the same time safeguarding their authenticity, reliability, and usability over time (Amofah 2017; Drabo 2021:13; Duranti 2010:6). Notwithstanding ongoing controversies regarding authenticity, reliability, and integrity of electronic records for admissibility as evidence in criminal and civil proceedings; there is increasing global adoption of electronic records management systems for justice delivery by courts (ICA 2008; Johare *et al* 2011; ISO 15489 2016; Saman and Haider 2012; ECTA Act 25, 2002). As a result, there is an increasing need to convert courts into electronic or digital format so that filing, maintenance of records, and recording of evidence and hearing arguments, are in digital form to enable possible hearings, arguments, and recording of evidence via video conferencing. These measures can speed up the hearings, reduce congestion in courts, apart from cutting down on travel time and expenses of litigants and lawyers (AJJF 2021). Additionally, electronic court records management systems represent an important response to Freedom of Information (FOI) and justice for all as universal cardinal rules of human rights.

The Covid-19 pandemic underscored the important role of virtual courts as major alternative venues for justice delivery. However, this poses many challenges that require attention before the mainstreaming of virtual courts in the delivery of justice systems. According to African Judges and Jurists Forum (AJJF) (2021:22) firstly, “online court tended to be lawyer centric, with access by self-represented litigants very much dependent on many factors such as adequate training and access to the internet”. Secondly, “it was reported that matters to be heard by the High Courts must be represented exclusively on case lines, with judges refusing to hear matters that have not been registered with, or documents uploaded, on the system. This made it

difficult for smaller level law firms or self-representing litigants to effectively present their cases because of unreliable and irregular internet connectivity" (AJJF 2021:22). Lastly, "access to virtual court was restricted to those with internet connectivity, meaning that those without internet had to wait longer for cases to be heard in person due to COVID-19 restrictions" (AJJF 2021:22). Most virtual hearings were also not live streamed, taking away the public nature of court proceedings (AJJF 2021:22).

1.2. Background to the study

Government all over the world are using information and communication technologies (ICTs) to enable the delivery of their programmes more effectively and efficiently and to increase the participation of the citizens in their governance through their e-government initiatives (Mosweu 2021: 87), and the advent of Covid-19 has shown the importance of virtual courts, and the implication of that is that digital court records must be properly managed. Literature reveals that in Africa, there are many obstacles in the implementation of electronic records management programmes (Asogwa 2012; Drabo 2021; Legodi 2021; Maseh 2015; Omolaye-Ajileye 2016: 2).

A bibliometric study by Chigariro and Khumalo (2018:170) on "Electronic records management research in ESARBICA" revealed that "most regions in the Eastern and Southern Africa Regional Branch of the International Council on Archives (ESARBICA) region lacked capacity and faced numerous challenges in managing digital records" (Chigariro and Khumalo 2018:170).

This was attributed to an absence of electronic records management policy and legislation, standardization, authenticity, capacity building, and physical infrastructure. Concerns about electronic records administration, data security, and the lack of computer skill on the part of register workers and users were not fully understood by

recordkeeping professionals and government officials (Chigariro and Khumalo 2018:170; Dewah and Mutula 2015). The AJJF (2021:18) opined that the state of court digitization in Southern Africa varies greatly, with some jurisdictions having advanced significantly while others are still very much in the early phases of the process. Generally, the reviewed literature reveals paucity of research and studies on the effect of electronic records on delivery of justice in South Africa especially in the provinces in historically disadvantaged areas.

Legodi and Dikotla (2022: 27) in their study done on the "e-docket system for improved administration and justice delivery in selected Limpopo province police stations" indicated that in the Criminal Justice Systems, of which the South African Police Service (SAPS) is an integral part, officials often struggle to conclude criminal cases because poor records management makes it possible for criminal officials to tamper with dockets or steal dockets usually managed manually in police stations. The few studies in the Eastern Cape province cover the management of paper-based records such as Mafu (2024); Ntengenyane (2018); Ngezana (2018). In support, studies by Jacobs and Lemekoana (2021), and Sindane (2013) do not focus on the extent to which managing electronic court records influences justice delivery.

There were no studies have been conducted in the Eastern Cape Province concerning the management of digital or electronic court records. Probably, the findings of this study are likely to fill some of the knowledge gaps identified on the management of digital records by high courts in the Eastern Cape Province. More importantly, this study sought to investigate the management of digital court records for justice delivery in selected high courts in the Eastern Cape Province of South Africa with a view to propose a framework for the management of digital records in the selected High Courts.

1.3. Definition of terms and concepts

This section defines and describes terms and concepts used in this study.

1.3.1. Record

According to ISO 15489 (2016: 2), “a record is information created, received, and maintained as evidence and as an asset by an organisation or person, in pursuit of legal obligations or the transaction of business”. Records regardless of form or medium should possess the following characteristics:

- Authenticity – “an authentic record is one that can be proven to be what it purports to be; have been created or sent by the agent purported to have created or sent it; and have been created or sent when purported” (ISO 15489-2016: 4).
- Reliability - “a reliable record is one whose contents can be trusted as a full and accurate representation of the transactions, activities, or facts to which they attest; and which can be depended upon in the course of subsequent transactions or activities” (ISO 15489-2016: 4).
- Integrity – “a record that has integrity is one that is complete and unaltered. A record should be protected against unauthorized alteration” (ISO 15489-2016: 5).
- Useability – “a useable record is one that can be located, retrieved, presented, and interpreted within a time deemed reasonable by stakeholders. A useable record should be connected to the business process or transaction that produced it” (ISO 15489-2016: 5).

1.3.2. Digital/electronic record

Electronic record is “any information that is recorded in machine readable form” (State of Florida 2010: 4). Electronic records include “numeric, graphic, audio, video, and textual information which is recorded or transmitted in analog or digital form such as electronic spreadsheets, word processing files databases, electronic mail, instant messages, scanned images, digital photographs, and multimedia files” (State of Florida 2010: 4). In this study digital and electronic records are used interchangeably.

1.3.3. Records management

Records management is “a function that has significant potential in supporting credibility only if its principles and values are implemented” (Guto and Jumba 2021: 52). According to ISO 15489-1 (2016: 3), “records management involves the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records”.

Records management is “a corporate function that has critical potential in supporting credibility if its principles and values are appropriately implemented. In the absence of proper records management, transparency, accountability, and efficiency in the public sector would be heavily compromised” (Guto and Jumba 2021: 53). Franks (2018:19) defines records management as “the management of information resources in a manner that makes information easily accessible, securely protected and stored and correctly disposed when necessary”. Thus, records management controls and oversees the creation, maintenance, use and disposal of records.

1.3.4. Electronic records management

Electronic records management refers to “the use of electronic capabilities to manage records”. Keeping track of documents digitally, whether they are in paper or electronic format (Ambira 2016:13).

1.3.5. Electronic Document Management System

National Archives and Records Service of South Africa (NARSSA 2007) define electronic document management system as a system that allows for the capture, description, and classification of electronic documents as well as their storage, retrieval, sharing, and reuse in any format.

1.3.6. Electronic Records Management System

Electronic records management system is “a system that contains business rules to manage records to ensure that they are authentic and reliable” (NARSSA 2007). In addition, the National Archives of Australia (2004) define the “electronic document management system as an automated system used to manage the creation, use, maintenance and disposal of electronically created records for the purposes of providing evidence activities”. These systems maintain appropriate contextual information that is the metadata and links between records to support their value as evidence.

1.4. Contextual setting

The Judiciary plays a very important role in the delivery of justice in any country (Tiwari and Singh 2020:196). The Judiciary is acknowledged as the judicial branch of government under the South African Constitution. The Department of Justice and Constitutional Development (DOJ & CD) at the federal level oversees its operations.

As per the Constitution of the Republic of South Africa No. 108 of 1996 as amended in 2003, the Judiciary is made up of the following courts: “the Constitutional Court, the Supreme Court of Appeal, the High Courts, the Magistrates’ Courts, and any other court established by an Act of Parliament, including Income Tax Courts, the Labour Court and the Labour Appeal Court, the Land Claims Court, the Competition Appeal Court, the Electoral Court, Divorce Courts, Small Claims Courts, Military Courts, and Equality Courts. According to Meintjes-Van der Walt *et al*. (2011), there are thirteen high courts across the eight provinces in South Africa. In each province, the high courts are divided into Provincial and Local High Court. For the study, Mthatha and Grahamstown High Courts were the selected High Courts.

High courts deal with different kinds of cases, for example, civil cases and serious criminal cases. Some of these cases emanate from the lower courts, for instance, the magistrates court (Lowry 2013). Ladan (2014) points out that the High Courts comprise judges, registrars, litigation officers and other court clerks. These judges' primary duty is to interpret the law and provide a forum to resolve disputes” (Ladan 2014).

Ladan (2014) states that the gathering and use of information is crucial to the accomplishment of court staff responsibilities. In this sense, court records, which comprise case files, registers, record books, and cause books, include the information that those officials find most helpful. The way records have been managed determines the availability of information for use by the officers which enables them to adjudicate judicial cases (Ladan 2014). Undoubtedly, this record keeping has major implications for viable records management programmes.

The National Archives and Records Service of South Africa Act (NARSSAA) Act No. 43 of 1996, as amended requires all organisations to keep records. Section 13 of

NARSSA Act No. 43 of 1996 as amended contains specific provisions for efficient records management in government bodies. A governmental body is “any legislative, executive, judicial or administrative organ of state including a statutory body at the national level of government” (National Archives and Records Service of South Africa (NARSSA 2007). The NARSSA Act No. 43 of 1996 (as amended) provides for the National Archivist to determine, among other things, the guidelines for managing electronic records systems and the circumstances under which records may be microfilmed or created electronically (NARSSA 2007).

Additionally, according to the Electronic Communications and Transactions Act No. 25 of 2002 (ECTA) “data messages are legally admissible records, provided that their authenticity and reliability as true evidence of a transaction can be proven beyond any doubt”. The purpose of the ECTA No. 25 of 2002 “is to legalize electronic communications and transactions, and to build trust in electronic records”. Thus, the veracity of the communication management practices used by the sender and recipient will determine, among other things, the evidentiary weight of the electronic records, including emails. Therefore, government agencies face the danger of having the evidentiary value of their electronic documents, including emails, weakened if they do not have a reliable and secure record keeping system, a properly enforced records management policy, and an email policy (NARSSA 2007).

It is noteworthy that current delays in the delivery of justice by South African courts is attributed to, among others, missing of court files and inadequate and outdated computer technology (Nengomasha 2012; Ngoepe and Makhubela 2015). In South Africa, as the justice department plods towards an electronic access system, the court staff and the public continue their uphill battle to access documents (Nengomasha 2012). National Prosecuting Authority of South Africa (NPA) (2021) attests that many

courts in North West have experienced an extraordinary backlog of criminal cases, which was exacerbated by the pandemic, coupled with poor record-keeping and records management practices during the Covid-19 pandemic (NPA 2021).

Teffo and Chuma (2023: 35) alluded that the “criminal justice institutions, such as courts and ministries of justice, suffer from inadequate management of court records, which undermines the legal and judicial systems”. South African courts are overburdened with backlogs, delays, and corruption due to poor electronic record management. The dysfunctional management of electronic records has led to poor service delivery and justice for citizens.

As a result, the findings of the study done by Teffo and Chuma (2023) on the “Management of electronic records to support judicial systems at Temba Magistrates’ Court in the North West Province of South Africa” revealed that the major consequences experienced in court were backlog of cases, disrupted flow of records, delays in registering cases, and duplicate copies of legal records, difficulties in tracking and retrieving court records, misplacement, and misfiling of records (Teffo and Chuma 2023:48).

Moreover, the findings were consistent with Mafu (2014), Muchaonyerwa and Khayundi (2014), Ngoepe and Makhubela (2015), Ngezana (2018), Ntengenyane (2018), and Ntengenyane and Khayundi (2021) who found that poor records management system undermines the operation of the court and causes backlogs in court cases, misplaced and missing of records, duplication of records, and delays in justice delivery in South Africa in general, and in the Eastern Cape Province in particular.

1.5. Problem statement

The advent of Information and Communications Technologies (ICTs) has witnessed the development of varied digital platforms that public and private sector institutions adopt to deliver efficient and effective services to the public or clients. The literature emphasizes the significant transformation of ICTs in court records management processes to enhance efficiency and effectiveness in the processes of justice delivery (Greenwood and Bockweg 2012; Issa and Wamukoya 2018; Tep *et al*. 2019). Electronic and document management systems (EDRMS) make possible the creation or receipt, maintenance, and dissemination of information while ensuring compliance with legal and statutory requirements for the electronic records management (Johare *et al* 2011).

In addition, the use of EDRMS allows exchange and sharing of information in networked environments while safeguarding the authenticity, reliability, integrity, and usability of records over time (Duranti 2010; ISO 2016). Furthermore, this enables hearings of arguments and recording of evidence via video conferencing hence speeds up the hearings, reduces congestion in courts, and cuts reducing the time and cost of plaintiffs' and attorneys' travel (AJJF 2021; Jacobs and Lemekoana 2021; Tiwari and Singh 2020).

However, implementation of efficient and effective electronic records management systems is anchored in appropriate local or international standards and best practice (ICA 2008; Johare *et al* 2011; ISO 2016; Saman and Haider 2012). This is important in supporting the fragile and obsolescent nature of records while at the same time safeguarding their authenticity, integrity, and usability as long as they are required (Duranti 2010; ISO 2016). It is worth noting that although there is increasing growth

of electronic court records, for many countries in the developing world, especially in Africa, the deployment of electronic records management systems or programs is still significantly hampered by a lack of resources (Abioye 2014; Asogwa 2012; Drabo 2021; Hasan and Rupa 2021; Ismail *et al*. 2021; Issa and Wamukoya 2018; Lowry 2013; Muchaonyerwa and Khayundi 2014; Nengomasha 2012; Saman and Haider 2012; Tiwari and Singh 2020). For example, very few countries in the Eastern and Southern African geographical region have adequate electronic records management infrastructure for efficient and effective service delivery to the public. This is attributed to inadequate resources necessary to support viable electronic records management programmes (Ambira 2016, IRMT 2011; AJJF 2021; Chigariro and Khumalo 2018).

Although South Africa has the legal and statutory framework for electronic records management, there is scarce documentation on the implementation of viable electronic records management programmes in government departments and public institutions (Ndakasharwa 2014; Ngoepe and Saurombe 2016). Notably, there is paucity of literature on management of court records in whatever format in South Africa (AJJF 2021). Studies by Mafu (2014); Ngezana (2018); and Ntengenyane (2018) exclusively cover the management of paper-based records in magistrates courts in Middledrift, Mthatha, and Alice respectively. The study by Nyachowe (2004) was an evaluation of legal rules, challenges, and benefits of electronic court filing, while the study by Jacobs and Lemekoana (2021) was on electronic records management at the Department of Justice and Constitutional Development.

Moreover, the concept paper by Saurombe (2014) discussed challenges and prospects of adoption of E-justice in South Africa and the developing world. Ngoepe and Khumalo (2016) addressed some important obstacles that likely lead to corrupt, denial or delayed justice delivery by courts in South Africa due to poor recordkeeping

practices by courts. Additionally, delays in registering case records, completing paperwork, and registering cases all directly affect people's legal rights. Therefore, the efficiency of daily court operations and the impartiality of judicial rulings depend critically on a robust and accurate case file system (Issa and Wamukoya 2018:31-32).

Legodi and Dikotla (2022: 27) in their study done on the "e-docket system for improved administration and justice delivery in selected Limpopo province police stations" indicated that in the Criminal Justice Systems, of which the South African Police Service (SAPS) is an integral part, officials often struggle to conclude criminal cases because poor records management makes it possible for criminal officials to tamper with dockets or steal dockets usually managed manually in police stations.

Teffo and Chuma (2023: 35) alluded that the "criminal justice institutions, such as courts and ministries of justice, suffer from inadequate management of court records, which undermines the legal and judicial systems". South African courts are overburdened with backlogs, delays, and corruption due to poor electronic record management. The dysfunctional management of electronic records has led to poor service delivery and justice for citizens.

Furthermore, the studies in the Eastern Cape proved that there were cases of backlogs and delays in the deli very of justice. Mafu (2014: 109) states that the findings revealed that at MMC "there were backlogs of cases pending hearing. It was, however, established that some delays do occur due to missing the dockets from SAPSM. On the other hand, Ngezana and Muchaonyerwa (2019: 16) stated that there were cases of mismanagement and misfiling of records due to lack of resources, lack of skills and abilities of records management staff, and inadequate storage of records, while the findings by Ntengenyane (2018: 178) alluded to that the court delays in the delivery of

justice were due to misplaced and lost records. this was attributed to the misfiling and inefficient retrieval of the required records. The studies indicated the management of paper-based records.

In this study, the researcher holds the view that what is successfully in operation at the courts of law may be learned by other countries' courts. Thus, the study looked into actions, plans, and systems or technologies utilised globally to manage digital court documents in order to improve digital records management procedures in South African High Courts. Therefore, this study sought to investigate the management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province in South Africa to fill this important knowledge gap on digital court records management for justice delivery.

1.5.1. Aim of the study

The aim of the study was to investigate the management of digital records for justice delivery in selected High Courts in the Eastern Cape Province in South Africa, with the view to develop a framework for the management of digital court records.

1.5.2. Research objectives

The study was guided by the following research objectives which were to:

- Determine the extent to which digital court records are managed in High Courts in the Eastern Cape Province.
- Determine the availability of infrastructure for the management of digital court records in High Courts in the Eastern Cape Province.

- Ascertain the compliance with legal and statutory framework for the management of digital court records for justice delivery by High Courts in the Eastern Cape Province.
- Establish the barriers to effective management of digital court records in High Courts in the Eastern Cape Province.
- Propose a framework for management of court records for justice delivery in High Courts in the Eastern Cape Province.
- Make recommendations on the management of digital court records for justice delivery in High Courts in the Eastern Cape Province.

1.5.3. Research questions

The study answered the following research questions:

- What is the extent to which digital court records are managed in High Courts in the Eastern Cape Province?
- What is the availability of infrastructure for the management of digital court records in High Courts in the Eastern Cape Province?
- To what extent does the management of digital court records for justice delivery comply with the legal and statutory framework in High Courts in the Eastern Cape Province?
- What are the barriers to effective management of digital court records in High Courts in the Eastern Cape Province?
- What is the framework to be proposed to enhance management of digital court records for justice delivery in High Courts in the Eastern Cape Province?

- What recommendations can be made on the management of digital court records for justice delivery in High Courts in the Eastern Cape Province?

1.6. Conceptual framework

The conceptual framework for this study was based on the following models namely: the records lifecycle, records continuum model, diffusion of innovation, and Model Functional Requirements for the Management of Electronic Records (MoReq). The Record Continuum Model (RCM) is meant to demonstrate or support theories, while Model requirements for management of electronic records are meant to safeguard the authenticity, reliability, integrity, and usability of records. The RCM was adopted in the study since it describes the stages of electronic records in a continuous cycle. The MoReq was adopted because it focuses on the electronic records management. Beyond only offering guidelines, the MoReq offers technical assistance on how to put electronic record-management systems into practice.

1.7. Significance of the study

The significance of any study is determined by how the study adds to scholarly research and literature in the field; how it improves practice in the area of interest; and how it improves policy (Creswell 2014). The significance of this study produced new knowledge since most studies on court records management in the Eastern Cape Province are in paper-based format (Mafu 2014; Ngezana and Muchaonyerwa 2019; Ngoepe and Makhubela 2015; Ntengenyane 2018). Therefore, the pioneering findings are likely to inspire more research in this area.

Additionally, the findings of the study will probably appeal to the management of the two high courts and may result in a review of the existing operations and policies on the management of digital court records. Such policy review may result in the

allocation of more resources in strengthening the existing infrastructure, knowledge, and skills, as well as increased interest and support by stakeholders.

Although the findings of the study are localized to the Eastern Cape Province in South Africa, there is high probability that they will attract wider circulation and sharing through international communication networks such as websites, internet, social media etc. Furthermore, the study may establish or refine approaches to improve data collection, analysis, or interpretation. This might include the implementation of new technology, procedures, or frameworks that records officers can employ in future studies.

The framework for the management of digital court records that was developed based on the findings of the study will probably lead to important developments in the efficient and effective management of electronic records in the High Courts studied. In addition, the framework may serve as a source of knowledge or reference source for the management of digital records in the high court system in the Eastern Cape Province.

Therefore, this study is significant for documenting new knowledge on the management of digital court records for justice delivery by High Courts in the Eastern Cape Province in South Africa. This is important to enhance justice delivery, thereby solving the problem of justice delayed or denied as well as the protection of Human Rights.

1.8. Originality of the study

Cruz *et al*. (2022: 37-39) define originality as the work was produced as result of the independent work of the creator or author. The definitions of originality all denote the importance of innovation and novelty in the creation of original works. The concept of originality in research is best understood with innovation in the foreground and

competence in the background. Original research utilises impact leverage to realize creative and scholarly goals Cruz *et al*. 2022: 37-39).

Additionally, originality can be defined as “a new and unique knowledge added to the body of knowledge of a domain and discovered through research, experiment, or observation to solve the real-world problem” (Shaheen 2021: 4). Edwards (2014:8) identifies the following as concepts of originality:

- Using a particular technique in a new way.
- Being cross-disciplinary and using alternative methodologies.
- Researching unexplored areas in a discipline, and
- Providing knowledge in an original way (Edwards 2014:8).

The originality of this study originates from two factors, which are the original topic and understudied area. The study is about the management of digital court records for justice delivery in High Courts, therefore, it represents a significant shift from traditional paper-based systems to modern, technology driven approaches. As a result, there are few studies that have been done in the management of digital court records. Thus, the findings of this study will add to existing knowledge on justice delivery by courts in the Eastern Cape Province by advising policymakers about the necessity of transitioning to digital systems and encouraging the development of policies that support technology adoption in the High Courts. Additionally, the current study offers innovative approaches for managing digital court records, which offers remedies that enhance court operations’ efficiency by perhaps cutting down on processing delays and facilitating better information access.

The existing literature in the Eastern Cape Province covers paper-based court records management, and none of the studies has specifically proposed a framework for the

management of digital court records. Therefore, the current study provides original knowledge on the management of digital court records for justice delivery in the selected High Courts in Eastern Cape Province, outlines the challenges and advantages of putting in place a digital court records system, which leads to better comprehension of the implications of existing procedures, and proposes a framework for managing these records in the courts of law, which provides solutions tailored to the unique challenges faced by different jurisdictions.

1.9. Scope and delimitation of the study

This study is on the management of digital court records for justice delivery. The study was carried out in Mthatha and Grahamstown High Courts in the Eastern Cape. The choice of selecting these courts was that their jurisdiction and power varies from one court to the next, and they were accessible to the researcher. Mthatha High Court holds general jurisdiction over civil and criminal matters and hears appeals from lower courts in the area. Mthatha High Court serves as a key center for judicial proceedings in the southern part of the Eastern Cape, especially given its proximity to rural areas.

On the other hand, Grahamstown High Court, known as Makhanda High Court, has general jurisdiction over civil and criminal matters. It hears appeals from lower courts, such as magistrate courts, and handles various specialised cases, including administrative law, and constitutional matters. In addition, the court plays a crucial role in the Eastern Cape legal site, serving as a key venue for legal proceedings in the region. The court is also known for educational institutions, including Rhodes University, and the court gives the intellectual and cultural environment of the area. The study comprises only people who deal with and use digital court records in the delivery of justice in High Courts.

1.10. Research methodology

According to Ngulube (2015: 6), research methodology “is central to the research process, because it is the lens through which a researcher looks when making decisions on acquiring knowledge about social phenomenon and getting answers to the research questions”. The study adopted mixed methods research. Tashakkori and Creswell (2007: 4) define mixed methods “as an inquiry in which the investigator collects and analyses data, integrates the findings, and draws inferences using both qualitative and quantitative approaches in a single study or programme of inquiry”.

1.10.1. Research paradigm

A paradigm can be defined as “a discipline’s specific method of structuring reality” (Maseh 2015: 78). Neuman (2014:96) describes a paradigm as “a general organizing framework for theory and research comprising basic assumptions, key issues, models of research, and methods for seeking answers”.

The current study adopted the pragmatism paradigm. Creswell (2014:10) identifies pragmatism as a worldview that arises out of actions, situations, and consequences rather than antecedent conditions. Pragmatism is the philosophy that allows the use of Mixed Methods Research (MMR) which includes both quantitative and qualitative research and provides a rationale for paradigmatic pluralism (Tashakkori and Teddlie 2010; Hesse-Biber 2010). The pragmatism paradigm was adopted since it allows the use of MMR where both quantitative and qualitative approaches were used in a single study to provide the full coverage of the research question identified.

1.10.2. Research methods

Research methods are procedures that a researcher uses or follows to collect and analyze data (Mathipa and Gumbo 2014:31). Creswell (2014:3) opines that the selection of a research method “is based on the nature of the research problem or issue being addressed, the researcher’s personal experience, and the audiences for the study”. There are three approaches to research, such as qualitative, quantitative, and mixed methods research approaches. The study adopted mixed methods research since it allows the use of both qualitative and quantitative research approaches. Mixed methods research also allows researchers to capture the complexity of the problem being studied by integrating numerical data with rich and descriptive insights. Additionally, qualitative data can provide context and depth to quantitative findings, helping to understand the implications of digital records management that go beyond the statistics.

1.10.3. Research design

The study adopted concurrent research design. Creswell (2014: 12) defines research design as “the types of inquiry within qualitative, quantitative, and mixed methods approaches that provide specific direction for procedures in a research study”. Ngulube (2015: 7) points out that “research design determines and controls data collection and analysis procedures”. Concurrent research design is “a form of mixed methods design in which the researcher converges or merges quantitative and qualitative data in order to provide a comprehensive analysis of the research problem” (Creswell 2014: 14). Creswell (2014: 14) states that in this research design, the researcher usually gathers both types of data at around the same time and then combines the data to analyse the overall findings.

1.10.4. Population of the study

A population is referred to as an entire collection of items or instances of a certain kind that are the focus of the investigation. A population may include particular kinds of items, groups, individuals, or even occasions (Williman 2011). The study was conducted in two High Courts in the Eastern Cape Province. The target population of the current study were the people who worked at Mthatha and Grahamstown High Courts Eastern Cape Province. The total target population for both High Courts was 15 participants consisting of the court managers, court registrars, chief registry clerks, registry clerks, and librarian. A purposive sampling technique was adopted for data collection.

1.10.5. Data collection methods

The data collection methods commonly referred to “as data sources relate to how the data is collected. For qualitative data, this is typically in the form of observation, surveys, interviews, and artefact and documents studies” (Henning *et al*. 2004: 5; Recker 2013: 90; Mosweu and Mosweu 2020: 403). A self-administered questionnaire, in-depth interviews, and review of documents were the data collection methods used in this study.

1.10.6. Data analysis methods

In this study, both quantitative and qualitative data were collected. Quantitative data was coded, and analysed using Microsoft Excel 2016, and the analysed data was presented as percentages, pie charts, tables, and graphs. Content analysis was used to analyse qualitative data according to emerging themes based on the objectives of the research study.

1.11. Ethical considerations

Creswell (2014: 92-101) states that every researcher needs to take ethics into account at every stage of the research process, from formulating the study question to publishing and disseminating the findings. For Neuman (2014:157) “the basic principles of ethical social research are: to recognize that ethical responsibility rests with the individual researcher. Hence do not exploit research participants or students for personal gain; while some form of informed consent is highly recommended or required. The researcher must honour all guarantees of privacy, confidentiality, and anonymity”.

This study was guided by ethical considerations as well as Durban University of Technology (DUT) Policy on Research Ethics. Ethical considerations were essential when dealing with people. The researcher declared to respect the rights of the participants. For instance, the real names of participants were kept anonymous to protect the privacy of the participant and those who want to remain anonymous. The study was voluntary. No participants were forced to participate. The participants were provided with the informed consent forms to confirm that they were participating in the project after having been informed of all aspects of the research that are relevant to making an informed, rational decision to participate. Moreover, participants were protected from harm in the sense that participants were treated fairly when contacted.

1.12. Chapter outline

The thesis consists of six chapters. These are organised as follows:

Chapter 1: Introduction of the study

This chapter includes the introduction, background to the study, definition of terms and concepts, contextual setting, problem statement, aim of the study, research objectives,

research questions, significance of the study, originality of the study, scope and delimitation of the study and conceptual framework, summary of research methodology, and chapter outline.

Chapter 2: Literature review on the management of digital court records in High Courts

This chapter provided the review of the relevant literature on the management of digital records for justice delivery.

Chapter 3: Research methodology

This chapter provides an explanation of the research methodology that was used to acquire data to answer the important questions of the study. It will also include a pragmatic paradigm that underpins the study. The chapter also included the ethical considerations related to the study.

Chapter 4: Data analysis and the presentation of findings

This chapter includes the data analysis and the presentation of findings of the study based on the objectives of the study.

Chapter 5: Interpretation and discussion of the findings

This chapter interprets and discusses the findings based on the objectives of the study, and the literature review.

Chapter 6: Summary, conclusion and recommendations

This chapter covers the summary of the findings, conclusions and makes recommendations based on the findings of the study.

1.13. Chapter summary

This chapter covers the study's introduction and background, which includes a discussion of digital court records management challenges. To help readers read and comprehend the research's material more easily, the chapter defined study terminology and covered the contextual environment. The problem statement and the study's objective were covered in more detail in this chapter. Additionally, the chapter addressed the study's relevance and included the objectives and questions. It was also addressed how the study was original to highlight how it differed from earlier research and how it will further our understanding of the field.

Furthermore, the chapter introduced the conceptual framework of this study. Scope and delimitation of the study was also discussed, making it clear that the focus of the study was limited to members of Mthatha and Grahamstown High Courts who were dealing and using digital court records for justice delivery. The research methodology was also introduced by summarising statements about research methods, research design, population of the study, data collection methods and data analysis. The chapter also summarised the ethical consideration used in this study. Lastly, the study provided the chapters' outline. The next chapter discusses the review of the literature related to the study, which entails the management of digital court records and the conceptual framework of the study.

CHAPTER TWO

LITERATURE REVIEW ON THE MANAGEMENT OF DIGITAL COURT RECORDS IN HIGH COURTS

2.1. Introduction

This chapter provides a detailed review of the literature on the management of digital court records for justice delivery in the High Courts. The main purpose of this study was to develop a framework for the management of digital court records. In this pursuit, the study investigated the significant transformation of ICTs in court records management processes to enhance efficiency and effectiveness in the processes of justice delivery. This chapter starts by discussing the significance of literature review in research. It provides the conceptual framework underpinning the study by discussing models in management of digital records.

In view of the study objectives, this chapter is therefore structured around the following themes: the conceptual framework which discusses the models and theories used in the study, an overview discussion of the concept of records management; the management of digital court records; importance of digital court records for justice delivery; infrastructure for the management of digital court records; legal and statutory requirements for the management of digital court records; and barriers to effective management of digital court records.

2.2. Purpose of literature review

A literature review is an overview of previous publications that are summarised by the author. The literature review documents and analyses what has been written on any particular topic by using primary, secondary, and tertiary sources (Creswell 2014;

Mudavanhu 2017). Thus, a review of the literature is crucial because it helps the researcher gain insight into the subject, locate relevant studies, and situate their work within the framework of previous research (Maseh 2015).

According to Mathipa (2014: 78), The literature is a very essential source of direction, inspiration, support, comparison, protection, and aid, and may function as a trusted companion in a long and lonely journey of study. Cooper (2010: 20) concurs that a literature review is important because it may incorporate what others have done and said, evaluate earlier academic work, connect related topics, and highlight the essential concerns in an area. Moreover, literature review may include amongst many things, the acquisition of new knowledge which broadens a researcher's scope of understanding of the issues that are topical in the research area of study. It also helps by preventing the researcher from reinventing the wheel by repeating what has already been done by other scholars.

Furthermore, Mudavanhu (2017) states that the goal of review of literature is to provide a justification of the proposed research and this can be achieved through the following objectives:

- To critique the literature: identify arguments for and against theories, assess value of research claims, and identify limitations in previous research.
- To identify gaps in literature: to identify the gap in knowledge and areas that have only been partially researched.
- To inform proposed research: provide a rationale, background or context for proposed research and guide selection for an appropriate design and methodology (Mudavanhu 2017).

Additionally, Mathipa (2014: 75) states that the explanatory meaning of literature review is often a procedure that builds upon the research topic by providing context and background information from already published sources of literature on the subject of the study in order to firmly establish the study within the appropriate study field or paradigm. Mathipa (2014: 75) further states that literature review presents a logically argued view regarding the current state of knowledge about a topic. Therefore, any scholarly study must be underscored by relevant and appropriate sources of literature to avoid the likelihood of a researcher being trapped in a corner that leaves him or her isolated and without the necessary sources of support and/or collaboration (Mathipa 2014: 75)

2.3. Literature review map

The literature map “is a tool used to organize and structure topics for the literature related to the study that needs to be acquired using internet searches and library request. This enables the researcher to realize the nature of the literature that needs to be reviewed and that the study will add to more literature in the field of study” (Creswell 2014:36). The study's objectives are used to plan out the research topics. The primary topics in the literature review were developed based on the study's objectives, which were guided by the conceptual framework and the research problem. Figure 2.1 illustrates the map of the literature review for the study.

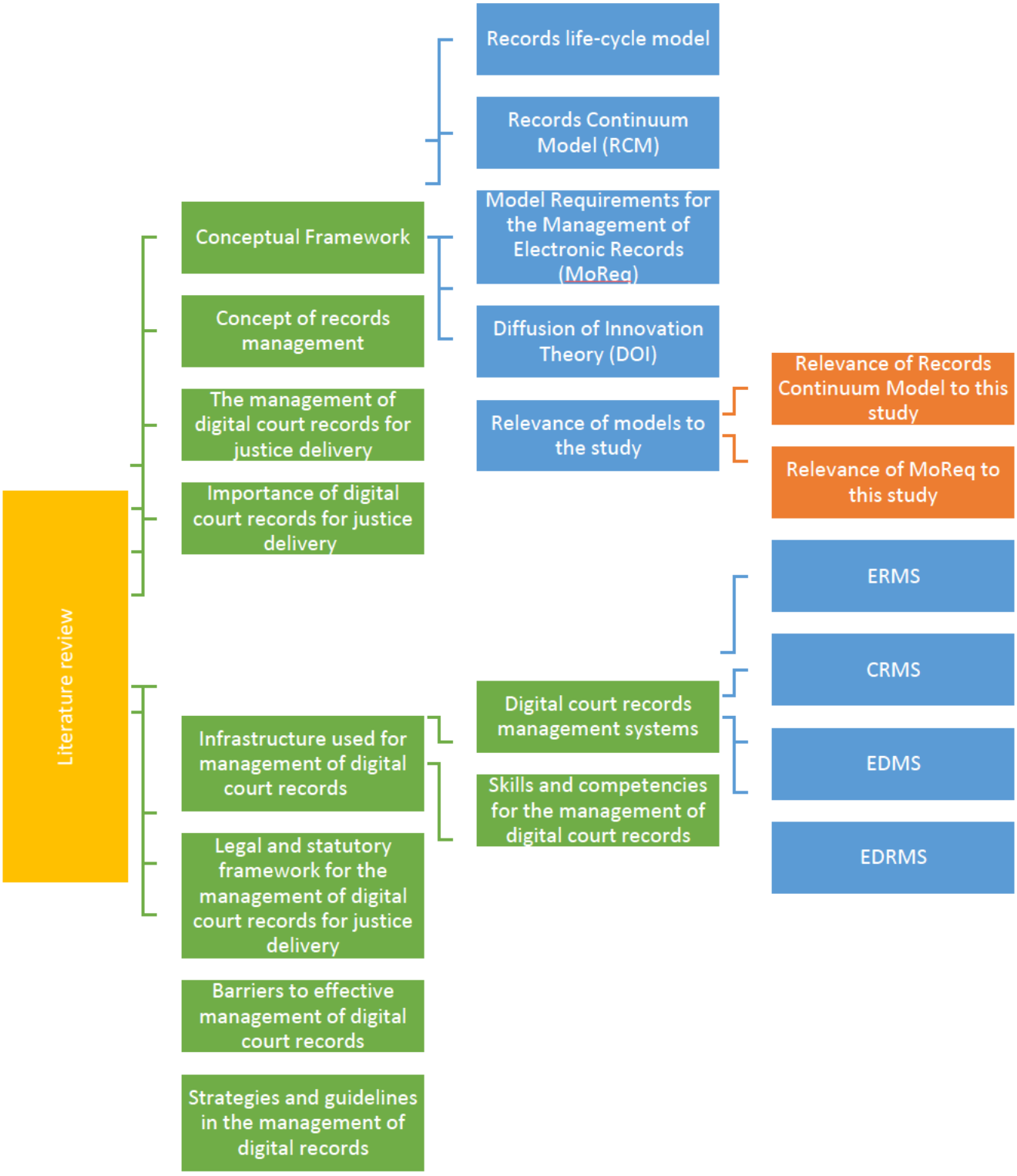

Figure 2.1. Literature review map for the study

2.4. Conceptual Framework

This section provides a discussion of the theoretical and conceptual frameworks, and the framework that underpinned the present study.

Kerlinger (1979:64) defines a theory as “a set of interrelated constructs or variables, definitions, and propositions that presents a systematic view of phenomena by specifying relations among variables, with the purpose of explaining natural phenomena”. According to Chigona and Licker (2008), there are four basic benefits of using theoretical frameworks in research studies. Firstly, theoretical frameworks allow researchers to make predictions. Secondly, theoretical frameworks define research procedures in a systematic way. Thirdly, theoretical frameworks empower researchers with explanatory power. Lastly, theoretical frameworks allow the researchers to test and improve the applicability of the theory.

It is important to seek theories in early stages of research to provide frameworks that are important in conceptualising research, which act as lenses shaping the questions to be asked, who participates in the study, how data is collected, and overall plan of a dissertation or thesis (Creswell 2014). Theories in research can be deductive (as used in quantitative methodology), inductive (as in qualitative methodology), and both deductive and inductive (as in mixed methods) (Kalusopa 2011). The current study used both deductive and inductive as in mixed methods. Theories have a purpose for description, explanation, prediction, and control of research projects (Kemoni 2008: 106).

Ocholla and Le Roux (2011: 41) maintain that theory in the social sciences has some value when applied. This is because it provides an explanation of the meaning and difficulties of phenomena that are frequently encountered but unexplained in our

reality, allowing us to use that information and insight to behave in more informed and successful ways. The application of theory in conducting case studies is enormously beneficial in describing the relevant study strategy and data to be collected (Yin 2014: 44). On the other hand, a conceptual framework is an overview of concepts that provide guidance for data collecting and analysis. A conceptual framework connects ideas from many ideologies, earlier research findings, or the researcher's own experiences (Nieswiadomy 2012; Ravitch and Riggan 2017; Van der Waldt 2020).

A conceptual framework is a map of concepts that a researcher wants to investigate. It also provides a range of the most important ideas that need to be investigated, along with recommendations for gathering and analysing data (Miles *et al*. 2014; Ravitch and Riggan 2017; Van der Waldt 2020). Additionally, a conceptual framework shows the relationship between concepts and their impact on a phenomenon being investigated. Kivunja (2018: 47) explains A conceptual framework is the comprehensive, logical arrangement and correlation of all elements that constitute the fundamental concepts, frameworks, strategies, plans, and procedures as well as the execution of the full research endeavour.

Furthermore, the conceptual framework includes the researcher's ideas about how to define the research topic, the problem to be investigated, the question to be posed, the literature to be reviewed, the theories to be applied, the methodology to be used, the techniques, tools, and procedures, the data analysis and interpretation of findings, suggestions, and conclusions that the researcher will make (Ravitch and Riggan 2017). Ngulube, Mathipa and Gumbo (2014: 51) mention that conceptual frameworks can be characterised as:

- “A motivation for selecting concepts and linking them to a research problem.

- A set of concepts and aspects of theories that assist in establishing coherence in research.
- Less developed than theories.
- Giving direction to research just as the theoretical framework.
- A diagrammatic representation of concepts and their relationship in a specific research context.
- Links abstractions to empirical data (Ngulube, Mathipa and Gumbo 2014: 51).

The conceptual framework for this study was adopted; it was developed using the ideas from the study's goals. The ideas of the Diffusion of Innovation (DOI) Theory, the Records Lifecycle Model, the Records Continuum Model (RCM), and the Model Requirements for the Management of Electronic Records (MoReq) provided the notions that informed the conceptual framework for this study. Nonetheless, Model Requirements for the Management of Electronic Records (MoReq) and RCM served as the conceptual basis for this investigation. These models were developed to assess and support the development of the Archives and Records Management (ARM) program, as well as to assist organisations such as High Courts (Feng and Pan 2016: 130).

ARM framework is “the basis for the organisation to collect, analyse and disseminate historical records, identifying records according to its type and relevant rules, classify the information, accessibility” (Azmee, Kassim and Abdullah 2017: 3). The conceptual framework of the study comprises the RCM and MoReq.

Records Continuum Model demonstrate the management of records in order for them to retrain their authenticity, integrity, completeness, usability and availability as long as they are required. ICT is now used to manage both paper-based and electronic records (ISO 15489-1 2016). A record that is managed in an electronic document and records

management must adhere to the standard requirements for the management of digital court records, for example MoReq. The conceptual framework of this study is presentation of the management of digital court records for justice delivery.

2.4.1. Records lifecycle model

The concept of records lifecycle was developed in the United States of America by Theodore Schellenberg in 1956, who wrote about the 'life span' of records, which included their current use and final destiny (Shepherd and Yeo 2003). The concept was created in response to the growing number of records that organisations were producing (Hare and McLeod 1997; Yusof and Chell 2000). According to Shepherd and Yeo (2003), since the 1950s, the records lifecycle model has been the main conceptual framework for managing records, especially in the paper environment. The records lifecycle model falls into three phases, active, semi-active and non-active (Shepherd and Yeo 2003).

Firstly, there is the active phase in which documents are kept in their original location or in the life store of a related records office or registry and are constantly utilised in the conduct of current business. The second stage is called semi-active, during which records are kept in the records center and used occasionally, but still not often, in the conduct of current business (IRMT 1999). The last stage is the non-active phase, during which records are destroyed if they are no longer needed for the ongoing operation of the firm or if they are still valuable for other reasons and should be preserved as archives at an archival facility (IRMT 1999). The records lifecycle indicates that records have a life like that of biological organisms. They are born, live through youth and old age and then die. In other words, records are created, used, maintained, and disposed through destruction or transfer (Shepherd and Yeo 2003).

According to Shepherd and Yeo (2003), records are generated in offices, records management units, and through external organisations. To make sure that letters are filed in the appropriate folders, records management staff actively participate in the process. During the active phase, which is the utilisation stage, documents are sent to the appropriate parties and utilised to carry out business operations when they are received. The maintenance and storage phase, which is semi-active, involves organizing records logically to facilitate simple retrieval. To preserve the accuracy of the data in the records, they are kept in storage equipment and are secured and maintained. Disposition stage, which is the non-active phase, is when records lose value. Individuals who have no lasting value are eliminated, while those with archival or enduring significance are handed to archive organisations for everlasting preservation (Shepherd and Yeo 2003).

Effective records management, according to the majority of archive and records management specialists, starts with controlling documents at every stage of their lifespan. Therefore, the idea and definition of records management are predicated on the idea that records go through phases throughout their existence, allowing an organisation to regulate the amount and quality of information it produces during the active, semi-active, and inactive stages of the lifecycle (Shepherd and Yeo 2003). Since the 1980s, there has been a lot of criticism directed at the continuum notion and the lifetime model of records. According to McKemmish (1997), archives and archiving operations would be housed inside archival repositories under the lifecycle model. documents managers would so frequently be limited to handling documents in the central filing systems and the registries, while archivists would handle records at the end of the lifecycle.

According to McKemmish (1997), there is a common understanding of the roles played by archivists and records managers in all iterations of the lifecycle idea. The author restates that the roles and duties of archivists and records managers are shown as being solely focused on various life cycle stages and the various record-keeping objectives connected to these stages. Records continuum thought and practice significantly undermine this worldview.

2.4.2. Records continuum model

The Records Continuum Model (RCM) is defined as “a consistent and coherent process of records management throughout the lifecycle of records, from the development of record-keeping systems through the creation and preservation of records, to their retention and use as archives” (Cumming 2010:41). Cumming (2010:41) describes the continuum as only a perspective. It establishes a framework for seeing and comprehending records and recordkeeping as both a unified whole and a composite of its component pieces. The Records Continuum Model is not linear and time-bound like traditional records and archival management. It gives a foundation for understanding the many types of records and recordkeeping. According to (McKemmish 2001:334), the theory of records continuum is “based on concepts related to the immutable and permanent character of records as well as the explanation of the function of recordkeeping and archiving in society with respect to identity, memory, accountability, governance, and information dissemination”.

Records Continuum thinking is notably an outcome of concerted efforts of a community of practice in Australia, led by Frank Upward and Sue McKemmish, comprising of records managers and archivists, consultants, educators and researchers, archival institutions, corporate records and archives programmes, and

professional associations. The continuum concept challenges differentiation in managing records and archives underscoring the need to ensure the preservation and accessibility of accurate, complete, reliable, and authentic records through time and space (McKemmish, Upward and Reed 2009).

Even though the RCM initiated in Canada, it was established and adopted in Australia (Cumming 2010; Ndenje-Sichalwe 2010; Shepherd and Yeo 2003), while North America and other parts of the world embraced the record life-cycle theory. The Australian Commonwealth Archives Office (CAO) sought coordinated recordkeeping throughout the record lifecycle. According to Cumming (2010), RCM owes its origins to the Commonwealth Record Series (CRS) first implemented by Peter Scott. CAO was concerned with the management of the growing volume of records generated by the expanding bureaucracy as well as facilitating access to archives. Equally the CAO expressed concerns over the management of existing documents to guarantee the survival of significant evidentiary records for the purpose of transferring them to the archives. Consequently, the National Archivist instituted a programme of surveying active records to influencing the practices of registry staff in government departments and agencies. The aim was the merging of records and archives management into one descriptive approach (Cumming 2010).

The introduction of information technology led to a reconceptualization of the recordkeeping lifecycle. Apparently, it dawned on the archival community that the management of electronic records is different from paper records. Jay Atherton (1985) was the first to articulate the idea of a records continuum as an integrated recordkeeping and archives practice the lifecycle needed to be replaced with a more straightforward, cohesive model with four stages as opposed to eight, representing the

pattern of a continuum as opposed to a cycle. The lifecycle's linear transfer of responsibilities between records managers and archivists was unsatisfactory. It needed replacement by a model in which creation, classification, appraisal, maintenance, and use are interrelated. This was to allow both records managers and archivists to be involved in the ongoing management of records and archives. Archivists in Australia revisited Maclean's idea of continuum in response to Atherton's proposition (Atherton 1985).

Upward (2000) asserts that records continuum model is underpinned by the following principles:

- A concept of 'records' which is inclusive of records of continuing value (archives), which stresses their uses for transactional, evidentiary, and memory purposes and which unifies approaches to archiving/recordkeeping whether records are kept for a split second or millennium (Upward 2000).
- A focus on records as logical rather than physical entities, regardless of whether they are paper or electronic form (Upward 2000).
- Institutionalisation of the recordkeeping profession's role requires a particular emphasis on the need to integrate recordkeeping into business and societal processes and purposes (Upward 2000).

Records continuum thinking is represented in the model developed by Upward (Figure 2.2). The model portrays the notion of transactionality and shows many forms of human interaction and relationships documented in records at all levels of aggregation. The model has four dimensions (McKemmish, Upward and Reed 2009).

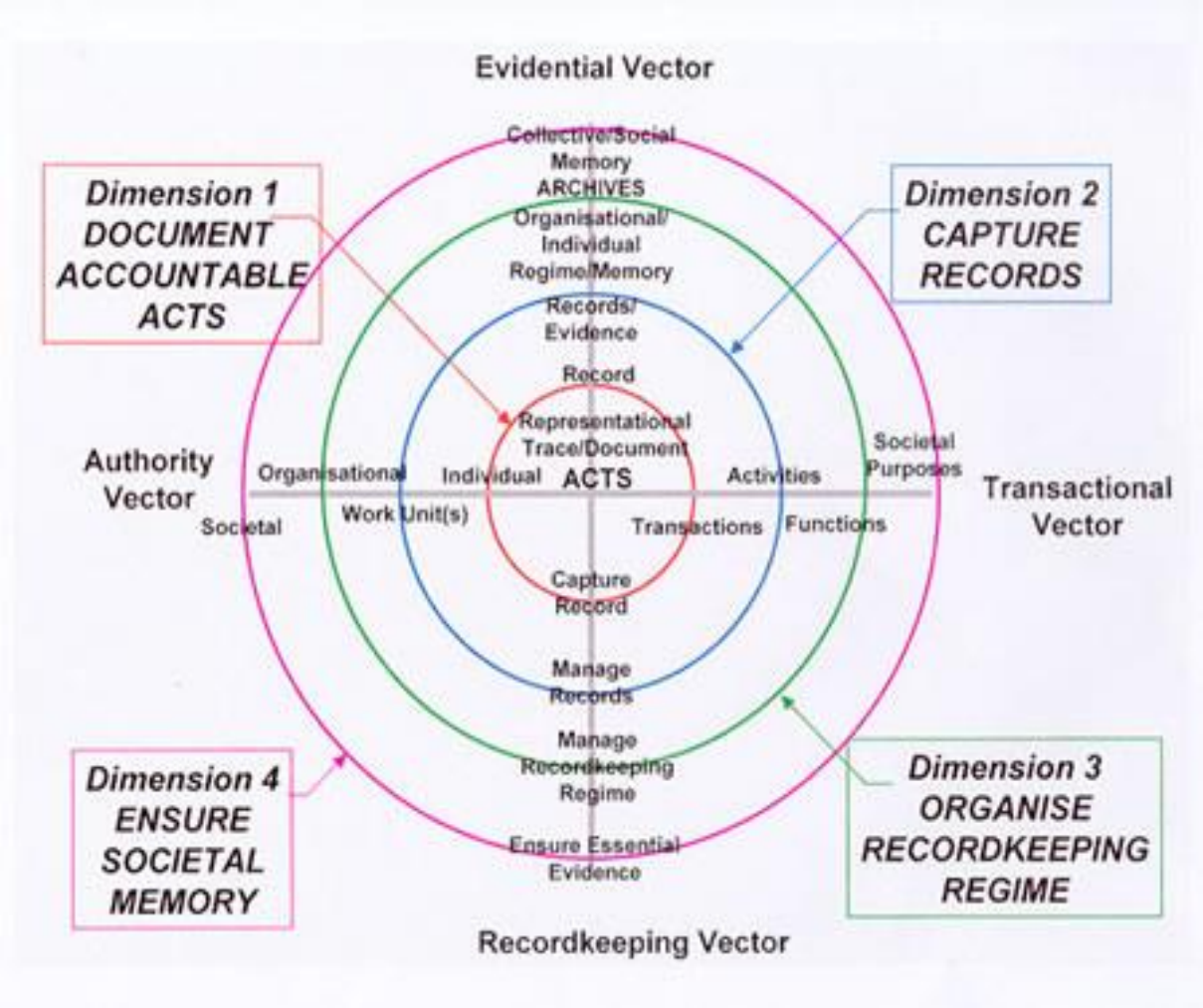

Figure 2.2: Record Continuum Model (Source: Upward 2000: 123)

Upward (2000) argues that records continuum model views recordkeeping in four dimensions as stated bellow:

a) First dimension encompasses “the actors who carry out the act (decisions, communication, and acts), the acts themselves, and the documents which record the acts, the trace, and the representation of the acts” (Upward 2000).

b) Second dimension encompasses “the personal and corporate recordkeeping systems which capture documents in context in ways which support their capacity to act as evidence of the social and business activities of the units responsible for the activities” (Upward 2000).

c) The third dimension encompasses “the organisation of recordkeeping processes. It is concerned with the way corporate body of individual defines the recordkeeping regime and in so doing constitutes/forms the archive as memory of its business and social functions” (Upward 2000).

d) The fourth dimension concerns “the way the archives are brought into an encompassing framework to provide a collective social, historical, and cultural memory of the institutionalized social purposes and roles of individuals or corporate bodies” (Upward 2000).

Cumming (2010) points out that continuum model is not linear as it appears and does not represent time-bound reality. The RCM is designed to be a dynamic tool for assessing and understanding recordkeeping. According to McKemmish (2001), records continuum model is interpreted as both a metaphor and a paradigm shift in recordkeeping. It shifts from the classical ‘Mcleanian’ continuum concept formerly used by the CAO. Further, description is a series of iterative recordkeeping processes that capture and link authoritative metadata to documents created during social and business activities from the time of their creation and throughout their life span. More importantly, records continuum paradigm provides for an understanding of recordkeeping and its objectives.

2.4.3. Model Requirements for the Management of Electronic Records (MoReq)

According to Fresko and Waldron (2001), MoReq is a generic standard for computerized systems designed to handle electronic records. MoReq serves a wide range of purposes, encompassing all sectors of the economy in both commercial and public sector enterprises. Furthermore, MoReq is intended to be useful to a diverse range of users, including Electronic Records Management System (ERMS) users as

a foundation for auditing or checking an existing ERMS; Training organisations as a reference document for preparing records management training and course material; and ERMS suppliers and developers to guide product development by highlighting required functionality (Cain 2002: 14).

Cain (2002: 14-15) opines that MoReq is an important document that carries with it high expectations. It may be considered the definitive effort on electronic records, supported by the European Commission, which started in 1996 with the inaugural European DLM Forum.

2.4.4. Diffusion of Innovation Theory

Rogers (2003:5) popularized the diffusion of innovations (DOI) theory. The DOI theory "centres on the conditions which stimulate or inhibit the likelihood of the dispersal of new ideas, products, or practices within a given social system" (Rogers 2003:5). Diffusion is "the process in which an innovation is communicated through certain channels over time among members of a social system" (Rogers 2003:5). Diffusion is a type of social change that causes a shift in the structure and function of a social system. Social change happens when new ideas are produced, distributed, and embraced or rejected, resulting in certain outcomes (Rogers 2003:5). An innovation is "an idea, practice or object that is perceived as new by an individual or other unit of adoption" (Rogers 2003:12). There are four major components in the diffusion of innovations process, and these include an innovation, communication channels, the social system in which an innovation is situated, and the length of time since the innovation was introduced.

2.4.4.1. Innovation

According to Rogers (2003), an innovation is an idea, practice, or object that is perceived as new by an individual or other unit of adoption. As far as human behaviour is concerned, it does not really matter if an idea is objectively new based on how long it has been since it was first used or discovered. The perceived newness of an idea for the individual determines the reaction to it. The adoption or first-time use of computers by a person or affiliates of a social system qualifies as an innovation. Innovation adoption within a social system is a process of change that modifies the social system's status quo; hence it is likely to be welcomed or met with resistance (Rogers 2003).

According to Rogers (2003), the innovation-decision process has five steps: the knowledge; persuasion; decision; implementation; and confirmation. Knowledge is obtained when a person or other decision-making unit becomes aware of the innovation's existence and gets a grasp of how it works. Persuasion occurs when an individual develops a favourable or unfavourable attitude toward the invention. Decisions are made when an individual participates in behaviours that lead to the decision to embrace or reject an invention. Implementation occurs when an individual puts an innovation into practice. Re-invention is more likely to occur at the implementation stage. Confirmation happens when a person wants reinforcement for an earlier made innovation decision, but if exposed to competing messages regarding the innovation, the individual may reverse the prior decision (Rogers 2003).

2.4.4.2. Communication Channels

Rogers (2003:204) defines communication channels as “a process by which participants create and share information with one another to reach a mutual

understanding”. A communication channel is how messages get from one individual to another. Formally, communication is through mass media such as radio, television, and newspapers. According to the DOI theory, social systems have created communication channels via which individuals may communicate knowledge. These routes of communication can be divided into two categories: interpersonal and mass. According to Rogers (2003), mass communication channels are a method of reaching a large audience by conveying messages via electronic or print media such as radio, television, and/or newspapers. Interpersonal channels are the face-to-face flow of information between two or more people (Rogers 2003). Communication channels are the most effective technique to create awareness and impact individual adopters' or communities of practice's attitudes about an invention (Rogers 2003).

2.4.4.3. Time

Rogers (2003) opines that the inclusion of time “as a variable in research is one of its strengths, but the measurement of the time dimension can be criticized. The time dimension is involved in diffusion in the innovation-decision process”. This is the process by which a person or other decision-making unit progresses from first learning about an invention to developing an attitude toward it, making a decision to embrace or reject it, implementing and using the new concept, and confirming that decision.

2.4.4.4. Social System

The social system is defined as “a set of interrelated units engaged in joint problem solving to accomplish a common goal” (Rogers, 2003). The members or units of a social system may be individuals, informal groups, organisations, and/or subsystems. The diffusion of innovations takes place in social systems and the social structure of a system affects the diffusion of innovation in many ways. Moreover, Rogers (2003)

states that the number of system members who embrace an innovation each time determines the innovation's rate of adoption in the system. Common categories of adopters are a representation of a classification of innovativeness of a typical social system. According to Kaminski (2011:3), adopters may be categorised based on how they affect the inventive and adoption processes of technological innovations. This includes innovators, early adopters, early majority, late majority, and laggards.

Innovators make 2.5% of the human population and are technology enthusiasts. Innovators require the shortest adoption period of all the categories. They are daring risk-takers who can handle a great deal of uncertainty because they comprehend and use complicated technical information. They are inspired by the concept of becoming a change agent and value technology for its reason. Sometimes, they can be gatekeepers for the next group of adopters, or they can be recruited as peer educators (Kaminski 2011:3).

According to Kaminski (2011:3), early adopters make 13.5 % of the human population and +-7are regarded as visionaries. Early adopters “serve as the opinion leaders, and they provide excellent tester subjects to trial the innovation. They have a natural desire to be trend setters serving as the role model within their social system. They are respected by peers for being successful” (Kaminski 2011:3). Another social system is early majority which makes 34% and is regarded as the pragmatists. The Early majority interact frequently with peers through deliberate contact. They also “serve as opinion leaders, but later in the process. They are comfortable only with evolutionary changes in practices, to gain productivity enhancements. They want proven applications, and reliable service. They do not like complexity; buying only with reference from trusted colleagues in the same industry. They want to pick the same

proven technology solution as others (avoid risk); need simple user-friendly training and they make slow, steady progress" (Kaminski 2011:3).

The late majority makes up 34% of the human population and are regarded as the Conservatives. The "Late majority respond to peer pressure; to economic necessity; are often technologically shy; very cost sensitive and require bullet-proof solutions. They are motivated only by the need to keep up with the competitors or proven trends in their industry; relying on single, trusted advisor; and early influenced by laggards" (Kaminski 2011:3). The last social system is laggards who make up 16% of the human population and are regarded as sceptics. Laggards are isolated from opinion leaders. Their point of reference is in the past while they are traditional and want to maintain the status quo. Being suspicious of innovations, their innovation-decision process is lengthy, they think technology is a hindrance to operations; are resource limited, and usually invest in technology only if all other alternatives are worse (Kaminski 2011:3).

2.4.5. Relevance of models to the study

This section discusses the relevance of the models adopted in the study.

2.4.5.1 Relevance of Records Continuum Model to this study

The records continuum model is relevant to this study to the extent that it subscribes to the management of records throughout their life span. It views records management as a continuous process rather than a series of discrete phases. This perspective helps ensure that records are managed effectively from inception to archiving. This approach aligns well with the principles of effective records management, which emphasise the importance of managing records regardless of their format or structure. Records are authoritative evidence of business when they possess the characteristics of authenticity, reliability, integrity, and useability (ISO 15489: 2016). The records

continuum model is relevant to the increasing demand for managing court records throughout the lifecycle. This is critical to implementation of ICT and freedom of information initiatives. The promotion of access to information depends on the management of digital court records throughout their lifecycle.

The RCM provides instructions on pertinent vital records that must be kept for a particular activity or function, as well as the system and protocol. For efficient and successful record-keeping and convenient access, it helps to guarantee correct record-keeping and capture. When the records keeping system is built or created, the RCM also provides guidelines on the procedure that must be followed before any records are generated. The ICT notion, which is about digital records, adds value to the records lifecycle. This may also be used for court records for efficient administration and quicker, more straightforward access to documents when providing the public with court case services.

In addition, this model is crucial for records created and kept by High Courts since all these records serve as a foundation for legal judgments and decisions, provide proof of cases that have been arbitrated, or serve as a repository for the judicial system's knowledge. This is true for archival papers as well, which may be recovered and brought up to date in certain situations, such as the revival of an old case, and for freshly produced records that can be preserved right once after they are used. Consequently, it's critical to handle digital court documents from the time of production until the end.

2.4.5.2. Relevance of MoReq to this study

MoReq was relevant for the current study since it demonstrates the management of electronic records in a system. Currently, court proceedings and decision-making are

conducted and carried out online. Thus, this model was important for the current study because it provides detailed information on how to manage digital court records using computerized systems. MoReq provides a comprehensive set of requirements for the management of electronic records, which can significantly enhance the development of a digital court records system. MoReq offers a standardized framework that can guide the development and implementation of electronic records management systems. This consistency is crucial for interoperability and compliance with regulations. In addition, MoReq is very useful since it improves and smoothens access to electronic information. This model recognizes electronic records and provides for electronic records to be properly managed. MoReq emphasizes the functional requirements of a records management system, ensuring that it supports key activities like capturing, managing, and retrieving records efficiently. This focus helps to create user-friendly interfaces that meet the needs of diverse stakeholders. This is very useful for litigants who want to check the court processes regarding their cases in the courts of law.

2.5. Concept of records management

Records and records management are among the key factors integral to the justice system globally. Records are by-products of business transactions, and they provide evidence of such transactions (Mosweu and Rakemane 2020:103). Records are frequently subject to certain legal obligations and have been used to give information for better planning and decision-making as well as proof for government accountability and transparency (McKemmish 2013). Guto and Jumba (2021: 54) state that records are used in government to document the activities and transactions and provide evidence of decisions made, communications done, and actions taken. Therefore, these records should be efficiently and effectively managed.

Records management is “a function that has significant potential in supporting credibility only if its principles and values are implemented” (Guto and Jumba 2021: 52). According to the ISO 15489-1 (2016: 3), “records management involves the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records”.

Records management is “a corporate function that has a critical potential in supporting credibility if its principles and values are appropriately implemented. In the absence of proper records management, transparency, accountability, and efficiency in the public sector would be heavily compromised” (Guto and Jumba 2021: 53). Franks (2018:19) defines records management is the process of organizing and managing information resources so that data is readily available, safely preserved, and disposed of as needed. Therefore, records management supervises and regulates the production, upkeep, utilization, and destruction of records.

2.6. The management of digital court records for justice delivery

Cordella and Contini (2020: 7) view the primary function of courts and the justice system as resolving disputes. In doing so, judges are charged with the ultimate decision over life, freedoms, rights, duties, and property of citizens. To accomplish these critical functions, they need judicial records, which include case files, registers, record books and cause books (Ladan 2014: 33). Judicial records are “records generated or received by courts in relation to courts adjudications or litigations”. This entails that “the information which the judicial officers use in the courts for judgements, proceedings and decision-making is embedded in internally generated and externally received records” (Ladan 2014: 33-34). Additionally, court records are central to any

modernization process that seeks to improve the effectiveness and efficiency of justice delivery to all citizens (World Bank 2002: 2). Court records are fundamental to any justice delivery as they promote speedy, efficient, accountable, and fair justice for all in society (Greenwood and Bockweg 2012: 3; Issa and Wamukoya 2018: 30; Tep *et al*. 2019). One of the fundamental functions of the courts is the creation and timely availability of a full, accurate, and accessible court record. In addition to serving as a record of the court's rulings, the court record also teaches the public and creates social standards for behaviour that is subject to the law (Judicial Council of California 2020: 3).

Moreover, justice delivery activities affect fundamental citizen rights; hence it is essential that the judiciary protects these rights through well documented cases which adhere to strict records management standards. Issa and Wamukoya (2018: 30-32) state that “the delays in registering cases, locating records, and filing documentation all have a direct impact on citizens and their legal right”. Katuu (2015:135) states that managing digital records has been a long-standing concern. The nature of digital records allows for easy modification without trace, making their reliability a key problem. As a result, records must always be available, secured, and efficiently maintained to ensure that justice is delivered in the courts.

Saman and Haider (2012:1) state that records management “is a key success factor in the judicial system. Systematic, efficient, and organized records management systems provide comprehensive information for courts to guarantee unbiased decisions”. Saman and Haider (2012:1) further state that “a transparent information system and good records management indirectly hinder the misuse of power or corruption, case postponement and delayed decision”. Mosweu and Rakemane (2020: 103) opine that Proper records management is critical to the development of good

governance. The principles of good governance, such as accountability, trustworthy, and the rule of law, are determined using accessible records. Thus, effective record-keeping leads to good government.

It is worth noting that currently, the world's advanced information and communication technologies (ICTs) are proliferating, and as a result, government operations are shifting to an online setting where services like water, justice, health, and education are offered (Guto and Jumba 2021; Huni and Dewah 2019; Issa and Wamukoya 2018; Munetsi 2011; Mosweu 2021). Teffo and Chuma (2023:36) state that ICT has been considered as one of the most important driving forces promoting and enhancing the effectiveness of private and public organisations. According to Kim and Kim (2020:1), the advent and deployment of ICT has radically transformed many governments and public institutions across the globe.

The Africa Judges and Jurists Forum (AJJF) (2021) opined that the digitization landscape in Southern African high courts is very much varied, with some jurisdictions having made massive strides while others are still very much in the formative stages of the digital transformation process. Huni and Dewah (2019: 134) mentioned that “the technological era has resulted in people creating, storing, and exchanging information through digital means”. This has had a significant influence on the legal community's operations since evidence of crimes committed is now available in a variety of formats and locations, including social media, emails, and mobile phones (Huni and Dewah 2019: 134). Mosweu (2020: 64) states that ICTs enabled the creation, storage, modification, distribution, and preservation of digital records in a networked environment. Electronic court documents, including dockets, evidence, memoranda, and statutory declarations, are being produced at a higher rate as a result of courts utilizing ICTs in both internal and external operations (Teffo and Chuma 2023:36).

Guffin (2020:100) argues that Digital records have far-reaching effects that can be both beneficial and detrimental. This move will make it easier for more individuals to access court documents and learn about what is going on in the legal system, whether it has to do with personal cases they are involved in or public issues. However, it also implies that private information found in court records is more accessible and likely to be shared, endangering individual privacy (Guffin 2020: 100).

Thus, a trustworthy and accurate case file system is essential to the efficiency of daily court operations and the impartiality of court rulings (Issa and Wamukoya 2018: 31-32). Information, especially digital records, are managed as assets because they facilitate effective collaboration, information sharing and interoperability amongst government agencies, and the development of evidence-based policy through the provision of trustworthy and authentic data for a range of purposes across government operations and transactions (Xiaomi 2009). Luyombya (2010) explains that by accurately recording and presenting proof of a decision, action, or agreement, good records management promotes transparency. Organisations need to have good and efficient records management (Ismail and Jamaludin 2009). Moreover, the electronic records management allows for better retrieval and availability of records when needed. It also reduces the case delays and backlogs (Zain *et al.* 2017). Tsvuura and Ngulube (2020: 21) reflect that currently, any organisation's capacity to function effectively depends on how it employs technology and integrates sustainability into that technology. According to the Judicial Council of California (2020:4), a comprehensive records management programme covers the creation, maintenance, retention, and destruction of trial court records:

2.6.1. Creation

The court record is created by combining two types of information. One set contains papers and other material submitted by the parties to help the court make its decisions, such as pleadings, motions, exhibits, and so on. The plaintiffs, appellate courts, and the public must be allowed to access all of the information considered by the court in formulating its judgment, with the exception of anything that has been sealed or is subject to secrecy regulations. The second set is the documentation of the court's actions and decisions. This involves calendaring and case management issues, as well as court and jury rulings. Litigants and the public require precise information on the court's interpretation of the law and its application in this particular case in order to understand what is permissible and not permissible (Judicial Council of California 2020:4).

2.6.2. Maintenance

The maintenance of the court record ensures that the record remains in existence and accessible. The record must be retained in a way that assures its completeness and availability both throughout the course of an ongoing case and after it is closed, since the outcome may still be significant to the parties and the public. It must also be stored in a way that permits quick and convenient access to people who wish to view it. The court should be able to easily locate the record when it is required. Making copies of the record should also be simple and affordable. Finally, the format in which the record is stored should allow for easy access throughout time, regardless of changes in technology, specifics, or the obsolescence of equipment and software necessary to access electronic versions of a record (Judicial Council of California 2020:4)

Another part of maintenance is ensuring the record's integrity. The court record should include only the record. The system for keeping court records should reduce the

possibility of misfiling, loss, or damage to the court record or any of its components. Finally, effective records management entails limiting who has access to the record or its constituent pieces. particular people, parties, or groups of individuals may have access to particular elements of the record due to their participation in the legal system, as determined by law or court judgment. A strong records management program should enable quick and timely access to those allowed access to the material and restrict access by those not entitled to see it (Judicial Council of California 2020: 4).

2.6.3. Retention

The retention of the court record relates to how long a court record should be accessible to the members of the public. Some court records must be retained indefinitely while others have a limited shelf life and are not to be retained (Judicial Council of California 2020:4).

2.6.4. Destruction

The destruction of court documents is the final stage of a records management programme. When the presence of a court record is no longer necessary due to time or policy, it should be properly destroyed. Whether the record disappears or is only available to select individuals is a policy choice that the records management software must appropriately implement (Judicial Council of California 2020:4).

2.7. Importance of digital court records for justice delivery

Since digital records are crucial to the effective prosecution of criminal cases, courts must recognize them as admissible evidence (Aljneibi 2014). As electronic court records are accessed by both the courts and the parties concerned, Mosweu and Kenosi (2018) contend that they are an indispensable and crucial source of information

in the administration of justice. In order to protect judicial procedures, uphold the independence of the judicial system, and provide efficient delivery and administration of justice in courts, electronic court records are essential (Teffo and Chuma 2023: 36).

Omehia and Lulu-Pokubo (2020) emphasise that “court and judicial records constitute an essential instrument of administration, without which operational processes and functions cannot be executed”. Ntengenyane and Khayundi (2021) postulate that in order to aid in decision-making, electronic court records are crucial to the legal system. Digital records in courts can support law enforcement officials' investigation and prosecution of criminal activity (Huni and Dewah 2019:135). According to Tep *et al* (2019:221), the importance of digital court records is that they are easily retrievable and less expensive means to justice administration.

In the study done by Huni and Dewah (2019:144) on the “Admissibility of digital records as evidence in Bulawayo High Court in Zimbabwe”, revealed that the judge stated that “digital records are very useful because it quickens the administration of justice. One does not have to fly to London to issue a summons. All that is needed is the other person’s email address and the summons will be emailed” (Huni and Dewah 2019:144). Huni and Dewah (2019:144) stated that this reveals that digital records are important in the administration of justice as they capture the activity as it occurs. In addition, the findings also reveal that digital court records can be accessed anywhere in the world without delays. Therefore, digital court records, like paper records, qualify as legal records and can be used as evidence in court. Digital court records operate as evidence of acts and transactions; enable accountability, which is linked to evidence; are tied to procedures; and are retained to serve a specific purpose (Huni and Dewah 2019:144-145).

2.8. Infrastructure used for management of digital court records

Courts all over the world are faced with the use of digital records as evidence to solve their disputes. According to Huni and Dewah (2019:135), “digital records in courts can aid the investigation and resolution of crimes by law enforcement agents”. Goodison *et al.* (2015) mention that in the United States, digital records are a major source of vital information regarding suspects and victims for courts. Cases without digital evidence are more challenging to generate leads for and solve because of the potential volume of such evidence that is accessible.

Digital records need to be efficiently managed. Ngoepe, Mokoena and Ngulube (2010) confirm that as with paper-based and digital documents should be appropriately safeguarded and managed to guarantee that they are not compromised in any manner. Kuntze et al. (2012) clarified that the authenticity of a record might need to be demonstrated before it can be admitted in court due to the risks and vulnerabilities to systems that generate digital records. Records must also be valid, accessible, useful, and intelligible for as long as the organisation requires them in order for them to be accepted as proof of business transactions (Mosweu 2019).

Szekely (2017) observes that the information society and its technical realities make the work of archivists and records administrators both simple and challenging. Information may be retrieved quickly and easily with ICT. This can help firms make quicker decisions and gain a competitive advantage. The challenge stems from the complicated nature and context in which electronic records are created. In every business, maintaining records should be a strategic activity, with an ongoing program that is successful throughout the organisation (Shepherd and Yeo 2003).

While records management programs differ from organisation to another, they usually consist of many components. These consist of creating and enforcing rules and guidelines for records management throughout the whole organisation, teaching and informing personnel about records management, and developing and implementing systems (Shepherd and Yeo 2003). Additionally, programmes for managing electronic records must have the right infrastructure, human resources, and legal and regulatory framework, among other things (Ambira 2016, Issa and Wamukoya 2018; Ngoepe 2017; Tsvuura and Ngulube 2020).

2.8.1. Digital court records management systems

Many organisations throughout the world have lately adopted the idea of records management with the use of Information and Communication Technologies (ICTs). For instance, organisations are adopting Electronic Records Management Systems (ERMS), Electronic Document Management System (EDMS), or Electronic Records and Document Management Systems (EDRMS) (Katuu 2015:136; Shonhe and Grand 2019: 1-2). Organisations that have implemented the ERMS or EDRMS are seen to be more capable for handling both internally and externally produced records. These organisations are thought to be more efficient and effective than those that still rely on manual filing (Kaupa and Chisa 2020: 7).

2.8.1.1. Electronic Records Management System (ERMS)

The administration of documents categorised as records is the only focus of ERMS. The capacity of ERMS to maintain the fixed quality of records, or the inability to modify documents once they have been entered into the system, is a fundamental component of the system. The goal of ERMS is to guarantee that records are kept fixed and that any changes or additions result in a new version of the record that is also recorded

and kept as a distinct record. In order to the greatest extent feasible, ERMS are meant to adhere to records management principles (Ambira 2016: 104). Guto and Jumba (2021: 54) state that electronic records management systems play an important role of ensuring that there is an easy and fast access to treatment and retrieval of information or records.

The use of ERMS for maintaining court documents is growing in popularity, and several nations have implemented these systems with varying degrees of success (Johare et al. 2009; Saman 2011). For example, an electronic court filing system is being implemented in Australia and the United States (Johare *et al.* 2009). The electronic records management system has been deployed by Malaysia's civil and Shariah judiciaries. Case management is greatly enhanced by the systems, which leads to effective service delivery to the general public (Saman 2011).

Furthermore, according to Kilgour (2013: 138), Canada has the Canadian Police Information Centre (CPIC), a centralized computer system that is accessible throughout the country and is in charge of keeping track of, retrieving, and distributing police data amongst police stations. The criminal record data that police and stations need to fulfill their everyday responsibilities is kept in the custody of CPIC. Additionally, when an arrest is made, the offender's fingerprints are obtained, and a criminal record is produced. Subsequently, this record is registered and classed as either an original record or an addition to an already-existing record in the CPIC database, once the fingerprints and police report are entered into the computer system of the agency (Kilgour 2013: 140). Further, Kilgour (2013: 140) states that the computer system of CPIC is used for the handling, storage, and provision of the record, as well as for authorized users to access the criminal records for the purposes of reviewing or

supplementing their information, or for legal, administrative, or law enforcement purposes. Kilgour (2013: 140) adds, "A tracking system keeps track of who has accessed criminal records and why, guaranteeing their authenticity and reliability while simultaneously safeguarding the privacy of the subject."

In Africa, governments, like in the developed world, are eager to implement technological solutions as part of their programmes to demonstrate accountability to citizens, the courts, and the legislature as well as to improve efficiency (Barata, Kutzner and Wamukoya 2001). In addition, this is linked to the requirement of the law of evidence. In Uganda, “there is no full-fledged court electronic system, but certain electronic technology is utilised to record various court hearings and activities. For example, speech recognition systems are being tested but not yet perfected” (Egonda-Ntende 2005).

According to Egonda-Ntende (2005), digital audio recordings of voice can now be stored on a computer, enabling the judge to annotate the recordings and play back the specific segments that the parties wish to hear again. Additionally, a court reporter can record sessions instantly, allowing the judge and attorneys to see them at their workstations as the proceedings are ongoing.

2.8.1.2. Computerized Court Records Management System (CRMS)

Mosweu and Kenosi (2018) and Motsaathebe and Mnjama (2009) state that in 2005, in Botswana, the administration of justice embarked on a Computerized Court Records Management System (CRMS). The CRMS is “a technological tool for recording and keeping all files and other information safe for accurate and quick reference. The CRMS computers are configured to be multifunctional, as they are able to reveal the parties in the case, the pleadings, the status and the age of the file and all orders that

have been made in the case" (Mosweu and Kenosi 2018: 4). The system aimed to address the following issues:

- Difficulty in providing management information and statistical data.
- Loss or misplacement of case files which cause delay in processing and finalizing litigation.
- Omission and inaccuracies in maintaining and updating registries of various case types.
- Time lost in responding to inquiries from litigants and the members of the public, and
- Challenges in compiling court rolls (Motsaathebe and Mnjama 2009).

Nthomiwa (2007) states that the Court Records Management System (CRMS) was also implemented in South Africa in 2008 with the intention of assisting the personnel in handling case records, which had hitherto been handled manually. In order to modernize and enhance the effectiveness of the judiciary's operations, CRMS was among other things used to solve issues with misplaced or missing files, delayed responses to public inquiries for case statistics level, etc. It follows that in order to guarantee the efficacy and efficiency of digital court records, mechanisms are required. In South Africa, the Department of Justice and Constitutional Development (DOJ & CD) is steadfast in its aim to transform the judicial system, and its mandate is to deliver justice to all, even to those who are not South African citizens (Sindane, 2013). Sindane (2013) further stated that one of the goals in the DOJ & CD is to guarantee that the courts' operations are carried out effectively and economically and to enhance the provision of services. This involves raising the efficiency of the legal system and lowering the cost and increasing the accessibility to justice.

2.8.1.3. Electronic Document Management Systems (EDMS)

An EDMS is “a fully featured system designed to handle the complete document lifecycle from capture of the records to metadata description to approval” (Ambira, 2016: 103). The availability of processes for document transfer amongst action officers is a standout feature of an EDMS. Thus, when papers flow through the process, an EDMS allows for amending or commenting on them.

In addition, many EDMS currently accept documents in multiple formats and can capture documents from a variety of sources, including scanning, emails, templates, and desktop integration. EDMS databases allow users to be created, ensuring that each user has the access privileges established by the system. This system provides extra capabilities to maintain record security by imposing access constraints on records and technical elements such as encryption (Ambira 2016: 104). Furthermore, Ambira (2016: 104) states that EDMS were intended to enhancement efficiency by reducing the time spent retrieving paper files from one operation to another, as well as to assist prevent the dangers involved with managing manual records.

2.8.1.4. Electronic Document and Records Management Systems (EDRMS)

EDRMS are the most popular technology for managing electronic records today because they provide both the benefits of operational efficiency through workflows while also giving capabilities for professional records management (Ambira 2016). The EDRMS principle states that when a document is still in process, it is managed by the EDRMS's document-controlled component, where it progresses through the workflows until it reaches the final status, at which point the transaction is finished. From so on, the paper becomes a record of proof of the transaction (Ambira 2016: 105).

EDRMSs have been adopted in various places of the world to improve record management or information integration into organisation operations. The objective is to increase the organisation's efficiency and effectiveness (Mosweu 2012; Mutimba 2014). An EDRMS can deliver timely, highly accurate information at a little cost when properly deployed. It is important to remember that an EDRMS is an integrated knowledge management system that spans the whole organisation and serves as the engine of the corporate market, in addition to being a platform for data management and archiving.

2.8.2. Skills and competencies for the management of digital court records

In today's modern workplace, information and communication technology application and utilization are practical requirements. This has accelerated the process of creating digital records for use in day-to-day corporate operations (Guto and Jumba 2021: 55). In the public sector, the use of ICTs has created new obstacles since managing the new records regime calls for new skills. Because diverse public officials interact while handling, utilizing, and maintaining records inside the organisation, human skills are therefore crucial (Mutsagondo and Ngulube 2018:1).

According to Keakopa (2008), however, a lot of records officers' lack modern ICT training. Consequently, in electronic records management programs, many organisations urge their IT team to collaborate closely with records management professionals. Strong staff development courses, exposure, education, training, and experience are the sources of effective electronic records management abilities, according to Mutsagondo and Ngulube (2018: 7). In order for employees to perform at their best, they must have the necessary education, training, exposure, and

experience. Sophisticated ICT staff are necessary for efficient digital records administration (Mutsagondo and Ngulube 2018:4; Read and Ginn 2016).

Mutsagondo and Ngulube (2018: 1) define skills “as the ability and competence to manage electronic records professionally, effectively, and efficiently”. Knowledge and skills for every profession are vital in equipping human beings with informed planning and decision making (Segaetsho and Mnjama 2017). Records professionals should possess the information and abilities required to carry out their duties; these can be obtained through formal education. This will support the development of a reliable digital records management system that can guarantee the acquisition and preservation of true and authentic copies of the creator's records (Mosweu and Ngoepe 2019: 18).

Additionally, organisations require the skill of the workers and other records management staff, IT staff, legal staff, and records overseers. Information Technology (IT) assumes a crucial part in keeping up electronic records as they make and keep up the foundation on which the records dwell. it is critical for key staff to cooperate to guarantee that electronic data is accessible, safeguarded, and discarded by appropriate laws and guidelines (Guto and Jumba 2021: 55). Hence there are skills that should be possessed by electronic records manager (ISO 15489-1, 2016). The first skill is information management, which is necessary for managing data as a valuable resource. Depending on their position within the company, information professionals will need different particular talents, but they all need to comprehend information management challenges and viewpoints that go beyond the boundaries of their function and role (ISO 15489-1 2016).

The second skill is privacy and data protection. This is a critical component of information governance that organisations simply must get right. There are already many regulations in place, such as the General Data Protection Regulation (GDPR) in the European Union and the California Consumer Privacy Act (CCPA) in the United States, which impose strict requirements on organisations regarding the collection, storage, processing, and sharing of personal data. In South Africa, the Protection of Personal Information Act (POPIA) No. 4 of 2013 gives effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible party. Compliance with regulations is non-negotiable for organisations operating within the respective jurisdictions (ISO 15489-1: 2016).

The third skill is domain skills, which differ according to the kind of organisation. Distinct industries employ distinct technology, possess unique workflows, and function under disparate regulatory frameworks. The last category is professional skills, which are typically relevant to all roles and job titles. They may greatly enhance one's effectiveness in each capacity, and their absence will result in subpar service delivery (ISO 15489-1: 2016). It is clear that a records manager may become unproductive if they lack the necessary abilities. To manage records effectively in the digital era, records managers need to possess both soft and technical abilities (Szekely 2017).

2.9. Legal and statutory framework for the management of digital court records for justice delivery

As digital transformation increases and more government transactions and online activities are being documented through electronic records, governments must make sure that the legal and regulatory frameworks are in place for both electronic records' efficient administration and deployment (Nkala, Ngulube and Mangena 2012).

According to Maseh (2015: 60), the goal of the organisation's records management policy should be to create and maintain authentic, trustworthy, and useable records that can support business operations and activities for as long as they are needed. This policy should be defined and documented. Furthermore, the organisation must make sure that the policy is understood and followed by every department inside the company. To make sure the policy still meets the needs of the business, it should be evaluated on a regular basis (Maseh 2015: 60).

ICT has generated difficulties since the rules that are in place do not address issues like digital record verification and other problems related to the electronic transformation of the information landscape. As a result, courts continue to struggle with administering justice. (Huni and Dewah, 2019). According to Okello-Obura (2012), Organisations must ensure that electronic records management system rules and regulations are followed. This is so that it is clear from laws and regulations exactly what kinds of documents are allowed to be kept for what length of time.

Casey (2011) states that in the U.S Federal Rules of Evidence, the UK Police and Criminal Evidence Act (PACE) and the Civil Evidence Act, and similar rules of evidence in other countries were established to help evaluate the authenticity of evidence. For example, before admitting evidence, a court will generally ensure that it is relevant and will evaluate it to determine if that is what its proponent claimsThe court must assess if the evidence is hearsay, overly prejudicial, and whether the original or a copy is adequate. Failure to evaluate these problems from the beginning may result in evidence being excluded, perhaps losing the case (Casey 2011). The study done by Maseh (2015: 60) on the “Records management readiness for open government in the

Kenyan Judiciary" revealed that in Kenya, policies for managing digital records were lacking.

Mosweu, Bwalya and Mutshewa (2016) point out that regardless of the difficulty of keeping documents in digital form, public sector agencies must manage records in accordance with legislation and regulations. Thus, good records management programs should be based on suitable legislative and policy frameworks that guide the successful generation, processing, storage, and preservation of records and archive resources.

Furthermore, according to Katuu and Ngoepe (2015: 59), public organisations in South Africa are required to abide by a few legal and regulatory requirements concerning the record-keeping process. With three different legal traditions combined, the South African judiciary operates under a hybrid or mixed legal system. The first legal tradition is a civil law system that the Dutch left behind. Known as Roman Dutch law, it is derived from two sources: court rulings and the writings of early Dutch jurists (Madhuku 2010: 50). The common law system that the British left behind is the second legal tradition. The third, also referred to as African Customary Law (Alberts and Mollema 2014; Du Bois 2010), is a system of customary law derived from indigenous civilizations.

According to Katuu and Ngoepe (2015: 61), the legislative and regulatory framework in South Africa significantly influences the way public sector records are handled inside the nation. The National Archives and Records Service of South Africa Act No. 43 of 1996, the Promotion of Access to Information Act No. 2 of 2000, the Protection of Personal Information Act No. 4 of 2013 and the Promotion of Administrative Justice Act No. 3 of 2000 are the legislative instruments that govern information in all public

sector institutions. The Electronic Communications and Transactions Act (ECTA) Act No. 25 of 2002 and the Regulation of Interception of Communications Act (RICA) No. 70 of 2002 are two additional legislative tools that organisations must abide by in order to facilitate the management of digital information.

2.9.1. National Archives and Records Service of South Africa Act (No. 43 of 1996, as amended)

The National Archives and Records Service of South Africa Act (NARSSA) Act No. 43 of 1996, as amended "requires all institutions to keep records. Section 13 of this Act contains specific provisions for efficient records management in government bodies. A governmental body is any legislative, executive, judicial or administrative organ of state including a statutory body at the national level of government (National Archives and Records Service of South Africa" (NARSSA 2007). NARSSA provides "for the National Archivist to determine, among other things, the conditions according to which records may be microfilmed or electronically produced; and according to which electronic records systems should be managed" (NARSSA 2007). The National Archives and Records Service of South Africa Act provides the anchor for the management of records, including digital records (Katuu and Ngoepe 2015:61).

The NARSSA Act (No. 43 of 1996 as amended) is "the umbrella for records and archives management at national level while the respective provincial archives and records legislation underpins management of provincial records and archives. The national or provincial archivist monitors records management programmes to ensure management of records throughout the lifecycle". Additionally, court records management must ensure admissibility of records as evidence according to the

Criminal Procedures Act (Act No. 51 of 1977) and section 35(5) of the Constitution of South Africa (Meintjes-Van der Walt *et al* 2011).

2.9.2. The Promotion of Access to Information Act (No. 2 of 2000)

The purpose of the Promotion of Access to Information Act (PAIA) Act No. 2 of 2000**,** is to promote transparency, accountability, and effective governance. The Act serves to empower and educate the public to understand and exercise their rights; to understand the functions and operation of public bodies; and to effectively scrutinize and participate in decision-making by public bodies that affect their rights (NARSSA 2006: 2).

According to PAIA, “governmental bodies cannot refuse access on grounds that a record is in an electronic form including an email. This implies that an electronic record including an email like any other record should be managed in such a manner that it is available, accessible, and rich in contextual information. By implication, electronic records including emails should be managed in proper record keeping systems and the disposal of electronic records including emails, should be documented, and executed with the necessary authority” (NARSSA 2006: 3).

2.9.3. Protection of Personal Information Act (No. 4 of 2013)

The Protection of Personal Information Act (POPIA) No. 4 of 2013 had as its key objective the protection of personal information processed by public and private bodies. The purpose of POPIA No. 4 of 2013 is “to give effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible party. This processing is subject to justifiable limitations that aimed at balancing the right to privacy against other rights, particularly the right of access to information; and

protecting important interests, including the free flow of information within the Republic and across international borders (Section 2 (a)(i))" (Government Gazette 2013).

In addition, the purpose of POPIA is "to regulate the way personal information may be processed, by establishing conditions, in harmony with international standards, that prescribe the minimum threshold requirements for the lawful processing of personal information". It gives people rights and recourse against processing of their personal information that does not comply with this Act. In order to guarantee observance of and to promote, enforce, and fulfil the rights safeguarded by POPIA, it provides both mandatory and voluntary measures, such as the creation of an information regulator (Government Gazette 2013).

2.9.4. The Promotion of Administrative Justice Act (No. 3 of 2000)

The purpose of the Promotion of Administration Justice Act (PAJA) No. 3 of 2000 is "to ensure that administrative action is lawful, reasonable, and fair and properly documented". According to NARSSA (2006: 3), "PAJA imposes a duty on the state to ensure that administrative action is lawful, reasonable, and procedurally fair. Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons for such an action. If an administrator to whom a request was made, fails to furnish adequate reasons for an administrative action, because the history of that action was documented in e-mail messages or records that were destroyed, it could be presumed that the administrative action was taken without good reason" (NARSSA 2006:3). Legal action against the administrator or his/her organisation is therefore a possibility. Back to record management: purposeful deletion of documents, including emails, may be seen as an attempt to hide the grounds for administrative proceedings (NARSSA 2006: 3). To ensure that the Promotion of

Administrative Act's provisions are implemented, a body must have effective records management procedures. Still, rules require governmental organisations to keep records and information organized so they are easily accessible when needed (NARSSA 200: 3).

2.9.5. Electronic Communications and Transactions Act (No. 25 of 2002)

According to the Electronic Communications and Transactions Act (ECTA) (No. 25 of 2002), data messages are legally admissible records, provided that their authenticity and reliability as true evidence of a transaction can be proven beyond any doubt. The purpose of the ECTA is to legalise electronic communications and transactions, and to build trust in electronic records. Thus, the evidential weight of the electronic records including e-mails, would depend amongst others on the reliability of the way the messages were managed by the originator and the receiver. Therefore, should government bodies including High Courts not have a properly enforced records management and email policy, and a reliable and secure record keeping system, they run the risk that the evidential weight of their electronic records including emails might be diminished (NARSSA 2007). The ECTA authorises the use of digital court records as evidence in the court of law for decision-making in the delivery of justice.

2.9.6. Regulation of Interception of Communications Act (RICA) No. 70 of 2002

The Regulation of Interception of Communications Act No. 70 of 2002 is a piece of South African legislation that governs the interception or monitoring of paper-based and electronic communication. The purpose of RICA is to control the following activities: providing specific communication-related information; monitoring specific signals and radio frequency spectrums; and intercepting certain communications. It controls the filing of applications and the issuance of directives for the disclosure of

communication-related information and the interception of communications under specific conditions (Government Gazette 2003). Furthermore, the Government Gazette of 2003 states that RICA aims to control how law enforcement agents carry out entry warrants and directives, as well as how postal service providers and holders of decryption keys help in carrying them out.

2.10. Barriers to effective management of digital court records

The use of technology in record keeping is a problem that surely impacts the availability of data for public accountability. However, unless information communication technologies (ICTs) have a very well-developed capacity to manage digital records as legally verifiable evidence of entitlements, contractual obligations, policies, or transactions for the period required, mixed media, paper/electronic records management still suffers when the electronic systems are not in place. This makes it extremely difficult to secure or manage such information overall. Providing easily accessible, current information is the primary motivation for utilizing ICTs in record administration (Guto and Jumba 2021: 57).

According to Huni and Dewah (2019: 135), Digital records are far more volatile than traditional paper. Digital records are prone to change, manipulation, and tampering, which can create major admissibility difficulties, leading to the questioning of evidence. Karagiannis and Vergidis (2021: 2) add that digital records in the form of evidence are extremely fragile and durable at the same time. Even though the content and location of digital records can be easily and swiftly altered, yet at the time, if they remain at the exact same state and position in which they are confiscated, they can provide critical evidentiary information in an unquestionable and irrefutable way (Karagiannis and Vergidis 2021:2). Furthermore, Karagiannis and Vergidis (2021: 2) state that

destroying digital records requires consistent effort and, in most cases, a hands-on approach to the physical media that contains them, because information systems that carry the data have integrity assurance mechanisms built in through redundancy and fault tolerance. Data redundancy is a condition caused by data storage technology in which the identical piece of data is stored in two locations. This can happen by mistake, but it is frequently done on purpose for backup and recovery (Varanasi 2021:3).

In addition, Guto and Jumba (2021: 57), an effective records management system combines all records into a single database to allow for quick retrieval of information. In this era of 'instant' information, there is a growing desire for quick access to records and the information contained within them. As a result, information technologies enable the collecting and aggregation of statistical data that would otherwise be very time-consuming, if not impossible, to construct using manual processes. Institutions must guarantee that equipment or technology that relies on records, such as audio-visual content and magnetic tapes, is available for as long as necessary (Guto and Jumba 2021: 57).

Ambira (2017) identified the challenges facing the management of electronic records, and these include “technological obsolescence; technological dependence; risks to reliability and authenticity; loss of security and privacy. In addition, decentralisation of information; increased security risk of data and records in electronic format; inadequacy of e-records management specialists; increased costs; weak and out-dated legislative framework and insufficient infrastructure systems added to the challenges”. However, the introduction of ICT has produced issues since present regulations do not address the authentication of digital documents or other complexity related with the technological transformation of the information landscape. Courts are

continually wrestling with the administration of justice. To make the proper conclusions in cases, the court must think that the documents allowed before it is trustworthy and relate to the facts of what originally happened (Huni and Dewah 2019: 135).

Moreover, according to Mutsagondo (2021: 94), amongst the challenges are deficits in information and communication technology infrastructure, skills, and legal policy and procedural frameworks are obstacles to the efficient administration of digital records. Additionally, Ambira, Kemoni and Ngulube (2019) state that the ability to coordinate and share information is hampered in cases where policies for information sharing and management of digital records do not exist.

The judicial system in Bangladesh, like that of other emerging and transitional nations, confronts similar limits and bottlenecks (Hasan and Rupa 2021: 49). More than three million pending lawsuits have generated a significant backlog in the courts. As a result, the lawsuits take an inordinately long time to resolve, and litigation expenses continue to rise. The most vulnerable and disadvantaged members of society bear the brunt of the suffering. The most significant task for the country's judiciary is to decrease court process delays and eliminate case backlogs (Hasan and Rupa 2021:49). The pragmatic step to e-judiciary is inevitable to integrate the existing efforts and to digitalize the judiciary of Bangladesh. The aim is to reduce citizens' time, cost, and hassle to access judicial services and to make the system more efficient and transparent (Hasan and Rupa 2021: 49).

2.11. Strategies and guidelines in the management of digital records

Similar to manual systems, digital records are produced as proof of business transactions through the electronic provision of services to individuals and businesses. The evidence needs to be retained as records which can demonstrate accountability

and preserve reliable access (Nkala, Ngulube and Mangena 2012). For this purpose, many countries developed systems for digital records management.

According to Xiaomi (2009), electronic record management in the United States is integrated into a mission-focused framework and the Federal Enterprise Architecture to improve government performance under enterprise-wide ERM system guidance in accordance with ERM policy that applies to the entire federal government. According to the National Archives and Records Administration (NARA) (2005), electronic records and archives (ERA) are one of the strategic initiatives to authentically preserve and effectively facilitate access to the United States government's unique and valuable records, as well as transition government-wide management of the lifecycle of all records in the context of e-government free of reliance on specific hardware or software.

There were other strategies such as developing new training classes and workshops tailored to helping agencies schedule all the e-records, high-level advocacy, publicity, and briefings to senior executives, agency staff, and targeted groups or stakeholders. policies and guidance were issued to agencies to focus their efforts and to help report on government-wide compliance (NARA 2010:5). Moreover, Xiaomi (2009) revealed that in “the UK, ERM are seriously taken as a means for effective e-government implementation”. Additionally, “in Europe, through the European Commission, several EU states have been involved in projects and have developed strategies aimed at addressing the challenges of managing records in the electronic environment since 1994” (Brady 2006:1). One significant effort is the Document Life-Cycle Management (DLM) Forum. The DLM-Forum has established a venue for presentations, discussions, and the development of methods and solutions to Europe's issues in maintaining electronic records (Keakopa 2006:78).

In the UK, “the National Archives (TNA) has been spearheading efforts in the development of strategies in the management of electronic records. thus in 1998, two key projects namely the Electronic Records in Office Systems (EROS) and the National Digital Archive of Datasets (NDAD) were initiated to provide advice and guidance to records managers across central government” (Irvine 2000:12). These projects were part of the e-government reforms to modernize government and to secure the preservation of, and provision of access to electronic records.

The National Archives (TNA) also “provided a framework in the form of a development milestone to guide the agencies and help them meet the set targets. The milestones included development of policies, strategies, identifying requirements for electronic records management appraisal and preservation plans. On the other hand, EROS was started as a specialised programme to ensure that electronic records of long-term value, created across government, are available for future access” (Irvine 2000:12; National Archive 2002).

Another initiative is InterPARES, which started in 1999. This is a major international research initiative in which archival scholars, computer engineering scholars, national archival institutions, and the private sector collaborate to develop international, national, and organisational policies, strategies, and standards for the long-term preservation of authentic electronic records (Duranti 2002). The project entered its second stage, InterPARES 2, which began in 2002 and ended in 2007. This phase sought to establish theories and techniques for assuring the dependability, correctness, and validity of electronic records from their genesis to preservation. The study focuses on records generated by dynamic, experiencing, and interactive systems during artistic, scientific, and governmental activities. InterPARES 3, which began in September 2007 and ended in August 2012, aimed to implement the results

of the first two stages of the project in archive organisations or units with limited resources (Duranti 2007).

In the United States and Canada, three major projects, namely the Pittsburgh project, UBC's School of Library, Archival and Information Studies Project, and the International Research on Permanent Authentic Records in Electronic Systems (InterPARES), provide useful insight into electronic record management. The Pittsburgh Project at Pittsburgh University's School of Information Sciences is credited with pioneering the development of a framework for constructing recordkeeping systems as part of an electronic record management solution. The project began in 1993 as a collaborative effort to provide specified techniques and functional criteria for evidence in recordkeeping. Specifically, the initiative produced basic rules for evidence in conformity with best practices, responsible recordkeeping systems, and the capture of complete records, their maintenance and usability (Bearman and Sochats 2006:3).

One of the Pittsburgh project's key accomplishments was the development of a general model with functional criteria that, while unique to electronic systems, could also be applied to manual or hybrid systems (Hunter 2000: 262). The other significant initiative was the UBC School of Library, Archival, and Information Studies initiative (199-1997), which focused on the integrity of electronic documents. This project aimed to find the best techniques and set standards for producing, processing, and protecting the dependability and validity of electronic records throughout their active and semi-active lives (UBC 2006). Furthermore, the study produced some valuable answers on what makes a full, dependable, and authentic record in an electronic world. It is generally acknowledged that the procedural and administrative setting of electronic creation was all important in assessing the nature of electronic records (Keakopa 2006:87).

Mauritius implemented the Revenue Collection and Case Management System. The Case Management System ensures easy retrieval of documents and court filing, including giving the public access to court documents online (Africa Judges and Jurists Forum (AJJF) 2021:20). According to AJJF (2021:20), Mauritius revamped and upgraded the Digital Court Recording System (DCRS), to expand its use to record court proceedings ad to create transcribed copies of court records. The DCRS ensured that court records are complete and accurate.

2.12. Chapter summary

This chapter discussed the literature review were the following issues: records management, the management of court records, the management of digital court records, importance of digital court records; infrastructure for the management of digital court records, digital court records management systems, skills, and competencies for the management of digital court records; legal and statutory requirements for the management of digital court records; and barriers to effective management of digital court records. This chapter also discussed the conceptual framework of the study.

The literature reviewed in this chapter reveals that digital court records are integral to effective delivery and administration of justice in courts, to safeguard judicial proceedings and maintain the independence of the judicial system. Digital court records are used to facilitate decision-making. However, although digital court records are vital to the delivery of justice, in some areas there is lack of electronic records management programme, and skills and knowledge. The literature further reveals that challenges concerning the management of electronic records, included risks to reliability and authenticity; loss of security and privacy; technological dependence;

decentralisation of information; increased security risk of data and records in electronic format; inadequacy of e-records management specialists; increased costs; weak and outdated legislative framework and insufficient infrastructures systems. As a result, other organisations have implemented strategies to overcome the issue of lack of digital records management.

A few countries, implemented among other strategies, developing new training and workshops tailored to helping agencies schedule all of the e-records; high-level advocacy, publicity, and briefings to senior executives, agency staff, and targeted groups or stakeholders; and issuing policies and guidance to agencies to focus their efforts and to help report on government-wide compliance. The next chapter will discuss the research methodology of the study.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1. Introduction

This chapter discusses the research methodology used to answer the study's research questions aimed at investigating the management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province in South Africa. the aim was to develop a framework for the management of digital court records. The chapter focuses on the research paradigm, methodological research approaches, research design, population of the study, sampling procedures, data collection methods, data analysis methods, validity and reliability of the instruments, and ethical considerations. The study provided a roadmap showing the research methods used from the research paradigm stage to the various techniques utilized to complete this study. Figure 3.2 was adapted from Ngulube's (2019) roadmap (Figure 3.1), to show the methodological choices for this study.

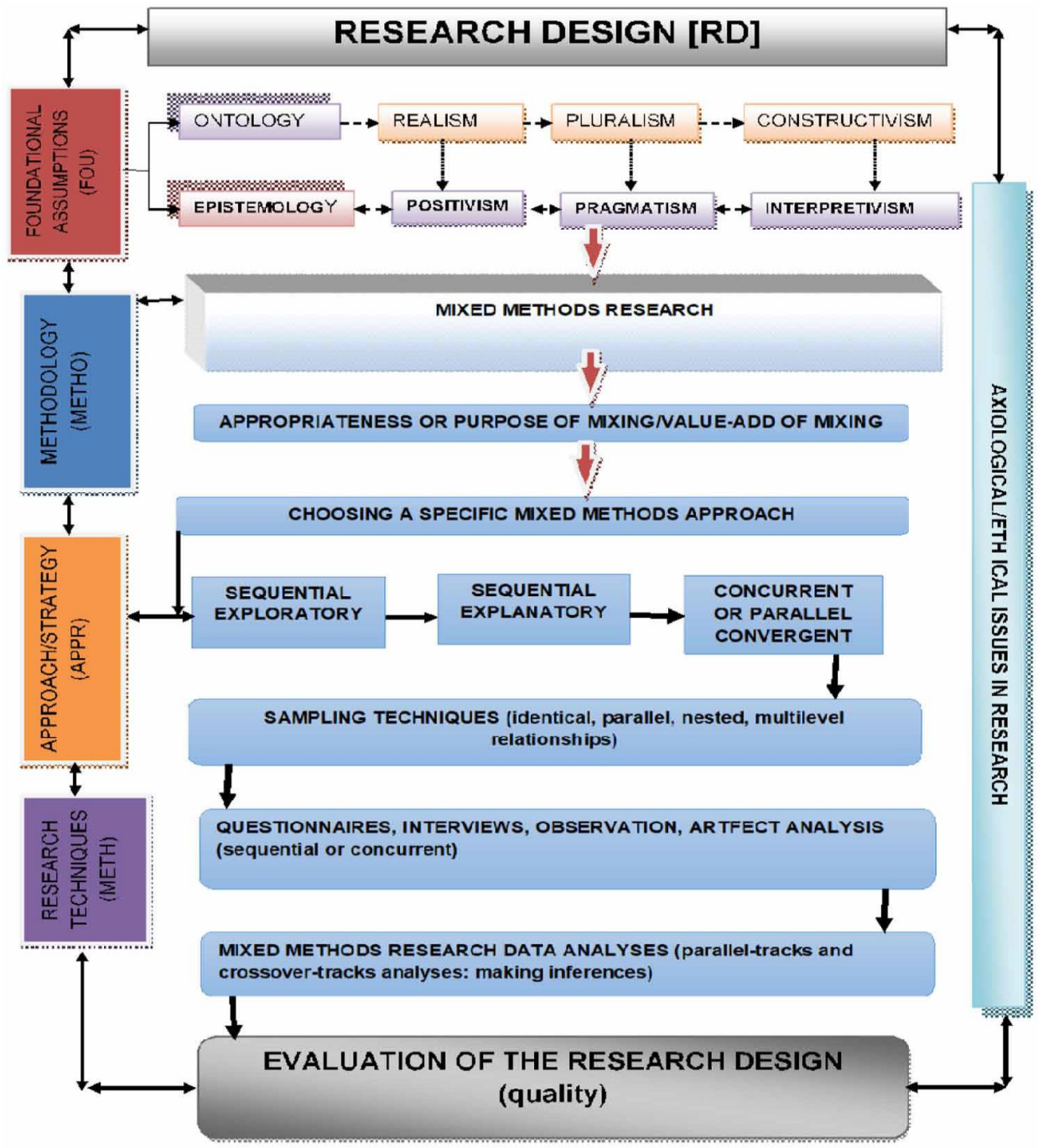

Figure 3.1: Mixed methods research in the methodological landscape (Ngulube 2019: 431).

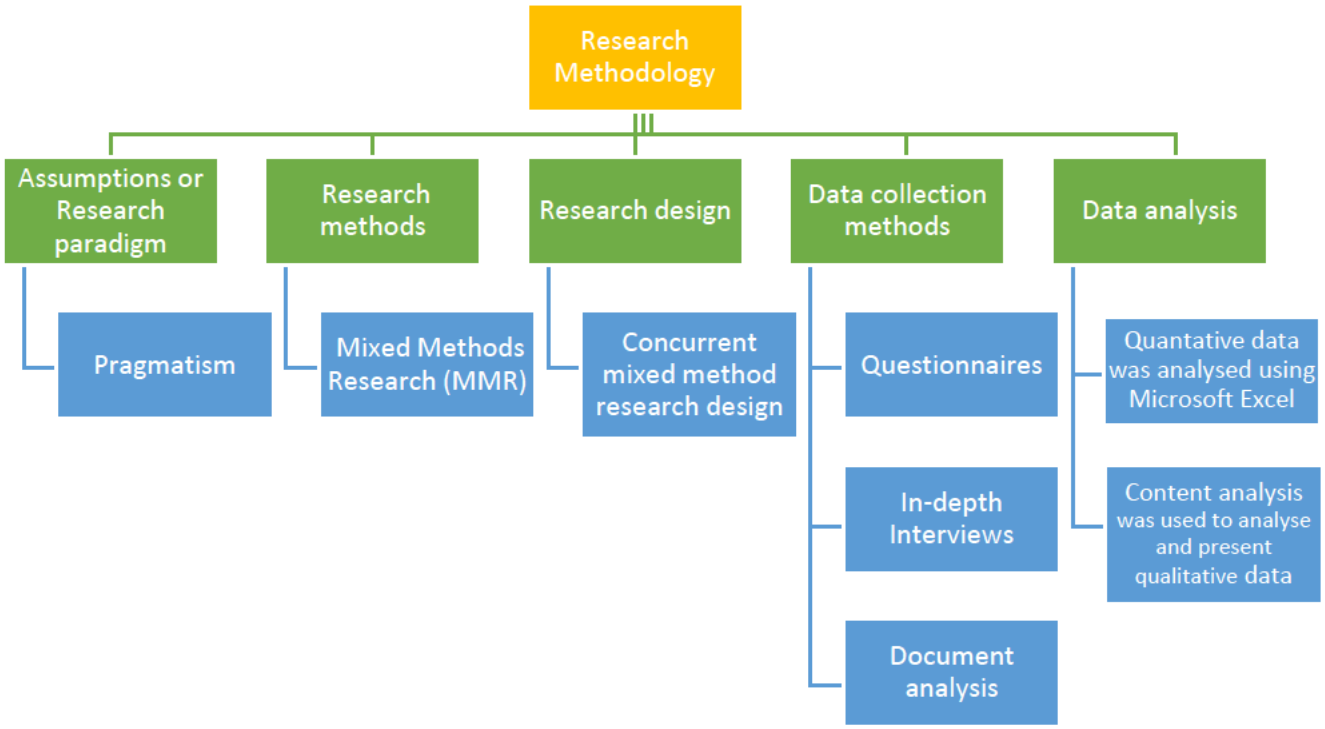

Figure 3.2: Research methodology roadmap for the study

The roadmap for this study illustrated that the pragmatism paradigm underpinned the study. As a result, the appropriate research method for the study was the mixed methods research which is a combination of qualitative and quantitative approaches to provide a more comprehensive understanding of a research problem. The qualitative data provide context and depth to quantitative findings, while quantitative data validate qualitative insights. As a result, the qualitative data was collected using in-depth interviews, and document analysis. Content analysis was used to analyse and present qualitative data. On the other hand, questionnaires were used to collect quantitative data, and they were analysed through Microsoft Excel. The concurrent mixed methods research design was adopted. This research design was used to

collect both qualitative and quantitative data simultaneously. The research methodology for this study is discussed below.

3.2. Philosophical assumptions or research paradigms

Philosophical assumptions about the nature of knowledge, or the nature and existence of social reality (ontology) and what constitutes that knowledge and ways of knowing (epistemology) make up a paradigmatic base of research in a subject field (Ngulube 2015:5). Philosophical assumptions are also referred to as worldviews (Creswell 2014: 10), while Kuhn (1970:12) referred to them as paradigms. A paradigm can be defined as a discipline's specific method of structuring reality (Maseh 2015:78). According to Bryman (2012:714), a research paradigm is a term deriving from the history of science, where it was used to describe a cluster of beliefs and dictates that scientists in a particular discipline influence what should be studied, how research should be done, and how results should be interpreted.

Moreover, Neuman (2014:96) describes a paradigm as a general organizing framework for theory and research comprising basic assumptions, key issues, models of research, and methods for seeking answers. Additionally, paradigms are lenses for viewing and interpreting significant substantive issues to a discipline including vocabulary, theories, and principles, as well as the presuppositions and values related to an inquiry' (Weaver and Olson 2006:460).

Creswell (2003: 12) identified the following paradigms:

- Positivist referred to "as the scientific method. It reflects a deterministic philosophy which causes probably determine effects of outcomes and is reductionist in nature. The knowledge that develops through positivist is based

on careful observation and measurement of the objective reality that exists out there" (Creswell 2003: 12).

- Socially constructed paradigms are "also referred to as interpretivism. This relies as much as possible on the participants' views of the situation being studied" (Creswell 2003: 12).

- Advocacy/participatory paradigm "is the belief that the research should contain an action agenda for reform that may change the lives of the participants" (Creswell 2003: 12).

- Pragmatic paradigms posit that "knowledge claims arise out of actions, situation, and consequences rather than antecedent conditions. Studies using pragmatism are concerned with "what works" and solutions to problems rather than the methods used. In this case researchers use all approaches to understand the problem" (Creswell 2003: 12).

According to Ngulube (2015: 6), the methodology of positivism is quantitative, interpretivism is qualitative approach, while pragmatism is suited for mixed methods approaches. Neuman (2014: 97) states that positivism focuses on discovering casual laws, careful empirical observations, and value free research. Furthermore, Cecez-Kecmanovic and Kennan (2013: 121) explain that positivist researchers generally aim to answer questions about relationships among well-defined concepts with the purpose of explaining, predicting, and controlling phenomena. The main reason is to discover regularities and causal laws so that people can explain, predict, and control events and processes.

Williamson (2013: 7) describes interpretivism as an approach that is linked to naturalistic inquiry. The main concern of this paradigm is to seek social meaning as

experienced by human beings. Creswell (2009: 10) describes pragmatism as the philosophical underpinnings of mixed methods research. This study is based on the pragmatism paradigm.

3.2.1. Pragmatism paradigm

This paradigm emerged from an effort to reconcile positivist and interpretivist epistemologies (Ngulube 2015: 6). Creswell (2014: 10) identifies pragmatism as “a worldview that arises out of actions, situations, and consequences rather than antecedent conditions”. Moreover, pragmatism is “based on the proposition that researchers should use the philosophical and/or methodological approach that works best for the specific research problem that is being investigated” (Tashakkori and Teddlie 1998). Creswell (2014: 11) identified pragmatism paradigm as follows:

- Pragmatism is “not committed to any one system of philosophy and reality. This applies to mixed methods research in that inquirers draw liberally from both quantitative and qualitative assumptions when they engage in their research. In this way, researchers are free to choose the methods, techniques, and procedures of research that best meet their needs and purposes” (Creswell (2014: 11).
- Pragmatists do not see the world as an absolute unity. Truth is what works at a particular point in time. It is not based on a duality between reality independent of the mind or within the mind (Creswell (2014: 11).

The pragmatism is the philosophy that distinguishes Mixed Methods Research (MMR) from quantitative and qualitative research and provides a rationale for paradigmatic pluralism (Tashkkori and Teddlie 2010; Hesse-Biber 2010). This means that paradigm since it allows for the use of Mixed Method Research (MMR), which is the combination

of both qualitative and quantitative approaches which makes it possible to look at "what" and "how" of the study thus providing full coverage of the research questions identified in chapter one. This study investigates a framework for management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province in South Africa. In order for the research problem to be fully addressed, both qualitative and quantitative data were required, thus the choice of the pragmatism paradigm. Similar studies to this one have adopted the adopted the pragmatism paradigm. A study by Gara (2010) on "*An investigation into the management of the records and archives of former liberation movement in East and Southern Africa held by national and private archival institution*" was one such study. Another study by Maseh (2015) entitled "*Records Management Readiness for Open Government in the Kenyan Judiciary*" adopted pragmatism paradigm. The study sought to investigate records management practices in the Kenyan judiciary with a view to promoting transformation and facilitation of open government for effective and efficient justice delivery.

3.3. Research methods

Research methods are procedures that a researcher uses or follows to collect and analyze data (Mathipa and Gumbo 2014:31). Creswell (2014:3) further explains that research methods are plans and the procedures for research that span the steps from broad assumptions to detailed methods of data collection, analysis, and interpretation. Creswell (2014:3) opines that the selection of a research method is based on the nature of the research problem or issue being addressed, the researcher's personal experience, and the audiences for the study. There are three approaches to research, such as qualitative, quantitative, and mixed methods research approaches.

According to Creswell 2014: 4), a qualitative method is a way to investigate and comprehend the meaning that people or groups attribute to a social issue or human concern. In qualitative research, data is usually collected in the participant's environment, questions and processes emerge during the process, data analysis proceeds inductively from specific to broad themes, and the researcher interprets the meaning of the data. (Creswell 2014: 4). Creswell (2014: 4) states that “the final written report has a flexible structure. Researchers that engage in qualitative form of inquiry support a way of looking at research that honours an inductive style, a focus on individual meaning, and the importance of rendering the complexity of a situation”.

Creswell (2014: 4) defines quantitative method as an approach for testing objectives theories by examining the relationship among variables. These variables, in turn, can be measured, typically on instruments, so that numbered data can be analyzed using statistical procedures. The research study has a set structure consisting of introduction, literature and theory, methods, results, and discussion. Like qualitative researchers, researchers that engage in quantitative form of inquiry have assumptions about testing theories deductively, building in protections against bias, controlling for alternative explanations, and being able to generalize and replicate the findings (Creswell 2014: 4).

Mixed Methods Research (MMR) is defined as the type of research in which a researcher (or team of researchers) combines elements of qualitative and quantitative research approaches for the broad purpose of breadth and depth of understanding and corroboration (Johnson, Onwuegbuzie and Turner 2007: 123). The study adopted mixed methods research.

3.3.1. Mixed Methods Research (MMR)

Mixed methods research is an approach to inquiry involving collecting both quantitative and qualitative data, integrating the two forms of data, and using distinct designs that may involve philosophical assumptions and theoretical frameworks (Creswell, 2014: 4). Tashakkori and Creswell (2007: 4) define mixed methods as an inquiry in which the investigator collects and analyses data, integrates the findings, and draws inferences using both qualitative and quantitative approaches in a single study or programme of inquiry. Conducting mixed methods research involves collecting, analyzing, and interpreting quantitative and qualitative data in a single study or in a series of studies that investigate the same underlying phenomenon (Johnson and Onwuegbuzie 2004: 17; Onwuegbuzie and Leech 2006: 474). Ngulube (2020: 425) argues that mixed methods research integrates qualitative and quantitative research approaches in many or all phases of a study to comprehensively address a research problem by collecting quantitative and qualitative data concurrently or in phases with the aim to maximise their advantages.

The underlying assumption of this type of inquiry is that the combination of qualitative and quantitative methodologies produces a more thorough knowledge of a study topic than either strategy alone (Creswell, 2014: 4). Qualitative data tends to be open-ended without predetermined responses while quantitative data usually includes closed-ended responses such as found on questionnaires or psychological instruments (Creswell 2014: 14). Moreover, mixed methods research is suited for complex research problems comprising many components, or people and contextual factors that cannot be fully addressed by using one method (Ngulube 2020: 426).

A mixed methods research methodology was used for this study because it enables the collection of both qualitative and quantitative data, producing complementary strengths and non-overlapping weaknesses. In addition, this method was used since it has potential to investigate complex problems and provide a relatively comprehensive picture in instances where a single research method is unable to address the phenomenon (Ngulube 2020: 425). In addition, A mixed methods approach was employed for triangulation to ensure convergence and corroboration of qualitative and quantitative data.

The combination of methods helped the researcher to gain a broader perspective about the management of digital court records for justice delivery by the Eastern Cape High Courts. The researcher used qualitative methods to gain a deep understanding about the problem being investigated through the research participants. On the other hand, the use of quantitative methods was useful in this study because it covered the data that was not included in qualitative data. These methods provided an in-depth understanding of the research problem.

3.4. Research design

As stated by Creswell (2014: 12), research designs are types of inquiry within qualitative, quantitative, and mixed methods approaches that provide specific direction for procedures in a research study. Ngulube (2015: 7) points out that research design determines and controls data collection and analysis procedures. The types of mixed method research designs include sequential exploratory, sequential explanatory, and concurrent mixed methods. The study adopted concurrent research designs.

3.4.1. Sequential exploratory design

According to Almeida (2018: 140), a mixed method research design is a design in which qualitative data is collected first. In addition, Grech and Grech (2021: 70) state that the sequential exploratory mixed methods approach necessitates commencing with qualitative data collection for an exploratory intent followed by a quantitative stage so as to allow for generalizability.

3.4.2. Sequential explanatory design

According to Almeida (2018: 140), is a mixed method research design in which quantitative data is collected in the first instance followed by qualitative data collection. Grech and Grech (2021: 70) alluded that the explanatory research design involves an initial quantitative part to test a theory or concept followed by a qualitative aspect to facilitate further deeper exploration.

3.4.3. Concurrent mixed methods design

Concurrent is “a form of mixed methods design in which the researcher merges quantitative and qualitative data to provide a comprehensive analysis of the research problem” (Creswell 2014: 14). In concurrent design, the investigator typically collects both forms of data at the same time and then integrates the information in the interpretation of the overall results (Creswell, 2014: 14; Kroll and Neri, 2009: 43). Contradictions or incongruent findings are explained or further probed in this design.

In addition, Cameron (2009: 144) states that “concurrent is the model design in which two types of data are collected and analyzed at the same time rather than sequentially, allowing findings from one data collection method to inform the other immediately”. This supports enhancement and clarification through the identification of additional insights to explain more fully the phenomenon being researched (Hammersley 2008).

For topics where the researcher does not wish to sensitise the participant to the precise focus of the research, findings based on quantitative data collected about a set of items may offer a way of establishing immediately the relative importance of a subset that is of particular interest, prior to exploring underlying reasons in an in-depth interview (Saunders and Thornhill 2011: 4).

Drawing upon concurrent designs, an in-depth interview and the tactful application of a sorting approach might provide a way to combine quantitative information regarding the intensity of feelings with a qualitative analysis of the causes of this. By classifying a variety of distinct emotions and the relative strength (if any) of sentiments of trust and mistrust, impressions might be formed without making respondents aware of the researcher's specific emphasis. Simultaneously, this might help establish a connection before a detailed interview that delves into a potentially delicate subject and the causes of these and other emotions (Saunders and Thornhill 2011: 4). This approach allows for a deeper understanding of the management of digital court records, leveraging the strengths of both the qualitative and quantitative research to improve practice and policy effectively.

3.5. Population of the study

Population of the study in research is described as the aggregation of elements, such as people objects, events, organisation, social artefacts, from which a study sample is selected (Leedy and Ormrod 2015; Stangor 2011). Neuman (2014) describes a population as an abstract idea or a concretely specified large group of many cases from which a researcher draws a sample and to which results are generalizable. Additionally, Ngulube (2005: 133) underscores the need for investigators to define the

population before collecting the sample, including a description of the elements to be included.

The research study was conducted in the Eastern Cape Province using Mthatha Local High Court and Grahamstown Provincial High Court as the selected High Courts. The researcher used Eastern Cape High Courts, firstly as a follow up from the master's dissertation. Initially, the researcher studied the management court records for justice delivery in the magistrate court. The findings revealed that most cases that the magistrates deal with sometimes refer to High Courts. As a result, the researcher was interested in finding out the management of court records in High Courts, preferably in the same province. Secondly, the Eastern Cape High Courts were used since it saved the researcher's time, because it was more accessible to the researcher during the research process. The target population for the study were the people who managed digital court records in High Courts. These were the court registrars, court managers, senior administration officers, chief registry clerks, registrar's clerks, registry clerks, administration officer and librarian.

3.6. Sampling and sampling procedure

Sampling is the procedure of selecting a sample from a large population (Maseh 2015: 89). Gibson and Brown (2009: 56) describe sampling as the points of data or cases to be included within a research project. These points of data collection may be a person, a document, an institution, a setting, or any instance of information or data gathering. Samples are formulated in relation to the interests and concerns of the researcher and the logistics of the research design adopted.

Probability and non-probability sampling are two common methods of sampling designs employed in research to select or determine a sample (Babbie 2010, Kumar

2011). In mixed or multi-method research designs, both sampling methods are used in a single study (Leedy and Ormrod 2015; Neuman 2014). Probability or random sampling method ensures every part of the population has the potential to be represented. This is to ensure each element in the population has an equal and independent chance of selection and the probability of selection of each element in the population is the same. Simple random, stratified random, proportional, cluster, and systematic sampling techniques are used in probability sampling (Kumar 2011; Leedy and Ormrod 2015). Moreover, Ngulube (2005:132) points out the desire for level of representativeness of a sample can limit the applicability and generalizability of findings. The probability sampling method is not employed in this study because the adoption of the census approach presumes the participation of the entire population under study.

On the other hand, non-probability sampling methods are popular in social research. Kumar (2011) avers that non-probability sampling method is used when the number of elements in a population is either unknown or cannot be individually identified. Non-probability sampling method is the only alternative in a situation where each element of the population is not guaranteed representation in the sample. The most common types of non-probability sampling designs are convenience, accidental, judgmental or purposive, expert, snowball and quota sampling (Kumar 2011; Leedy and Ormrod 2015). Purposive sampling technique was adopted for data collection for this study.

3.6.1. Sample size

A sample comprises the elements selected from the target population through probability or non-probability sampling designs. A sample is crucial to the external

validity of a study. Ngulube (2005: 132) underscores the importance of a precise study sample because an ambiguous sample:

> 'Would make it difficult for the research to achieve what it would have set out to do. It would be equally impossible to establish whether the sample represents the population or not. Unequivocal conclusions about the population would be difficult to make if the sampling strategy were nebulous. The representativeness of the sample can limit the applicability and generalizability of the findings' Ngulube (2005:132).

The sample size of this study comprised 15 participants in total from Mthatha High Court and Grahamstown High Court. Eight participants were staff members from Mthatha High Court, namely 1 court manager, 1 senior administration officer and 1 court registrar participated in a qualitative study, while 3 registrar's clerks, 1 registry clerk, and 1 admin officer participated in a quantitative study.

On the other hand, 7 participants were staff members from Grahamstown High Court, and these included 1 court manager, and 1 court registrar who participated in a qualitative study, while 1 chief registry clerk, 1 registrar clerk, 2 registry clerks, and 1 librarian participated in a quantitative study. The study's sample size indicated that, despite the presence of a librarian at Mthatha High Court, their participation was precluded by unavailability.

3.7. Data collection methods

The data collection methods sometimes referred to as data sources relate to how the data is collected and, for qualitative data, this is typically in the form of observation, surveys, interviews, and artefact and documents studies (Henning *et al.* 2004: 5; Recker 2013: 90; Mosweu and Mosweu 2020: 403). A self-administered questionnaire,

and in-depth interviews were data collection methods used in the study. The use of multiple data collection methods ensured adequate data to answer the research questions.

3.7.1. Questionnaire

The questionnaire is a research tool used to collect data in the form of statistics in most instances, although it is also used to ask some open-ended questions or questions that need some explanation by participants (Marutha 2019: 409). Pickard (2007: 183) observed that questionnaires are without doubt the single most popular data collection tools in any research involving human subjects. Kalusopa (2011: 134) describes a questionnaire as an instrument for data collection with more advantages than disadvantages. Among the advantages of a questionnaire, Kalusopa (2011:134) noted the following:

- Ability to collect data from many people within a relatively short period of time,
- Ability to encourage frankness and completion without the researcher being present,
- Obtaining fixed standardized types of answers (with pre-defined range of answers) thus eliminates too much variation of answers; and
- Cheap and less time consuming (Kalusopa 2011:134).

The structure of a questionnaire comprises either open-ended or closed-ended questions or a combination of both types of questions. The current study collected data from 1 chief registry clerk, 4 registrar clerks, 3 registry clerks, 1 admin officer, and 1 court librarian from the selected High Courts using questionnaires. The data collected required very specific responses and therefore many of the questions were

close ended. The choice of a questionnaire as one of the data collection methods for this study was informed by the fact that the targeted participants of the study were always busy in their place of work and the questionnaire afforded them flexibility to complete questionnaires at their own convenient time.

3.7.2. In-depth interviews

Research interview is a purposeful conversation between two or more people requiring the interviewer to establish rapport, to ask concise and unambiguous questions to which the interviewee is willing to listen attentively and to respond (Saunders *et al*. 2012: 372).

The study adopted the interview schedule for in-depth interviews with judges and records officers. The use of this data collection method was to get information from an interviewee by following a guide. The main purpose of the interviewer was to capitalize on special position, knowledge, experience, or insights of an interviewee to gather as much information as possible to answer the research questions (Singleton and Straits 2010). To get the best out of qualitative interviews, Leedy and Ormrod (2010:149-152) suggest that a researcher should:

- Identify some questions in advance.
- Consider how participants' cultural background might influence their responses.
- Make sure your interviewees are representative of the group.
- Find a suitable location.
- Get written permission.
- Establish and maintain rapport.
- Focus on actual rather than the abstract or hypothetical questions.

- Do not put words in people's mouths, record responses verbatim.

3.7.3. Document analysis

Document analysis is about studying the created documents of the organisation that are available with the main purpose of understanding the content or details or information covered (Ritchie and Lewis 2003). Bernard (2013) refers to document analysis as archival research in which archived records are studied. Creswell (2014) opines that during the process of research, the investigator may collect qualitative documents. These may be public documents. The current study used the list of documents from African Judges and Jurists Forum, Criminal Procedures Act. These documents were used since they were providing relevant information about High Courts and the use of court records in the court of law for justice delivery in South Africa.

3.8. Data analysis methods

Data analysis refers to "the act of making sense out of the raw collected data research, for purposes of resolving the research problem. Without data analysis, the data collected will remain data and will not make sense and thus not provide answers to the research question" (Mosweu and Mosweu 2020: 403). According to Babbie (2010), data analysis helps the researcher to understand the elements of data by breaking them into manageable themes, trends, and relationships. This is important for drawing conclusions that reflect the interest, ideas and theories that initiated the inquiry (Babbie 2010).

In this study, both quantitative and qualitative data were collected. Quantitative data was coded by creating codes and analysed using Microsoft Excel 2016. Codes are the currency of content analysis. Researchers use codes to organize and understand their

data. Codes themselves are short, descriptive labels that symbolically assign a summative or salient attribute to more than one unit of meaning identified in the text (Kleinheksel *et al* 2020). In essence, coding is a method of indexing or mapping data to give a summary of diverse facts so that the researcher may understand them in light of their research objectives. Essentially, it might be a means of labeling information that is pertinent to a specific point (Elliott 2018: 2851). Through coding, researchers can break down their data to produce novel insights and new understandings (Elliott 2018). Therefore, analysed data was presented as percentages, pie charts, tables, and graphs.

Moreover, content analysis was used to analyse qualitative data according to emerging themes based on the objectives of the research study. Content analysis is a method designed to identify and interpret meaning in recorded forms of communication by isolating small pieces of the data that represent salient concepts and then applying or creating a framework to organize the pieces in a way that can be used to describe or explain a phenomenon (Kleinheksel *et al* 2020). Content analysis, also known as document review, is a detailed and systematic examination of a particular body of material for purposes of identifying patterns, themes, or biases based on the research questions of a study.

According to Leedy and Ormrod (2010), document analysis enhances validity of the results. It is a non-reactive method of data collection because the creators of the material are not aware about this at the stage of creating and using the material. Creswell (2003) describes this as an unobtrusive source of information that represents data that participants have given attention to compiling. The documents and texts analysed may include books, poems, newspapers, magazines, reports, manuals, web pages, laws, constitutions, and many others (Babbie 2010; Neuman 2014).

The outcome of content analysis is analysed as part of the data collected for the study (Babbie 2010; Neuman 2014). Content analysis of digital court records focuses on identifying patterns, themes, and key factors that influence how these records are created, organized, stored, and accessed within the legal system. Courts should adjust the legal framework to ensure the admissibility of digital records. This may require changes in laws or regulations to recognise digital records as equivalent to paper records. The findings indicated that most of the documents such as records management policies, file plan, legal books were accessed on the internet/intranet and the library. The results of the data collection, however, showed that the court managers at the Mthatha and Grahamstown High Courts were more familiar with the records management regulations than the other staff members.

3.9. Reliability and validity

Reliability is the extent to which a measurement instrument yields consistent results when the characteristic measured has not changed (Leedy and Ormrod 2015; Creswell 2014). In other words, reliability is the extent to which a particular technique applied repeatedly on the same object would yield the same results each time. It is concerned with stability and consistency (Singleton and Straits 2010). Moreover, Gibbs (2007) argues that reliability indicates that the researcher's approach is consistent across different researchers and different projects. Saunders *et al* (2012) identify reliability as the ability of the data collection techniques and analytic procedures to produce consistent findings if they were repeated on another occasion or if they were replicated by a different researcher. Gorman and Clayton (2005) identified three types of reliability: firstly, the quixotic reliability which refers to the circumstances in which a single method yields an unvarying measurement. Secondly, the diachronic reliability which refers to the stability of an observation through time,

demonstrated by similarity of measurements, or findings, taken at different times. Lastly, the synchronic reliability which refers to the similarity of observations within the same period of time.

On the other hand, validity means that the researcher checks for the accuracy of the findings by employing certain procedures (Gibbs 2007). Neuman (2014) identifies four types of measurement validity:

- face validity is a judgement by the scientific community that the indicator really measures the construct. On the face of it, do people believe that the definition and method measurement fit?
- content validity addresses the question: Is the full content of a definition in a measure? A conceptual definition holds ideas, it is a space containing ideas and concepts.
- criterion validity uses some standard or criterion to indicate a construct accurately. The validity of an indicator is verified by comparing it with another measure of the same construct in which a researcher has confidence.
- construct validity is for measures with multiple indicators. It addresses the question: if the measure is valid do the various indicators operate in a consistent manner? It requires a definition with clearly specified conceptual boundaries (Neuman 2014: 216-217).

Saunders *et al* (2012) further define the types of validity as follows: content validity as the extent the measurement device, that is, questions in the questionnaire, provides adequate coverage of the investigative questions. Predictive validity is concerned with the ability of the measures to make accurate predictions, while the construct validity

refers to the extent to which the measurement questions actually measure the presence of the constructs that the researcher intended them to measure.

According to Maseh (20215:101), both reliability and validity are measures of research quality and are taken seriously by all researchers who wish others to accept their research as credible. Denscombe (2010: 298) states that reliability and validity in research is better explained by answering two basic questions: would the research instrument produce the same results on different occasions (all other things being equal), and is the data the right kind for investigating the topic and have it been measured correctly?

In the current study, validity and reliability were assured through peer debriefing. Few people who understand the role of management of records including the management of court records electronically were selected to review, critique the data collection methods, or add their input to improve the data collection methods. Additionally, the study employed triangulation methods. The triangulation of research approaches benefited from the strength while minimizing the weakness of any one of them (Creswell 2014).

3.9.1. Triangulation methods employed in this study

According to Neuman (2014), there are four basic types of triangulations used in social research. Firstly, the triangulation of measure means taking more than one measure of the same phenomenon. Secondly, the triangulation of observers is aimed at bringing multiple observers to overcome lack of a skill in an area, a biased view on an issue, and inattention to certain issues, which may become restrictions of the study. Thirdly, theory triangulation requires the use of more than one theory to plan a study or

interpret data. Lastly, triangulation of method means combining qualitative and quantitative research approaches and data findings.

There is increasing use of triangulation in social science research. According to Denzin (1997) as cited by Garaba (2010:150):

> 'Triangulation is the preferred line in research in social science. By combining multiple observers, theories, methods, and data sources, social scientists can begin to overcome the intrinsic bias that is bound to come from single method, single observer, and single theory investigations. Single method studies are no longer defensible in the social sciences' (Denzin 1997:321).

Ngulube (2015:137) notes that triangulation is one of the ways of enhancing rigour and trustworthiness in qualitative studies and the validity and reliability of quantitative studies. Thus, triangulation of quantitative and qualitative approaches in this study harnessed strengths of one method to compensate the weaknesses of another (Bryman 2012; Creswell 2014; Neuman 2014). Data from court registrars, court managers, senior administration officer, chief registry clerks, registrar's clerks, registry clerks, administration officer and librarian were gathered to triangulate the data collection methods. Sometimes the same questions were posed to all participants. The responses from the participants were compared, and the responses that appeared most frequently across all the participants were considered to be the accurate representation of the research problem. Consequently, it was possible for the researcher to collect quantitative and qualitative data through interviews, questionnaires and document review at the same time to answer the research questions stated in chapter one.

3.10. Ethical consideration

Ethical considerations in research are important in all stages of research. Creswell (2014: 92-101) states that it is important to note that every researcher must consider ethics in every step of the research process from the conceptualisation of the research problem to the writing and dissemination of the research. Ethical issues revolve around the balance between the pursuit for research and the protection of the rights of those being studied (Babbie 2010; Leedy and Ormrod 2015).

According to Neuman (2014:157) the basic principles of ethical social research are: to recognize that ethical responsibility rests with the individual researcher; do not exploit research participants or students for personal gain; some form of informed consent is highly recommended or required. Honour all guarantees of privacy, confidentiality, and anonymity; do not coerce or humiliate research participants. use deception only if needed, and always accompany it with debriefing. use a research method that is appropriate to the topic. detect and remove undesirable consequences to research subjects. anticipate repercussions of the research or publication of results; identify the sponsor who funded the research; cooperate with host nations when doing comparative research; release the details of the study design with results; make interpretations of results consistent with the data; use high methodological standards and strive for accuracy; and do not conduct secret research.

More importantly, the current study complied with the Durban University of Technology (DUT) Policy on Research Ethics. According to DUT Policy (2019:3) as amended, all human-related research which includes one or more of the following requires ethical assessment and approval at the appropriate level such as direct involvement through non-invasive procedures, such as laboratory-based experiments, interviews,

questionnaires, surveys, observations. The DUT Policy (2019:3) poses that some participants may be particularly vulnerable to harm and may require special safeguards for their welfare, therefore, it may be inappropriate for undergraduates to undertake research projects involving such participants.

Particularly, vulnerable participants might be infants, minors and the aged; students; people with physiological and/or psychological impairments and/or learning difficulties; people in poverty; relatives of sick, or recently deceased, people; and people with only or elementary knowledge of the language of the researcher (DUT Policy 2019: 3 as amended). The current study focused on the participants who were not less advantaged. Among other things, the researcher was required to protect participants from harm, unnecessary risks, physical and psychological harm. The participation of this study was voluntary. Participants were provided with an information sheet that enabled them to provide informed consent. To obtain informed consent, the participants were verbally informed in cases where the interview was done. Moreover, anonymity and confidentiality of the participants were observed throughout the research process.

3.11. Chapter summary

The chapter describes the methodology used to collect data and information for the study including philosophical assumptions or research paradigms, research approaches, research design, population, sampling techniques, data collection methods, data analysis, reliability and validity, and ethical considerations are discussed. The next chapter is about the presentation and analysis of data.

CHAPTER FOUR

DATA ANALYSIS AND THE PRESENTATION OF FINDINGS

4.1. Introduction

This chapter analyses and presents the data obtained from the study population interviews and documents analysis. Data analysis is the crucial part of research which makes the result of the study more effective. Data analysis is changing the collected raw data into meaningful facts and ideas to be understood either qualitatively or quantitatively (Alem 2020:2; Bhatia 2017:1). In this study, the quantitative data are analysed and presented in tables and charts, while the qualitative data was analysed using themes.

The purpose of this study was to investigate the management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province in South Africa, with the view to develop a framework for the management of digital court records. The study sought to answer the following research questions:

- What is the extent to which digital court records are managed in High Courts in the Eastern Cape?
- What is the availability of infrastructure for the management of digital court records in High Courts in the Eastern Cape Province?
- To what extent does the management of digital court records for justice delivery comply with the legal and statutory framework in High Courts in the Eastern Cape Province?

- What are the barriers to effective management of digital court records in High Courts in the Eastern Cape Province?

This chapter, therefore, presents and analyses data obtained from the study population. The data was gathered through in-depth interviews and questionnaires in the selected Mthatha and Grahamstown High Courts.

4.2 Response rate

Response rate refers to the quantity of completed surveys and interviews that are successfully returned to the researchers. This is expressed as a percentage of total target interviews and questionnaires issued (Maseh 2015: 111). The researcher distributed 14 questionnaires to the court staff of both Mthatha and Grahamstown High Courts, 10 completed questionnaires were returned to the researcher. This provided a 71% response rate. The study targeted 5 key informants in Mthatha High Court with 3 out of 5 participants being interviewed. In Grahamstown High Court, 5 key informants were selected for in-depth interviews, out of the 5 key informants, 2 were interviewed. The combined responses for both groups were 50%. This reveals that the response rate provided sufficient data for the analysis of the management of digital court records in the selected High Courts.

4.3. Questionnaires for Mthatha High Court Staff

This section presents the findings obtained from the Mthatha High Court Staff. The findings include both the biographical information and the process of managing electronic records from creation to disposal.

4.3.1. Biographical Information

This section discusses the characteristics of the respondents from the Mthatha and Grahamstown High Courts. The characteristics of respondents are important as an

indication of their relationship to the phenomenon under investigation (Ntengenyane 2018: 121). However, there are very few studies which review the management of court records that emphasize the characteristics of the respondents (Ntengenyane 2018). The characteristics of respondents in this study covered the highest qualification and training qualifications; professional education and training; position at the High Court; period served in the present position; period worked in the court system/justice system; and gender of the respondents for both High Courts.

4.3.1.1. Highest education and training qualification

Application and use of ICT is almost inevitable in the modern working environment or organisations. This has propelled the creation of digital records in the conduct of daily business (Guto and Jumba 2021: 55). Records professionals are supposed to be equipped with the knowledge and skills acquired through formal education, necessary to fulfil their responsibilities (Mosweu and Ngoepe 2019: 18). In this vein, the researcher was interested in knowing the highest educational qualification of those managing digital court records. The majority, 2 (40%) of the respondents had attained a matric certificate, 1 (20%) had attained a postgraduate degree, 1 (20%) had attained a tertiary certificate, and 1 (20%) had attained a diploma. See Figure 4.1.

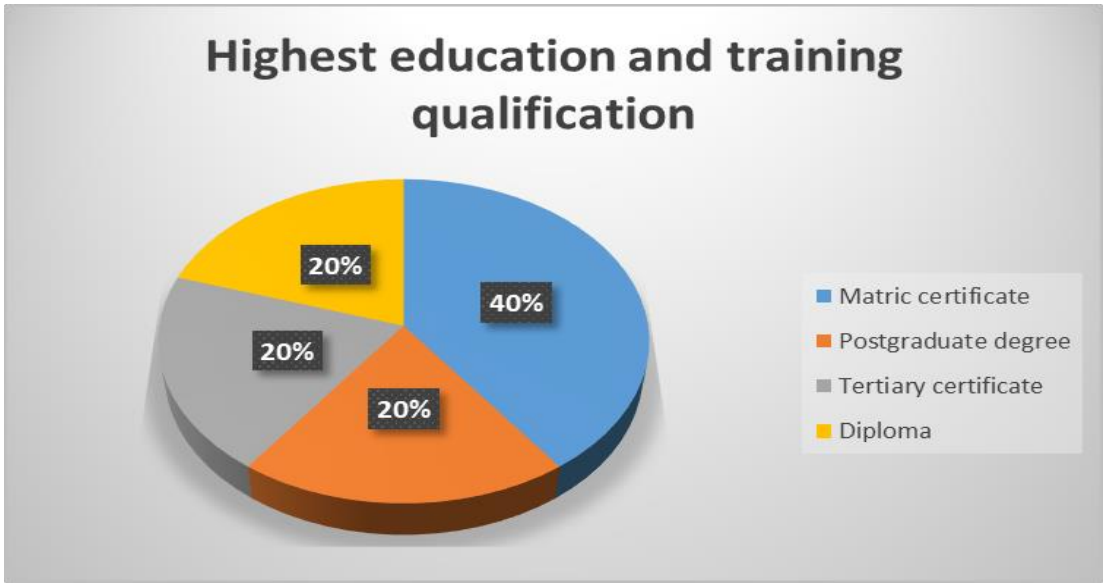

Figure 4.1: Highest education and training qualification [N=5]

4.3.1.2. Professional education and training

Mutsagondo and Ngulube (2018: 7) state that good electronic records management skills come as a result of training, education, staff development courses, exposure, and experience. Therefore, it was important to find out the professional education and training of the people working in the Mthatha High Court. The researcher provided possible answers for the respondents. The responses indicated that 2 (40%) respondents had received their professional education and training in the university/tertiary, 1 (20%) respondent had indicated attendance of workshops/seminars and on job/office training, 1 (20%) respondent had indicated university/tertiary and on job/office training, and 1 (20%) respondent indicated university/tertiary, attendance of workshops/seminars, and on job/office training. The findings revealed that those who had a postgraduate degree, diploma and tertiary certificate had attended various professional education and training programs. See the Figure 4.2 below:

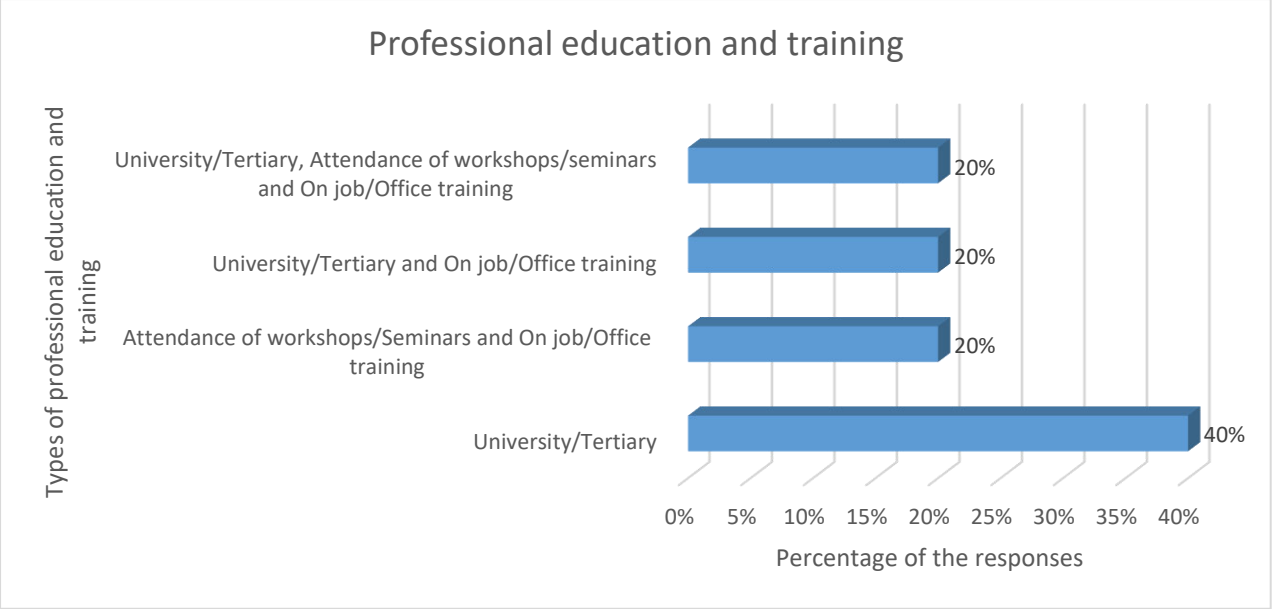

Figure 4.2: Professional education and training [N=5]

4.3.1.3. Position at High Court

The study made provision for the establishment of respondents' positions at the High Court. The findings reported that 1 person (20%) was a registry clerk, 20% (1) was an admin officer, while 60% (3) were registrar's clerks. Figure 4.3 below provides a graphical illustration of the report.

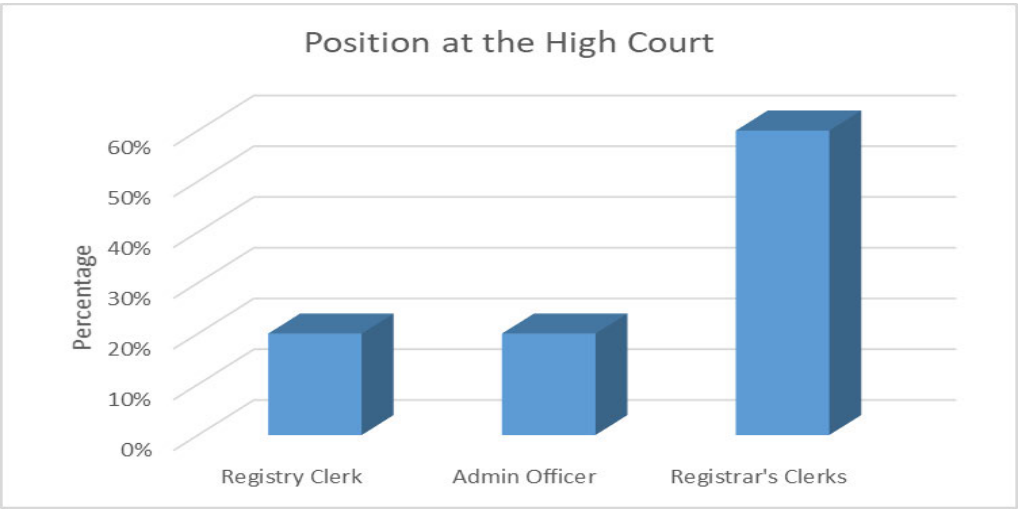

Figure 4.3: Positions at the High Court [N=5]

4.3.1.4. Period served in the present position at the High Court

The researcher asked respondents to provide the number of years served in their present position. The aim was to find out the number of years the respondents spent serving at Mthatha High Court. The findings show that 1 (20%) respondent indicated 0-4 years, 2 (40%) respondents indicated serving 5 to 9 years, 1 (20%) respondent indicated 10-14 years, 1 (20%) respondent indicated 20 years and above. Table 4.1 below illustrates the period served in the present position.

Table 4.1: Period served in the present at the High Court

Period in the Present Position	Number of Respondents	Percentage
0-4 years	1	20%
5-9 years	2	40%
10-14 years	1	20%
15-19 years	0	0%
20+	1	20%
TOTAL=	**5**	**100%**

4.3.1.5. Period worked in the Court System/Justice System

The researcher also established the years the respondents had worked in the Court System/Justice System. The findings indicated that 3 (60%) respondents indicated 5-9 years, 1 (20%) respondent indicated 10-14 years, 1 (20%) respondent indicated 20 years and above years of service in the court system or justice system. Please see Table 4.2 below:

Table 4.2: Period worked in the Court System/Justice System

Period in the Present Position	Number of Respondents	Percentage
0-4 years	0	0%
5-9 years	3	60%
10-14 years	1	20%
15-19 years	0	0%
20+	1	20%
TOTAL=	**5**	**100%**

4.3.1.6. Gender of the respondents at Mthatha High Court

The researcher also established the number of respondents per gender with the intention of identifying the gender balance among respondents. The findings of the study indicated that 3 (60%) respondents were males, while 2 (40%) respondents were females. Figure 4.4 illustrates the gender of the respondents.

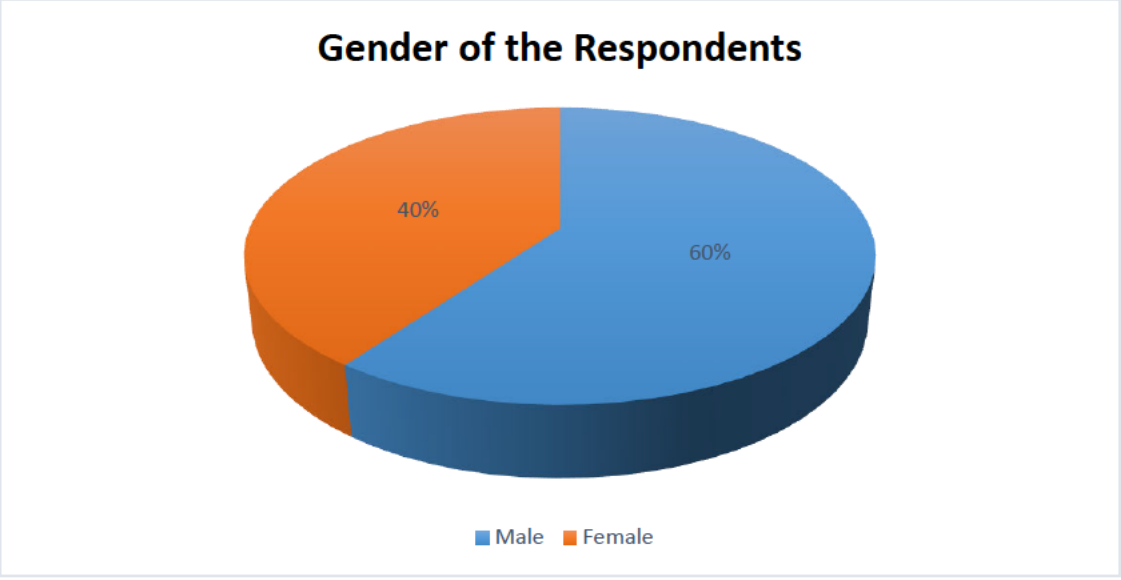

Figure 4.4: Gender of the respondents [N=5]

4.3.2. The findings of Mthatha High Court

The findings of the study are organized into themes obtained from the research questions indicated in section 4.1. The themes are as follows: the management of

digital court records; the availability of infrastructure for the management of digital court records; the legal and statutory framework for the management of digital court records; and the barriers to effective management of digital court records.

4.3.2.1. The management of digital court records

This section answered the research question of the study "*What is the extent to which digital court records are managed in High Courts in the Eastern Cape*?" Several questions were posed to respondents through different data collection methods to answer the research question.

4.3.2.1.1. Types of records created/received and used in Mthatha High Court

In order to understand the management of digital court records, the researcher wanted to find out the types of records created, received, and used in Mthatha High Court. The findings show that 3 (60%) respondents indicated receiving in the course of their duties opposed applications, non-opposed applications, civil files, action files, default judgments and summary judgments. One (20%) respondent indicated that they deal with criminal cases, summons, court registers, case files/dockets, appeals, court orders. Another 1 (20%) respondent indicated that they deal with all electronic records such as court appeals, attorney's reports, judge's reports, and court proceedings. The findings indicated that Mthatha High Court deals with both civil and criminal cases.

4.3.2.1.2. Digital court records management systems

The respondents were requested to answer whether they had a digital court records management system for managing their digital records. According to the findings, 1 (20%) respondent indicated they had a digital records management system, while 4 (80%) respondents indicated that there was no system in place. One respondent further indicated that they used to have a system, but it was stopped due to financial

challenges and corruption. This indicated that in Mthatha High Court, records were mostly managed manually.

4.3.2.1.3. Types of digital court records management systems

Various organisations in the world are using different types of digital court records management systems for managing their records, and for easy access and retrieval of records. The researcher wanted to find out the types of digital records management systems used by Mthatha High Court in managing their records. The respondents were provided with possible answers and the space to provide other types of systems that were not on the list. The findings of the study indicated that 1 (20%) respondent indicated that they were using Computer Management System (CMM), 3 (60%) respondents did not respond to the question, while 1 (20%) respondent indicated that they used to have digital records management system called Citrix system.

4.3.2.1.4. Advantages of using digital records management system in court

The use of digital records management systems has various advantages or benefits in any organisation. Digital records management systems promote service delivery in an organisation. The respondents were provided with the list of benefits of digital records management systems. They were asked to indicate whether they strongly agree, agree, disagree, strongly disagree or not sure. Figure 4.5 shows the findings of the study.

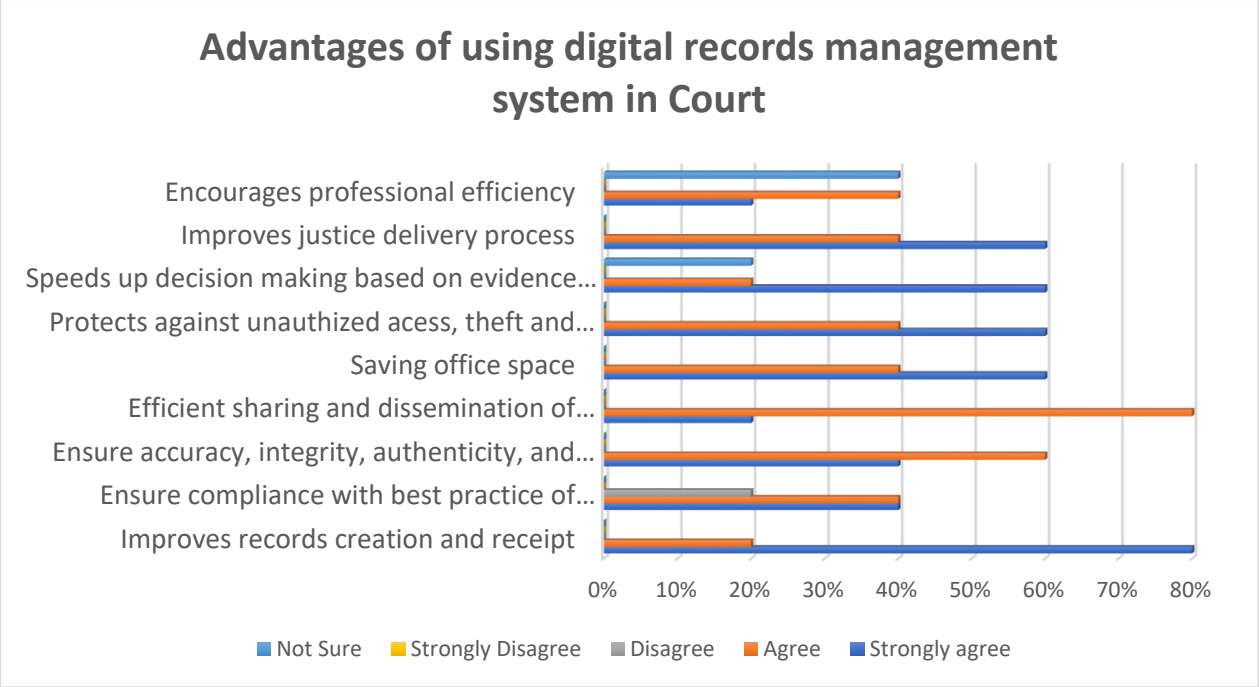

Figure 4.5: Advantages of digital records management system in court [N=5]

4.3.2.1.5. Creation/receipt of digital court records

The respondents were asked how digital court records were created or received by the Mthatha High Court. The respondents were provided with possible answers. The findings show that 3 (60%) respondents indicated that they were creating or receiving their court records through emails and telephone. Two respondents added that they were also creating and receiving their records through Microsoft Teams, Microsoft word and courier services. The respondents further indicated that when they receive a file, for example opposed applications or non-opposed applications, they capture it on the register and put a date stamp before they store it in the strong room. When there is a signature required and the person supposed to sign is not available, they courier the document. Meanwhile, 2 (40%) respondents indicated that they were creating or receiving their court records through emails. One respondent added that they were creating their records through Computer Management System (CMM) by capturing every case brought in the High Court. The respondent further explained that

when capturing the record to the system, the folder would be given a case number and the year the case was reported.

4.3.2.1.6. Types of ICTs used in High Court for justice delivery

The researcher was keen to find out the types of ICTs that Mthatha High Court was using for justice delivery. The respondents were provided with possible answers. The respondents were asked to choose from the answers provided by the researcher. The findings show that 2 (40%) respondents indicated that they were using telephones; cellphones; and emails; 1 (20%) respondent indicated telephones; cellphones; emails; internet; and intranet while 2 (40%) respondents indicated telephones; cellphones; emails and intranet. The respondents further included WhatsApp as another type of information and communication technology they were using. The results indicated that most ICTs that were used in the court were telephones, cellphones, and emails.

4.3.2.1.7. Importance of digital court records management

In order to understand the views of the respondents pertaining to the importance of digital court records management, the respondents were asked if they strongly agree, agree, not sure, disagree or strongly disagree. The findings show that 3 (60%) respondents strongly agreed that digital court records management is important, 2 (40%) respondents agreed that digital court records management is important, with none of the respondents disagreeing, or strongly disagree. Please refer to Figure 4.6.

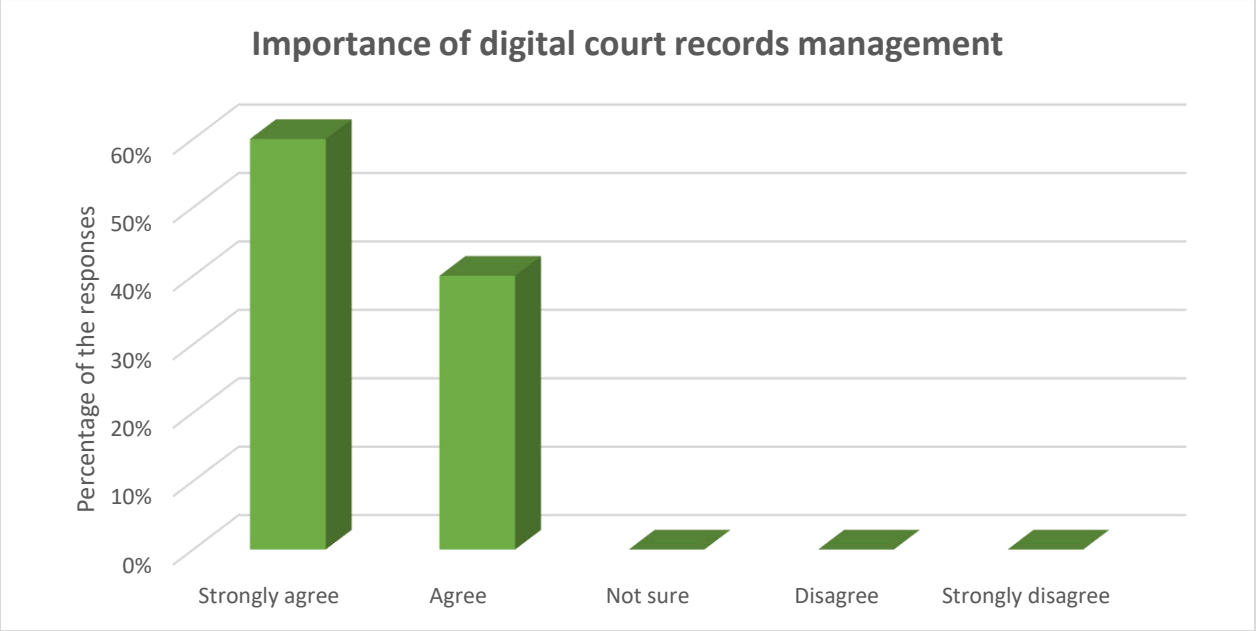

Figure 4.6: Importance of digital court records management [N=5]

4.3.2.2. Infrastructure for the management of digital court records

This section answers the research question which states that "*What is the availability of infrastructure for the management of digital court records in High Courts in the Eastern Cape Province?*" Among other things, the researcher was keen to find out the systems used in storage of digital court records as well as the skills of those who are responsible for the management of digital records.

4.3.2.2.1. Digital court records management system

The respondents were asked if they have digital court records management systems. The findings show that 4 (80%) respondents indicated that they did not have. Two respondents further indicated that they used to have digital court records management system, however, due to financial issues and corruption, the system was shut down, 1 (20%) respondent indicated yes.

4.3.2.2.2. Types of digital court records management system

The researcher was keen to find a system in place to manage digital court records. As a result, the respondents were asked the type of systems they use for the management of digital court records. The findings show that 1 (20%) respondent indicated that they were using CMM system, 2 (40%) respondents indicated that previously they were using Citrix system. The system was suspended due to corruption and financial challenges, while 2 (40%) respondents did not answer the question.

4.3.2.2.3. Types of records kept in the digital court records management system

The researcher wanted to find out the types of records that were kept in the systems. The respondents were asked to indicate the types of records they keep in the records management system. The respondents were provided with possible answers. The findings show that 2 (40%) respondents indicated case files and dockets, opposed applications, non-opposed applications, default judgements, registrar's certificates, 1 (20%) respondent indicated case files and dockets, summons, court registers, judge's requests, and attorneys' records, while 2 (40%) respondents did not respond to the question.

4.3.2.2.4. Storage of digital court records

The respondents were asked how digital records are stored. The respondents were provided with possible answers to choose from. The findings show that 1 (20%) respondent indicated they were using a computer, intranet, servers, hard drives, flash drives; 1 (20%) respondent indicated that they were using a computer, cloud computing, servers, hard drives, flash drives; 1 (20%) respondent indicated that they were using emails; 1 (20%) respondent indicated that they were using strong rooms, while 1(20%) respondent did not answer this question.

4.3.2.2.5. Types of human resources available for the management of digital court records

Application and use of ICT is almost inevitable in the modern working environment or organisations. As a result, digital records management needs skilled personnel in ICT (Mutsagondo and Ngulube 2018:4). The researcher was keen to find out the types of human resources available for the management of digital court records. The respondents were requested to choose from the possible answers provided. The findings show that 3 (60%) respondents indicated that they were professionals and trained, 2 (40%) respondents indicated that they were trained. Figure 4.7 below shows the results of the study:

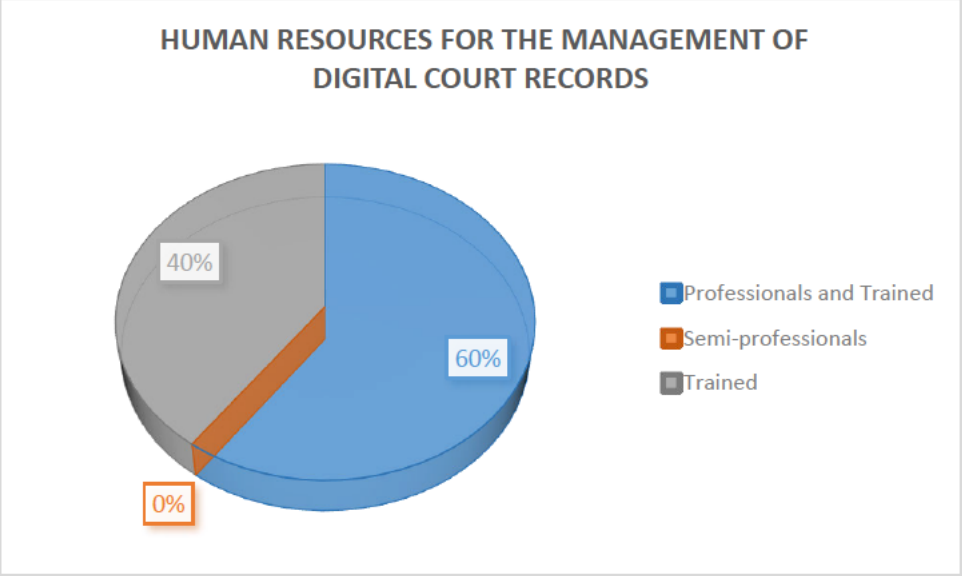

Figure 4.7: Human resources for the management of digital court records [N=5]

4.3.2.2.6. Use of digital court records for justice delivery

Court records, regardless of their format, are vital to the administration of justice. The researcher was keen to understand the court processes that require the use of digital court records for justice delivery in the High Court. The respondents were asked about

the court processes that require the use of digital court records for justice delivery in the High Court. The findings of the study are shown in Table 4.3 below:

Table 4.3: Use of digital court records for justice delivery

Respondents	Responses
R1	*"Appeals are the most processes that require the use of court records. When there is an appeal, court records are used to check the criminal record of the person appealing. Records are also used when the person is applying for the parole."*
R2	*"The records are mostly used when there is a court case. So, when the file is requested for any court case, we inform the individuals to sign the request form before we retrieve the file, so that we can keep the records of the person who last used the file."*
R3	*"I only deal with the reports from the court processes. The records I generate into the computer are only the reports from the court proceedings. So when they are needed I make sure that when the record is needed for the court case, I retrieve it from my computer".*
R4	*"We arrange our records so that they remain authentic and when required can be easily retrievable. Our records are mostly used by the attorneys and lawyers. When required, we put a date stamp before we hand it over to the requester"*
R5	*"When there is a case in court, normally a civil case, a file is requested to refer to the previous processes and decisions made in court. So when the judge has requested the file, we retrieve the file a day before the court session to avoid delays".*

4.3.2.2.7. Custody of the digital court records

Digital court records are fragile and easily manipulated. Therefore, they need to be protected all the time. The researcher was keen to know the person responsible for the custody of the digital court records. The respondents were asked the person that is responsible for the custody of the digital court records. The findings show that 3 (60%) respondents indicated that they were registrar's clerks, 1 (20%) respondent

indicated being a registrar, while 1 (20%) respondent indicated that they were a senior administration officer.

Furthermore, the researcher was keen to find out if the respondents were experiencing cases of theft, missing or loss of digital court records. The findings show that the majority (80%) of the respondents experienced cases of theft, missing or loss of court records, while 20% of the respondents indicated that they do not experience cases of theft, missing or loss of court records. The results indicated that the experience is for both paper-based and electronic records. See Table 4.4 below:

Table 4.4: Experience of theft, missing or loss of digital court records

Respondents	Responses
R1	*"Yes. It is very hard to get the old court case record from the server due to the change of contract of service providers for our system".*
R2	*"Yes."*
R3	*"No, but other units they experience missing or loss of files".*
R4	*"Sometimes there are records that may not be found when needed"*
R5	*"Yes, because we deal with manual records, there is no system for us to capture the records we create/receive."*

In addition, the respondents were asked how the digital court records are protected against alteration, theft or loss. The findings show that 3 (60%) respondents explained that they were using passwords to protect their records. One respondent further stated that staff members are prohibited to use each other's passwords, while 2 (40%) respondents indicated that they were using a biometric system to enter offices as well as their strong rooms.

Furthermore, the researcher wanted to find out about the security of digital court records. The respondents were asked about the person responsible for the security of

the digital court records. The findings show that 3 (60%) respondents indicated that the person responsible for security of records were registrars, 1 (20%) respondent indicated senior admin clerk, while 1 (20%) respondent indicated registry clerk. Moreover, the respondents were asked how they maintain the security of digital court records. The findings are presented in Table 4.5 below:

Table 4.5: Maintenance of digital court records security

Respondents	Responses
R1	*"The security is maintained by ensuring that people are not using logging details of others. Also, passwords are changed monthly to limit the chances of being hacked."*
R2	*"The security is maintained by making sure that passwords are updated all the time."*
R3	*"Updating system".*
R4	*"Strong rooms are locked all the time. Only registrar's personnel with biometric access enters the strong rooms"*
R5	*"We ensure that only authorised personnel are allowed to enter the strong rooms".*

4.3.2.3. Legal and statutory framework for the management of digital court records

This section answered the research question: "To what extent does the management of digital court records for justice delivery comply with the legal and statutory framework in High Courts in the Eastern Cape Province?" The section below presents the answers through various parts of the question.

4.3.2.3.1. Policies for the management of digital court records

Policies are vital for the management of digital court records in any organisation. The researcher was keen to find out about the policies that govern the management of digital court records. The respondents were asked if their organisation has policies for the management of digital court records. The findings show that all (100%) respondents indicated that there we no such policies.

4.3.2.3.2. Types of policies that regulates the management of digital court records

The researcher wanted to find out the types of policies that regulate the management of digital court records. The findings show that all (100%) respondents indicated that they did not have policies for managing digital court records. The findings also show that none of the staff members were aware of the policies for the management of digital court records. Therefore, there were no communications regarding the awareness in the organisation regarding the policies for the management of digital court records.

4.3.2.3.3. Rules and regulations of the organisation

The respondents were asked if there are rules and regulations based on the organisation policy for the management of digital court records. The findings show that 4 (80%) respondents indicated no, while 1 (20%) respondent indicated yes. The respondents stated that they were only operating according to what is right or wrong.

4.3.2.4. Barriers to effective management of digital court records

This section answered the research question: “What are the barriers to effective management of digital court records in High Courts in the Eastern Cape Province?”

4.3.2.4.1. Challenges in managing digital court records

The researcher wanted to find out about the challenges experienced in the High Court regarding the management of digital court records. The respondents were asked if they experience challenges in managing digital court records. The respondents were asked to indicate yes or no. The findings show that 4 (80%) respondents indicated no, while 1 (20%) respondent indicated yes.

The respondents were asked the possible challenges that they were experiencing from the list provided. They were instructed to tick yes, no, or not sure. The findings below show the results of those who were experiencing challenges in managing digital court records. The findings are presented in Figure 4.8 below:

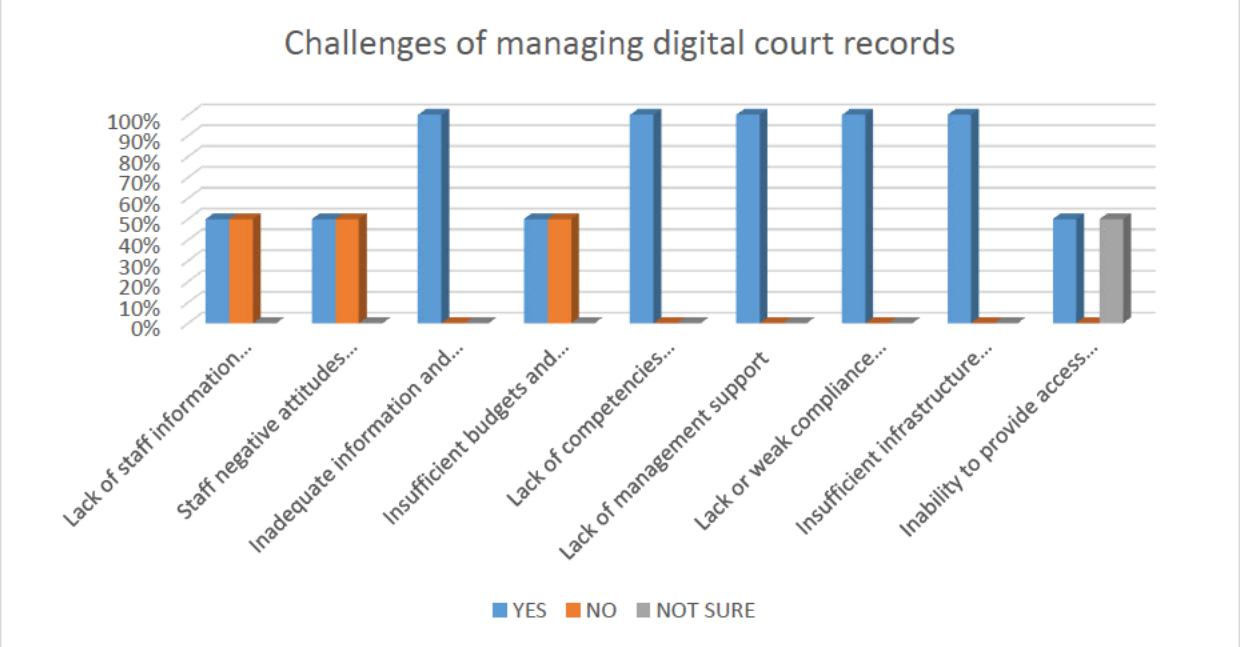

Figure 4.8: Challenges of managing digital court records, Mthatha High Court [N=5]

The researcher further asked the respondents if in their opinion, the challenges they were experiencing were denying or delaying the delivery of justice. The findings indicate that 4 (80%) respondents indicated yes, while 1 (20%) indicated no. The

respondents were also asked how they overcome these challenges of justice delivery. The findings are indicated in Table 4.6 below.

Table 4.6: How to overcome the challenges in Mthatha High Court

Respondents	Responses
R1	*"We try to re-generate the record until we find the original document. This is done by requesting access to the server as well as getting recordings from other parties that attended the court session. This delays justice because when there is no record, justice is not served. As a result, people are suffering. It frustrates us because we cannot focus on our work and serve the public".*
R2	*"We normally re-generate the record by requesting the notes of judges, lawyers and prosecutors".*
R3	"*We try to get the information from different parties, the attorneys of both the defendant and plaintiff*".
R4	*"Request copies from the parties, attorneys from the defendant and plaintiff."*
R5	*No response*

The results of the study indicated that the best way to overcome the challenges for justice delivery was to re-generate the record to avoid delays in the delivery of justice.

4.3.3. Interview schedule for the key informants for Mthatha High Court

Interviews were conducted with the Court Manager, Senior Administration Officer, and Court Registrar. This was an in-depth face to face interview. The participants were asked various questions based on the research objectives of the study. These were conducted to verify the responses that were provided through questionnaires. A recording machine was used as a data collection instrument. During the interview, the

researcher was both recording and taking notes. In the process of interviewing the participants, the researcher asked the tenure duration in the current position, and the tenure duration a participant has worked in the court system.

The findings indicated that the Court Manager had worked in the court system for 3 years in Mthatha High Court, while they had been 13 years working in the court system. The participant explained that he had worked in the Department of Justice (DOJ), before he came to the Office of the Chief Justice (OCJ).

On the other hand, the findings indicated that the Senior Administration Officer had worked only in the Office of the Chief Justice (OCJ) for 6 years. The Senior Administration Officer had never worked in another court of law, except Mthatha High Court. The findings indicated that the Court Registrar had worked in the Office of the Chief Justice for 7 years. This has been the only court system the court registrar has worked on.

4.3.3.1. Management of digital court records

This section was to answer the research question which is: "*What is the extent to which digital court records are managed in Mthatha High Court*?" In order to establish answers for this research question, a few short questions were asked.

The interviewees were asked, what are the types of records you are dealing with?

Court Manager

The interviewee said that:

"Let me give you the background of the court. Court is sort of divided into three, Judiciary (that is all judges), Support to all judges (those are your registrars, registry section, those are the people who are working directly with the judges and courts),

then we have Administration (administration is like your Finance or HR), that is where I'm allocated".

Senior Administration Officer

The Senior Administration Officer said that *"I deal with all electronic records in this High Court, such as appeals, court cases, criminal and civil cases, judges reports and requests from lawyers. When creating digital court records, we use recording machines to record a court proceeding. After we have recorded the court case, we take the recording and transcribe the court case and keep it on a CB or convert it to paper-based records, because sometimes a judge will request the case to be in a form of a book.*"

Court Registrar

"I do not deal with digital records. I only deal with opposed applications and non-opposed. Opposed and non-opposed (zibufana) are more like the same, it is motion and motion court. Then I deal with the default judgements. we sign and approve default judgements. We also do court orders. we sign and approve the court orders after we have checked that everything is in correct order, and it has been granted the way the court has granted it". For electronic platforms, we only use email for doing fall-up when I have to courier a document to another court, just to check if they did receive it".

The interviewees were asked, how do you use digital court records for justice delivery?

Court Manager said that:

"Let's start with electronic records, we have a system that is called CRT Machines, those are the machines that are recording in court. They are recording every case in court. There is a CRT Operator that is sitting there providing all the details of the court, the parties and everything, then records the entire court case. It is recorded on a CD; it is backed-up by a local server, it should be backed-up by the central server and

saved on the same machine. The Senior Administration Officer will have a CD and store that CD as a back-up in case the case is not properly saved on the machine, he is struggling to get some details on that machine, or something happened to that CRT Machine. The machine is huge, there is too much space in it. We can still get the cases of 2017".

The Court Manager further stated that "*even during the COVID-19 pandemic, court cases were continuing being recorded. Firstly, we were exchanging physical records with all the parties involved in the case. Secondly, the judge will send the Microsoft Teams link to all the parties involved in the case. The emphasis was that the link should be sent by the judge in order to control the court processes.*

Senior Administration Officer

We use digital court records for justice delivery, "xa ufumanise ba" this person was prisoned for 15 years, and "mhlawumbi" he is due for parole (when you find out that this person was imprisoned for 15 years, and maybe he is due for parole) so in order for an application to be processed, there is need of a record from the time the person was arrested, and imprisoned. Sometimes an attorney would like to appeal again in court, so to be reminded about the offender, they need to listen to the recordings that transpired during the proceedings throughout "leminyaka" (throughout these years) when the court was sitting. So, for attorney "ba azokwazi uphinda iye ecourt ayo" request appeals for parole "bazothi bafuna iproceedings zonke zala case and the person uyaphuma ejele. If az ikho irecords", they will remain in court (so for the attorney to be able to request appeal for parole again in court, they will request all the court case proceedings for that person and the person can be released from prison. If the records are not found, the person will remain in prison).

The interviewees were also asked how they ensured that digital court records are accessed only by authorised persons.

Court Manager

The court manager said*: "the Senior Admin Officer is the only staff person that is assigned and authorised in handling the electronic case record"*.

Senior Administration Officer

"I am in control of my records. I make sure that no one is tampering with the system by monitoring every day. I also have paper-based records that I found when I started working here. I always make sure that the strongroom is locked, and we use biometrics to enter the office or strongrooms so that helps us to keep our records safe. When I am on leave, I write an official letter assigning a person who will act on my behalf".

Court Registrar

"I am responsible for the key to the strongroom, so no one enters the strongroom without my permission. if they want a record, they go through me because I should be the one who is opening the strongroom for them".

The interviewees were then asked what the importance of managing digital court records is.

Court Manager

The court manager said that:

"It is very important, and it is very convenient. You can locate that file without necessarily going down to the strongroom and look through thousands of files for that specific file. But now you can simply sit in front of your computer and retrieve that file. And it is secured as compared to one file that is filed in the strong room. If a Natural disaster happens, that file is destroyed. But this one as I said, it is saved on the

machine itself, its saved on the CD, its saved on the local server, and it's saved on the central server which the national server for Office of the Chief Justice (OCJ). Then the natural disasters cannot affect all these places where this information is stored, that is how safe it is. But one file, if something happens, then that file is gone".

Senior Administration Officer

"The Senior Administration Officer said that it is very important to manage digital court records because for those who have been found guilty in the court of law are dependent on these records. So, for them to get parole or release from prison, there is a need of a record that reflects the history of the court processes. You know, there was a case where I was writing back and forth emails, trying to get a record for a person who was applying for parole, the record was not found. The explanation was that some of the records were lost when the contract for the machinery we were using got expired and a new service provider was appointed. So that led to delays in the process of requesting appeal."

4.3.3.2. Infrastructure used for the management of digital court records

This section answers the research question: "*what is the availability of infrastructure for the management of digital court records in Mthatha High Court*?" To establish answers for this research question, a few short questions were asked.

The interviewee was asked about the storage of digital court records.

Court Manager

We have CRT Machine, we have a local server, and CDs. I said the CD serves two purposes, as a back-up, and when you want to transcribe the records so that you can get the physical copy. The machine itself is also storing the information because you can go and retrieve those cases. The local server is connected to a computer that is operated by CMM. This enables me to see all the cases that are in the local server.

But if I want to retrieve a specific case that was saved in machine, in court A, I can go to Court A and retrieve that information.

We also use hard-drives, flash-drives, and strong room to store our records.

Senior Administration Officer

"We keep our records in our CMM system, hard drives, flash drive and strong room."

Court Registrar

"*As I said earlier that we deal with paper-based records, so we keep our records in the strong room and in cabinets*."

When the interviewees were asked about the security of digital court records, the participants responded as follows:

Court Manager

It is the Senior Administration Officer who is responsible for the records. Also, everybody has a password to log in into the system to view the court cases. Therefore, the system tells us who viewed the case and when.

Senior Administration Officer

"I make sure that records are accessed by authorised personnel. So, this is maintained by the use of passwords. we also enter the offices using biometrics and we update our systems from time to time."

4.3.3.3. Legal and statutory framework for the management of digital court records

This section answers the research question: "*To what extent does the management of digital court records at Mthatha High Court comply with legal and statutory framework*?" To establish answers for this research question, a few short questions were asked.

The interviewees were asked about the policies that regulate the management of digital court records.

Court Manager

The Court Manager said that *"there is a records management policy.*"

Senior Administration Officer

"I never heard of any policy, but we have in-house rules which guide us in our line of work. So, we follow the rules to do our work right."

Court Registrar

"We do not have a policy, at least I never heard about it. We learnt the old way of doing our work, so we are following what we were taught. There was no communication or document written down about how we should carry our daily tasks at work."

4.3.3.4. Barriers to effective management of digital court records

This section answers the research question: "*what are the barriers to effective management of digital court records in Mthatha High Court*?" To establish answers for this research question, a few short questions were asked.

The interviewees were asked about the issue of missing or lost files in the court of law, and how it affected justice delivery.

Court Manager

If you don't find a record, it is because it was not properly saved in the system, and not because it is not in the system. It would be because it was not correctly saved. For instance, we save the recording using the case number, parties that are involved in those cases. Therefore, if the recording is saved incorrectly, possibly you won't find the recording. So that is not the problem of the system, but it is the problem of not capturing the correct information into the system. We don't normally experience this,

it is rare. But in the case where we are unable to get the record, we do reconstruction of the case, where we request the notes from lawyers, judges.

The Court Manager said that "*during the COVID-19 pandemic, we had cases where we were unable to sit in court because one party was unable to connect due to network problems not because the parties do not have data. However, we have realized that it is cheaper to run a court through Teams than physical sitting, because people are not required to use transport to come to court, so the money they were going to use for transport to come to court, they buy mobile data. But there was an issue of connection sometimes. As a result, some cases would be postponed. This was resulting in the delay in justice delivery. We are planning to have a hybrid system. Where court cases are handled in both physical and virtual because we cannot really run away from physical processes."*

Senior Administration Officer

"We do experience challenges of missing or loss of records. Previously, there was no specific person appointed to handle the records of my section. So, before I got employed, everyone had access to the records, as a result they got lost. The other thing, sometimes the record may not get lost, but it would be a recording that was not appropriately recorded, so when the recording is bad it is impossible to follow the court case. You know the people I am managing are not trained in the digital records management programme, so they sometimes do not monitor the system when it is running during the court case. This affects the justice delivery, because sometimes we are unable to produce the requested record."

Court Registrar

We do not experience the loss or missing of files in our office, however, "bayebafike abantu bathi kudala berequesta ifiles kodwa abazifumani, izinto einjalo" (meaning

people would arrive in our office and inform us that they have been requesting files, but they do not get them, something like that). You know, we have a request form here in court, so we tell the individuals that they have to use the request form so that we can track the record when it has been lost or missing.

4.4. Questionnaires for Grahamstown High Court Staff

This section presents the findings obtained from the Grahamstown High Court Staff. The findings include both the biographical information and the process of managing electronic records from creation to disposal.

4.4.1. Biographical Information

The researcher was keen to establish information about the respondents' qualifications; professional education and training; position at the High Court; period served in the High Court; period served in the court system/justice system; and their gender.

4.4.1.1. Highest education and training qualification

The researcher was interested in knowing the highest educational qualification of those managing digital court records. From among the respondents, 2 (40%) had attained a matric certificate, 2 (40%) had attained a degree, while 1 (20%) had attained a postgraduate degree. Please refer to Figure 4.9.

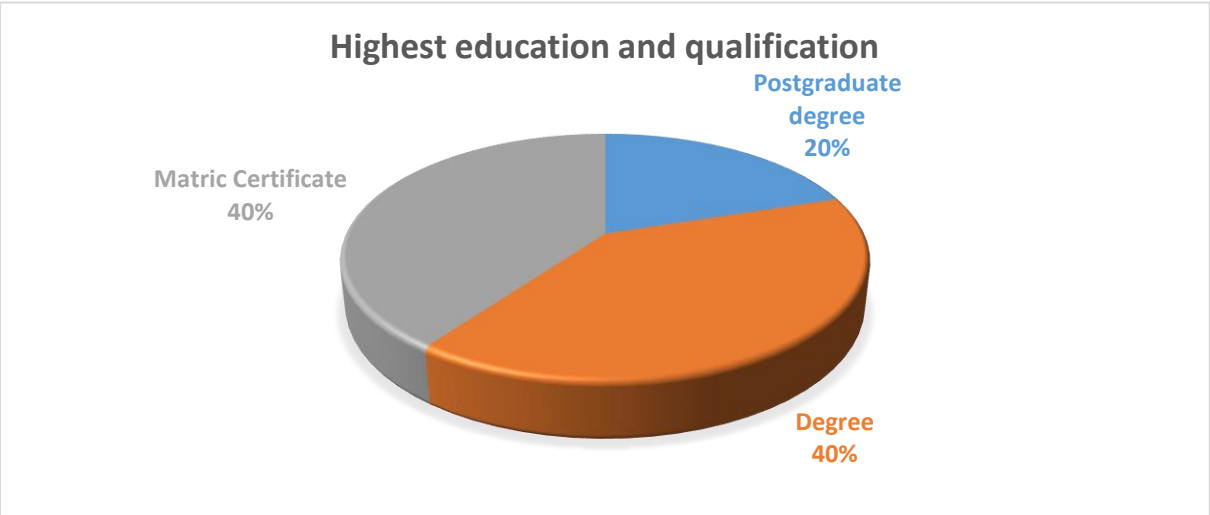

Figure 4.9: Highest education and training qualification [N=5]

4.4.1.2. Professional education and training

The respondents were asked to indicate where they received their professional education and training. The researcher provided possible answers for the respondents. The responses indicated that 2 (40%) respondents had received their professional education and training in the university/tertiary attendance of workshops/seminars and on job/office training, 1 (20%) respondent had indicated attendance of workshops/seminars and on the job/office training, 1 (20%) respondent had indicated university/tertiary and on the job/office training, 1 (20%) respondent indicated on job/office training, while none of the respondents indicated attendance of professional conference. Please see Figure 4.10 below:

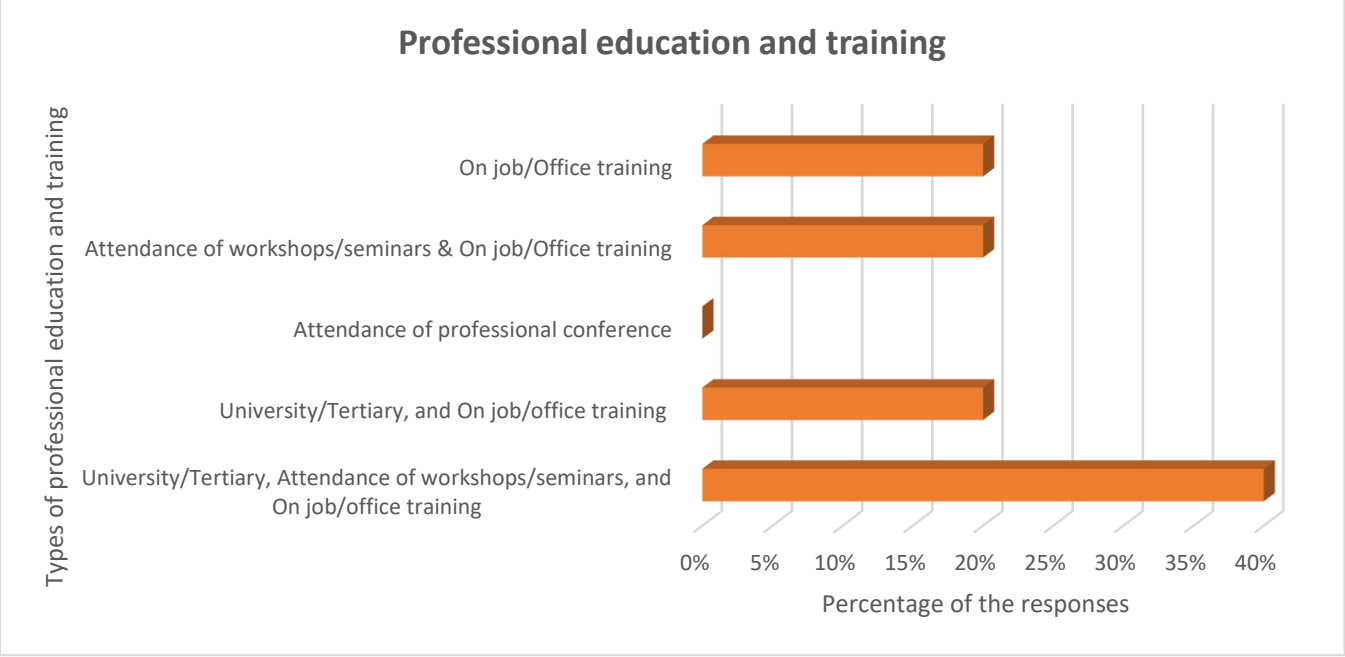

Figure 4.10: Professional education and training [N=5]

4.4.1.3. Position at High Court

The study made provision for the establishment of respondents' positions at the High Court. The findings reported that 40% (2) were registry clerks, 20% (1) was an assistant registrar, and 20% (1) was a chief registry clerk, while 20% (1) was the librarian. Figure 4.11 below provides a graphical illustration of the report.

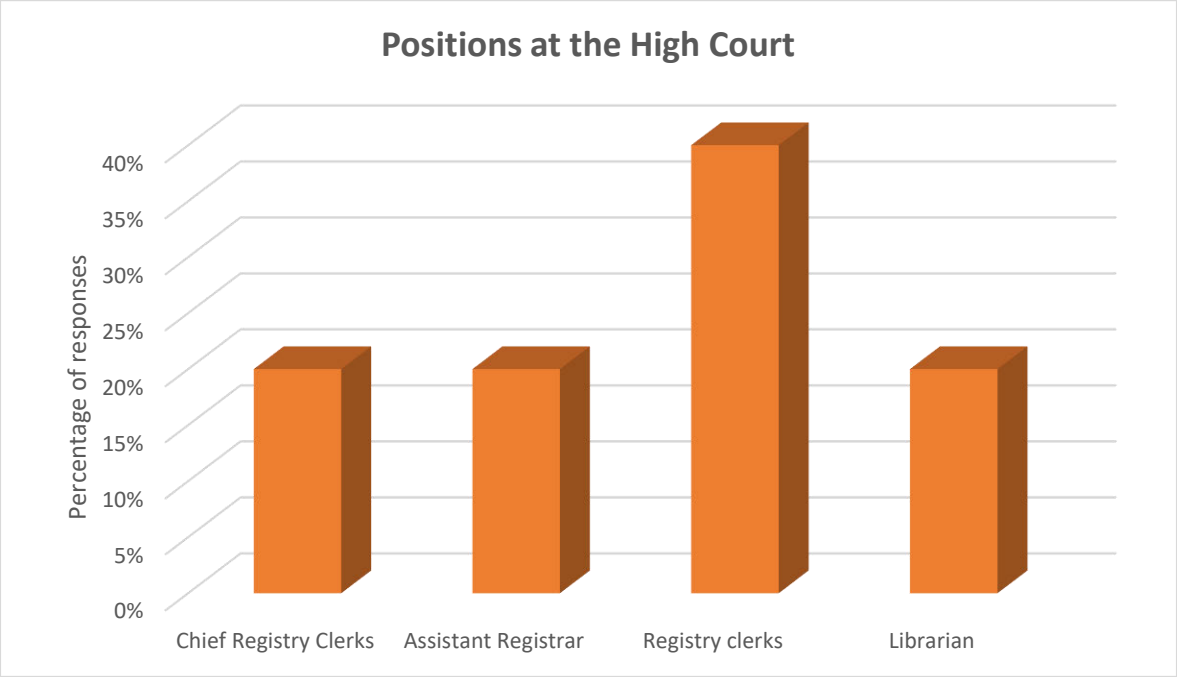

Figure 4.11: Positions at the High Court [N=5]

4.4.1.4. Period served in the present position at the High Court

The researcher asked respondents to provide the number of years served in their present position. The aim was to find out the number of years the respondents spent serving Grahamstown High Court. The findings show that 2 (40%) respondents indicated serving between 0 to 4 years, 1 (20%) respondent indicated serving between 15-19 years, 2 (20%) respondents indicated serving between 20 years and above. The Table below illustrates the period served in the present position.

Table 4.7: Period served in the present position.

Period in the Present Position	Number of Respondents	Percentage
0-4 years	2	40%
5-9 years	0	0%
10-14 years	0	0%
15-19 years	1	20%
20+	2	40%
TOTAL=	**5**	**100%**

4.4.1.5. Period worked in the Court System/Justice System

The researcher also established the years the respondents had worked in the Court System/Justice System. The findings indicated that 2 (40%) respondents had worked between 0-4 years, 1 (20%) respondent had worked between 15-19 years, 2 (40%) respondents had worked between 20 years of services in the court system or justice system. Please see Table 4.8 below:

Table 4.8: Period worked in the Court System/Justice System

Period in the Present Position	Number of Respondents	Percentage
0-4 years	2	40%
5-9 years	0	0%
10-14 years	0	0%
15-19 years	1	20%
20+	2	40%
TOTAL=	**5**	**100%**

4.4.1.6. Gender of the respondents

The researcher also established the number of respondents per gender with the intention of identifying the gender balance among respondents. The findings of the study indicated that 3 (60%) respondents were males, while 2 (40%) respondents were females. Figure 4.12 illustrates the gender of the respondents.

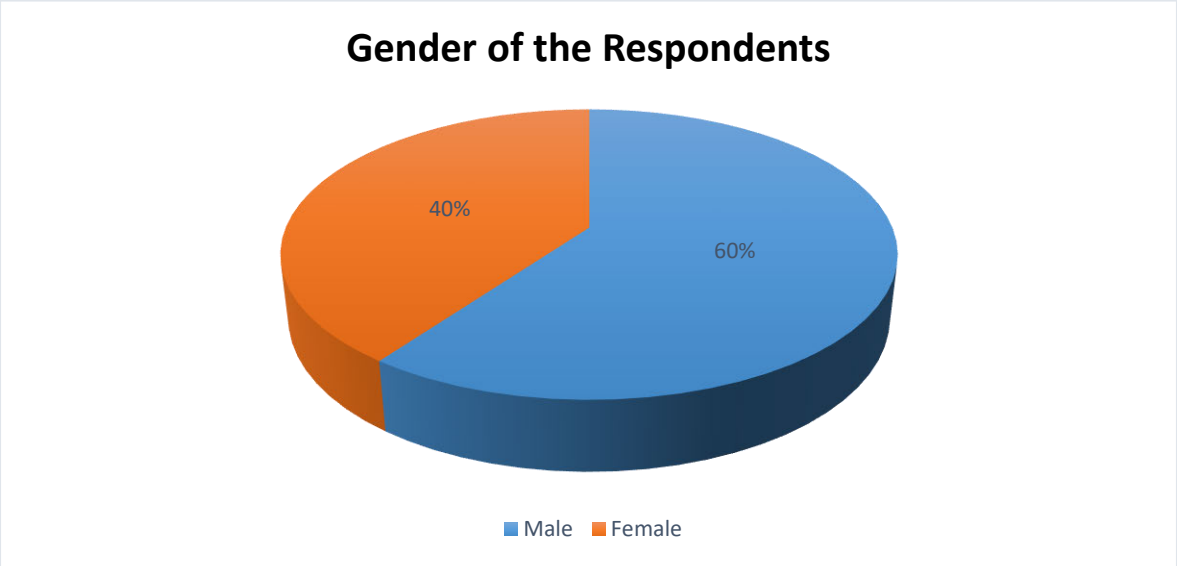

Figure 4.12: Gender of the respondents [N=5]

4.4.2. The findings of Grahamstown High Court

The findings of the study are also organised into themes derived from the research questions indicated in section 4.1. The themes are as follows: the management of digital court records; the availability of infrastructure for the management of digital court records; the legal and statutory framework for the management of digital court records; and the barriers to effective management of digital court records.

4.4.2.1. The management of digital court records

This section answered the research question of the study: "*What is the extent to which digital court records are managed in High Courts in the Eastern Cape*?" Several questions were posed to respondents to answer the research question.

4.4.2.1.1. Types of records created/received and used in Grahamstown High Court

The respondents were asked to indicate the types of records they created or received in Grahamstown High Court. The findings show that 2 (40%) respondents indicated that the types of records created or received by their section were criminal reviews; criminal trials; criminal appeals from the lower courts; bail appeals; full bench appeals; and court petitions. 1 (20%) respondent indicated receiving law books from international courts such as Canada, England, Europe; Statutes; Law reports, while 2 (40%) respondents indicated civil cases. Opposed application cases; non-opposed application cases; default judgements; court orders; civil cases; summons; and judgments.

4.4.2.1.2. Digital court records management systems

The respondents were requested to answer whether they had a digital court records management system for managing their digital records. According to the findings, 1 (20%) respondent indicated yes, 4 (80%) respondents indicated no. The majority (80%) indicated no, revealing that Grahamstown High Court had no system in place for managing digital court records.

4.4.2.1.3. Types of digital court records management systems

The researcher wanted to find out the types of digital court records management systems that Grahamstown High Court was using for managing their records. The respondents were provided with possible answers and the space to provide other types of systems that were not on the list. The findings of the study indicated that 1 (20%) respondent indicated that they were using online database such as Juta and LexisNexis, while 4 (80%) respondents did not respond to the question.

4.4.2.1.4. Advantages of using digital records management system in court

Digital records management systems promote service delivery in any organisation. The respondents were provided with the list of benefits of digital records management system. They were asked to indicate whether they strongly agree, agree, disagree, strongly disagree or not sure. Figure 4.13 shows the findings of the study.

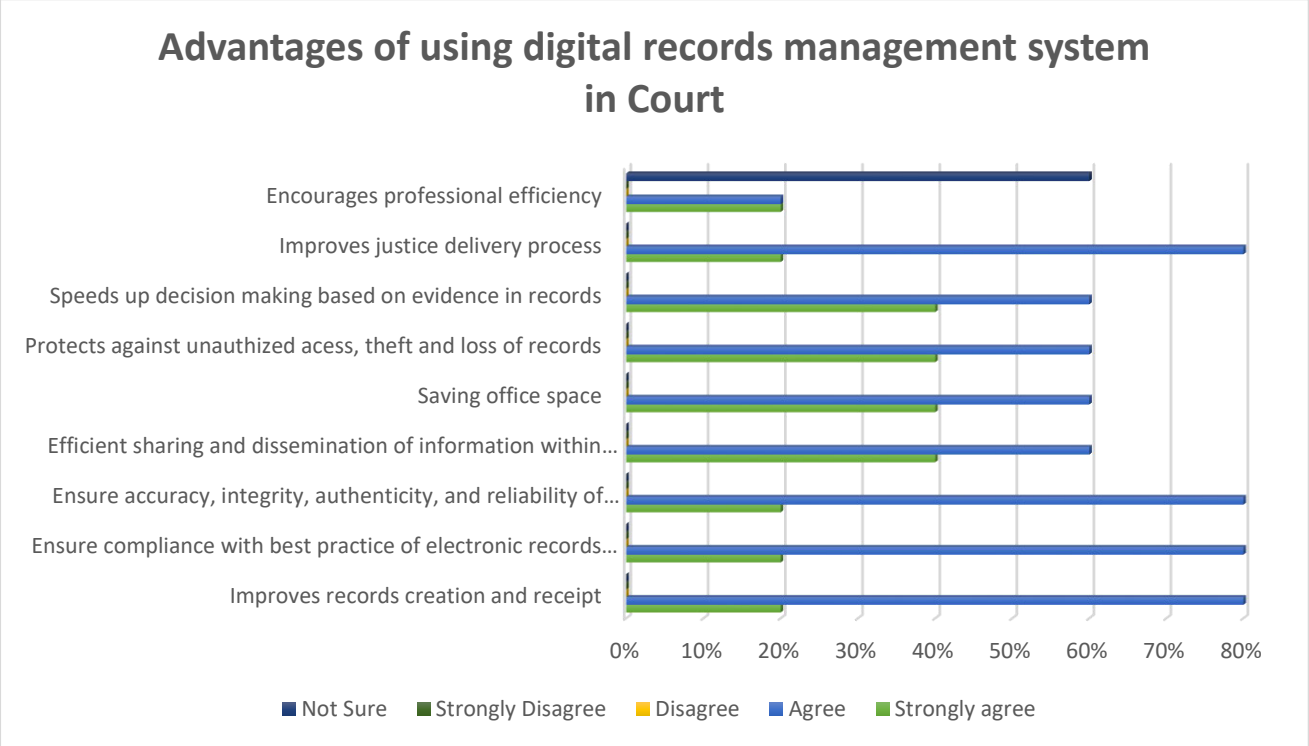

Figure 4.13: Advantages of digital records management system in court [N=5]

4.4.2.1.5. Creation/receipt of digital court records

The respondents were asked how digital court records were created or received by the High Court. The respondents were provided with possible answers. The findings show that all (100%) respondents indicated that they were creating or receiving their court records through emails and telephone. One respondent indicated that during the Covid-19 pandemic, before the court sits, records were created both manually and electronically. The respondent further indicated that when an individual opened a case, he or she was required to come to court in person for the process. Then when the court sits, records are uploaded on the computer, and they would print them and store them in the file. Another respondent explained that they were receiving their records through online databases such as Juta and LexisNexis.

4.4.2.1.6. Types of ICTs used in court for justice delivery.

The researcher was keen to find out the types of ICTs that Grahamstown High Court was using for justice delivery. The respondents were provided with possible answers. The respondents were asked to choose from the answers provided by the researcher. The findings show that all (100%) respondents indicated that they were using telephones, cellphones, and emails.

4.4.2.1.7. Importance of digital court records management

In order to understand views of the respondents pertaining to the importance of digital court records management, the respondents were asked if they strongly agree, agree, not sure, disagree or strongly disagree. The findings show that 2 (40%) respondents strongly agreed that digital court records management is important, 2 (40%) respondents agreed that digital court records management is important, 1 (20%) respondent was not sure. Please see Figure 4.14.

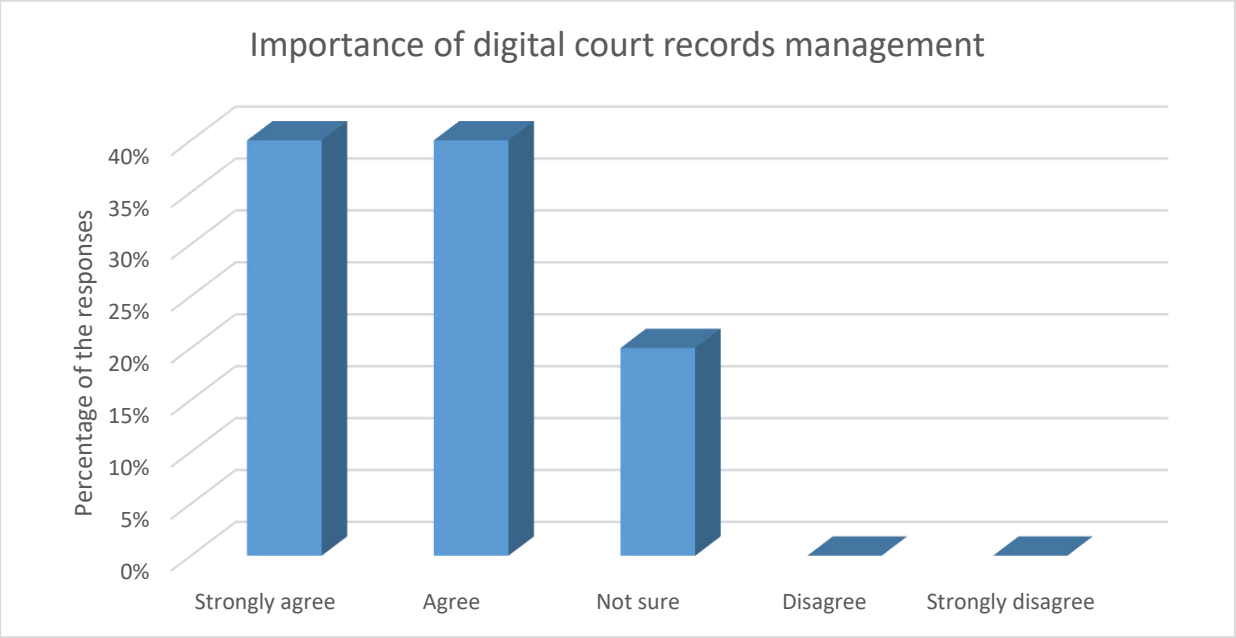

Figure 4.14: Importance of digital court records management

4.4.2.2. Infrastructure for the management of digital court records

This section answers the research question: "*What is the availability of infrastructure for the management of digital court records in High Courts in the Eastern Cape Province?*" Among other things, the researcher was keen to find out the systems used in the High Court, storage of digital court records as well as the skills of those who are responsible for the management of digital records.

4.4.2.2.1. Digital court records management system

The respondents were asked if they have digital court records management systems. The findings show that 4 (80%) respondents indicated they had no system. One respondent indicated that it is implemented in the office of the Chief Justice, the bigger divisions, while 1 (20%) respondent indicated that they had a system for managing digital court records. The results showed that there was no system in place at Grahamstown High Court.

4.4.2.2.2. Types of digital court records management system

The researcher was keen to find out the system in place for the management of digital court records. As a result, the respondents were asked the type of systems they use for the management of digital court records. The findings show that 1 (20%) respondent indicated recording machines, another 1 (20%) respondent indicated that they were using Juta, and LexisNexis while 3 (60%) respondents did not respond to this question.

4.4.2.2.3. Types of records kept in the digital court records management system

The researcher wanted to find out the types of records that were kept in the systems. The respondents were asked to indicate the types of records they keep in the records management system. The respondents were provided with possible answers. The findings show that 2 (40%) respondents indicated case files, summons, and court registers. The respondents added other types of records, such as civil cases, opposed applications, non-opposed applications, default judgements, 2 (40%) respondents indicated case files, dockets, summons, calendars of hearings, court registers, judgments, while 1 (20%) respondent indicated case files, minutes books and court registers. The respondent added law reports, statutes, and law textbooks.

4.4.2.2.4. Storage of digital court records

The respondents were asked how digital records are stored. The respondents were provided with possible answers. The findings show that 3 (60%) respondents indicated they were using computer, hard drives, and flash drives, 1 (20%) respondent indicated that they were using computer, cloud computing, intranet, internet, and servers, while 1 (20%) respondent indicated that they were using computer and recording machines.

4.4.2.2.5. Types of human resources available for the management of digital court records

The researcher was keen to find out the types of human resources available for the management of digital court records. The respondents were requested to choose from the possible answers provided. The findings show that 1 (20%) respondent was a trained professional, 3 (60%) respondents indicated trained, while they were already professionals. Figure 4.15 below shows the results of the study:

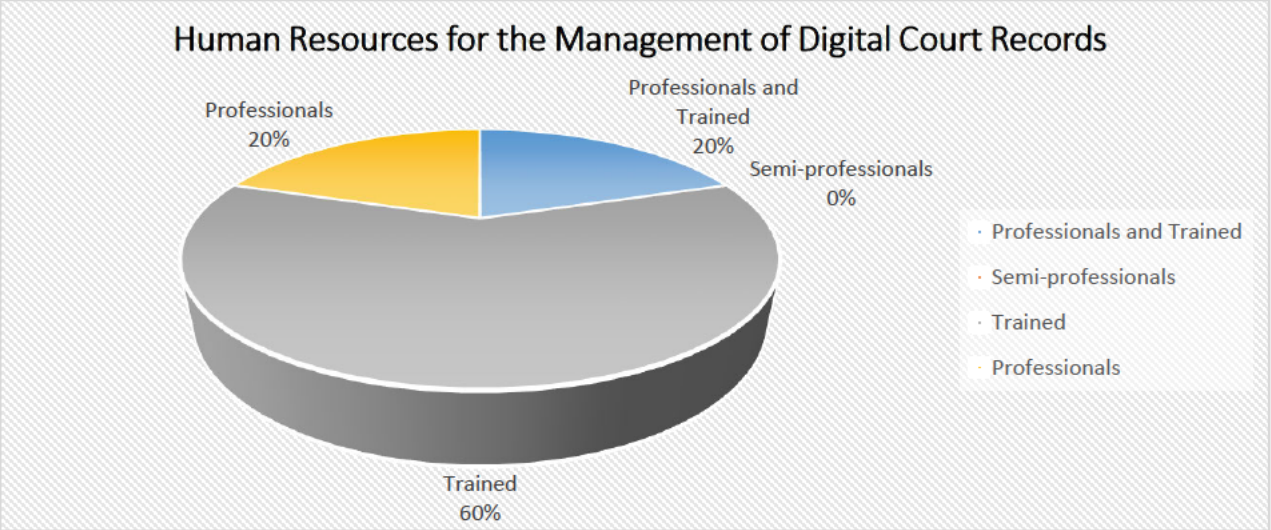

Figure 4.15: Human resource for the management of digital court records [N=5]

4.4.2.2.6. Use of digital court records for justice delivery

Court records, regardless of their format, are vital to the administration of justice. The researcher was keen to understand the court processes that require the use of digital court records for justice delivery in the High Court. The respondents were asked about the court processes that require the use of digital court records for justice delivery in the High Court. The findings of the study are shown in Table 4.9 below:

Table 4.9: Use of digital court records for justice delivery

Respondents	Responses
R1	*"Court records are required when a person makes an appeal to court or application of parole. Before the person is given parole, the court wants to have previous judgement on conviction to see how the remarks were and how he was convicted by the judge before parole is granted. They always request judgements particularly from 5 years old cases".*
R2	*"The court processes that requires the use of records is when there are applications "eziya emotion" court (meaning applications that are attended in motion court). The records required for this process are retrieved a day before the court sits."*
R3	*"The court processes that require the use of records for justice delivery are records from criminal cases when an individual applies for an appeal. Records are retrieved two days before the court sits. This gives us time to check and retrieve the document required for the case".*
R4	*"When there is a criminal case in progress, before the delivery of justice, court judges and attorneys request information or law reports for referencing in order to solve their cases. This information is retrieved before the court sits."*
R5	*"When the civil trials are going to start, there is some information required for the case proceedings and decision making. As a result, a record is retrieved a day before the court sits."*

4.4.2.2.7. Custody of the digital court records

The researcher was keen to know the person responsible for the custody of the digital court records. The respondents were asked the person that is responsible for the custody of the digital court records. The findings show that 2 (40%) respondents said it was court officials, 1 (20%) respondent indicated court clerks and their supervisors, 1 (20%) respondent indicated court librarians, while 1 (20%) respondent indicated registry clerks.

Furthermore, the researcher was keen to find out if the respondents were experiencing cases of theft, missing or loss of digital court records. The findings show that the majority (80%) of the respondents experienced cases of theft, missing or loss of court records, while 20% of the respondents indicated that they do not experience cases of theft, missing or loss of court records. The results are explained in Table 4.10 below:

Table 4.10: Experience of theft, missing or loss of digital court records

Respondents	Responses
R1	*"Yes".*
R2	*"Yes, sometimes."*
R3	*"Yes, sometimes we hardly manage to get the old case records or files".*
R4	*"No, not necessary the misplacement of a record as such, but the common challenge is a situation where may be a certain portion of a record was not mechanically recorded."*
R5	*"Yes, all the time. But fortunately, in civil cases there are three people who will have the same document. For instance, the court holds an original document, attorney of the plaintiff and the attorney of defendant. If the court misplaces the records, copies are requested from the attorneys, unlike criminal cases where if a recording is missing, there would be no way to get the document."*

Additionally, the respondents were asked how the digital court records are protected against alteration, theft, or loss. The findings show that 1 (20%) respondent indicated that everyone in court has his or her password while the majority (80%) of respondents did not respond to the question.

Moreover, the researcher wanted to find out about the security of digital court records. The respondents were asked about the person responsible for the security of the digital court records. The findings show that 2 (40%) respondents indicated that the people responsible for security of records were court clerks, 1 (20%) respondent

indicated that it was court registrars and registrar's clerks, 1 (20%) respondent indicated librarian, while 1 (20%) respondent indicated registry clerk. The researcher was keen to find out how they maintain the security of digital court records. The findings are presented in table 4.11 below:

Table 4.11: Maintenance of digital court records security

Respondents	Responses
R1	*"The security is maintained by making sure that all personnel have authorized access and systems are always updated on time."*
R2	*"Biometric system."*
R3	*No response*
R4	*No response*
R5	*No response*

4.4.2.3. Legal and statutory framework for the management of digital court records

This section answered the research question: *"To what extent does the management of digital court records for justice delivery comply with the legal and statutory framework in High Courts in the Eastern Cape Province?"*

4.4.2.3.1. Policies for the management of digital court records

The researcher was keen to find out about the policies that govern the management of digital court records. The respondents were asked if their organisation has policies for the management of digital court records. The findings show that 3 (60%) respondents indicated that they do not have policies, while 2(40%) respondents have indicated that they have policies.

4.4.2.3.2. Types of policies that regulate the management of digital court records.

The researcher wanted to find out the types of policies that regulate the management of digital court records. The findings show that 1(20%) respondent indicated library policy, 1 (20%) respondent indicated rules and regulations, while 3 (60%) respondents indicated that they did not have policies for managing digital court records.

The findings also show that 2 (40%) respondents indicated that the staff was aware of the policies, while 3 (60%) respondents indicated that the staff members were not aware of the policies for the management of digital court records.

4.4.2.3.3. Rules and regulations of the organisation

The respondents were asked if there are rules and regulations based on the organisation policy for the management of digital court records. The findings show that 4 (80%) respondents indicated no, while 1 (20%) respondent indicated yes. The respondents stated that they were only operating according to what is right or wrong.

4.4.2.4. Barriers to effective management of digital court records

This section answered the research question: “What are the barriers to effective management of digital court records in High Courts in the Eastern Cape Province?”

4.4.2.4.1. Challenges in managing digital court records.

The researcher wanted to find out about the challenges experienced in High Court regarding the management of digital court records. The respondents were asked if they experience challenges in managing digital court records. The respondents were asked to indicate yes or no. The findings show that 3 (60%) respondents indicated yes, 1 (20%) respondent indicated no, while 1 (20%) did not respond.

The respondents were asked about the possible challenges that they were experiencing from the list provided. They were instructed to tick yes, no, or not sure. Two (40%) respondents provided the answers, while 3 (60%) respondents did not respond to the question. The findings show the results of those who were experiencing challenges in managing digital court records. The findings are presented on Figure 4.16 below:

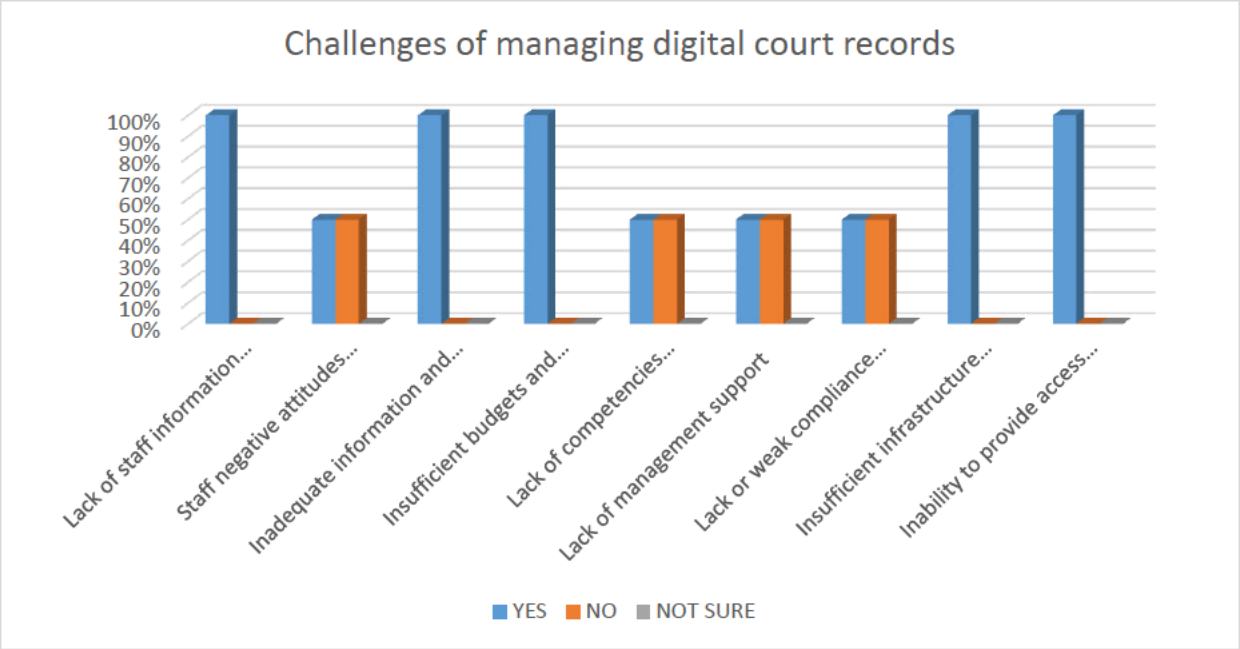

Figure 4.16: Challenges of managing digital court records [N=5]

The researcher further asked the respondents if the challenges they were experiencing were denying or delaying the delivery of justice. The findings indicate that all the respondents indicated yes, while none indicated no.

The respondents were also asked how they overcome these challenges for justice delivery. The findings are indicated in the Table 4.12 below:

Table 4.12. Overcoming the challenges for justice delivery

Respondents	Responses
R1	*"We normally revisit the court proceedings to re-generate the record."*
R2	*"We normally re-generate the record by requesting the notes of judges, lawyers, and prosecutors. Sometimes we get the file before the next court case".*
R3	"The requests usually come before the court sits, so this gives us some time to look for the record. *When we realize that the record is not in our custody, we request the document or information from other branches like Bisho, Mthatha and Gqeberha. Then they search for it and email to me before the court sits."*
R4	*"Request copies from the parties, attorneys from the defendant and plaintiff."*
R5	*"We request copies from the parties, attorneys from the defendant and plaintiff and the notes of the judge."*

The findings of the current study indicated that when the records have been misplaced, a new record is re-generated. The information to re-generate the document is requested from various parties that were seated for that case in the court of law.

4.4.3. Interview schedule for the key informants for Grahamstown High Court

Interviews were conducted with the Court Manager and Court Registrar. These were conducted to verify the responses that were provided through questionnaires. The participants were asked various questions based on the research objectives of the study. This was an in-depth face to face interview. A recording machine was used as a data collection instrument. During the interview, the researcher was both recording and taking notes. In the process of interviewing the participants, the researcher asked the duration worked in the current position, and the duration a participant has worked

in the court system. The findings indicated that the Court Manager had worked in the court system for 1 year in Grahamstown High Court, while it has been 30 years working in the court system. On the other hand, the findings indicated that the Court Registrar had worked in the Office of the Chief Justice for 6 years.

4.4.3.1. Management of digital court records

This section was to answer the research question: "*what is the extent to which digital court records are managed in Grahamstown High Court*?" To establish answers for this research question, a few short questions were asked.

The interviewees were asked, what are the types of records you are dealing with?

Court Manager

The interviewee said that:

Let me tell you about my duties first. My duty is to run this court basically, both the judiciary side as well as the administration side, and as per the vision and mission of the office of the chief justice. Basically, we got the legal side, which is the judiciary side, which are the judges. The secretaries are augment which falls under me, or the augment side works under me. But we basically, the support structure of the legal side to make sure that the courts are running. Like, em…my duties are, I must see that the finance and supply chain runs. They must always be available equipment whether they stock a pen or toner, because they do a lot of printing of records and things like that, do you understand? So, there is also the finance side which deals with things like witness fees. Then there is also, we must make sure to make travel arrangement for witnesses if they have been subpoenaed by the state that they appear in court. So, we do travel arrangements of those kinds of things. My duties are also HR, which is the establishment. I must make sure that all the HR level of every individual is up to

date. If they take leave, the leave forms must be filled in, they receive the pay slips for the month. Any HR issues:

On the segment side, I deal with finance records, HR records and Supply Chain records. On the segment side also, there is transport records, so we deal with, we've got government vehicles, so is the transport expenses and all that stuff. The other records are mainly on the legal side, when there are judgements, there is subpoena, there is inducements, when they want to uplift a record or when there is divorce between parties. So, it all depends on what criminal matter or civil matter we deal with, there is motion courts, but that is all on the legal side.

The findings had indicated that the court manager mostly deals with the administration at the High Court, and it ensures that court runs smoothly.

Court Registrar

"I do not deal with digital records; I only deal with civil cases which are paper-based records".

The interviewees were asked, how do you use digital court records for justice delivery?

Court Manager

Unfortunately, I cannot comment on that one, it is on a legal side, so I will refer to the court registrar who deals with legal matters. But from our side, we do not use digital records, except when we are booking travel and other stuff.

Court Registrar

I have no idea because we only deal with paper-based records. Even during the COVID-19 pandemic, a person was required to come to court for opening the case, so when the court sits, we would circulate the paper-based records to the parties. But we are we do use emails as a communication platform for our cases, but we do not

send the files electronically because court case files they are big. So, we are still behind with the technology, or should I say it has not been implemented yet in our court. I heard that they started it in Gauteng but here, not yet.

The interviewees were also asked how they ensured that digital court records were accessed only by authorised persons.

Court Manager

The court manager said*: This one too I think the court registrar will answer you.*

Court Registrar

Based on the records I am dealing with; the court registrar and the registrar clerks are responsible for ensuring that records are accessed by the authorised personnel.

The interviewee was asked what the importance of managing digital court records is.

Court Manager

The court manager said that:

The court registrar will answer you on that one.

Court Registrar

Speaking about my records, it is very important to manage them so that court cases are not delayed. When the records are not managed properly, documents go missing, which causes the postponements because we have to re-generate the record by requesting the notes of judges, copies of information from lawyers of both parties, and all that, then we produce a record to court. So, when records are managed properly, our work does not delay.

4.4.3.2. Infrastructure used for the management of digital court records

This section answers the research question "*what is the availability of infrastructure for the management of digital court records in Grahamstown High Court*?"

To establish answers for this research question, a few short questions were asked.

The interviewee was asked about the storage of digital court records.

Court Manager

We mostly use cabinets for keeping our records. We also have computers to keep the records for travelling bookings, and emails.

Court Registrar

We have cabinets and strong rooms to keep our records.

When the interviewee was asked about the security of digital court records. The participants responded as follows:

Court Manager

Court registrars, registry clerks and registrar clerks are responsible for the security of the records they deal with in the court.

Court Registrar

All court officials are responsible for the security of records, however, court ushers, interpreters are not allowed to take records by themselves, and they request records through the court registrar or registrar clerks.

4.4.3.3. Legal and statutory framework for the management of digital court records

This section answers the research question: "*To what extent does the management of digital court records at Grahamstown High Court comply with the legal and statutory framework*?"

To establish answers for this research question, a few short questions were asked. The interviewee was asked about the policies that regulates the management of digital court records.

Court Manager

"We are bound by all the policies and regulations of the department. Like you get the PMDS, PFMA, BBBEE. So, there is different policies and regulations and circulars that guide us and control us basically."

Court Registrar

We do have policies in place, but they are not documented. There are rules and procedures that guide us on how to open a file when the case has been brought in the court. For example, we have to index the file into the register, we have to cross-reference alphabetically, so the rules are guiding us to make sure that all the cases are recorded into the register.

4.4.3.4. Barriers to effective management of digital court records

This section answers the research question: "*what are the barriers to effectiveness of digital court records in Grahamstown High Court*?"

To establish answers for this research question, a few short questions were asked.

The interviewee was asked about the issue of missing or loss of files in the court of law and how it affects justice delivery.

Court Manager

Not so much on my side, but on the legal side. All my files, my staff files are filed in my cabinets. So, I always find a file or whatever. It is more on the court side that they might not find the file because it can be anywhere, it can be with the judge, it can be with the secretary, it can be with the attorneys who submitting documents. it can be in

the vault, it can be with one of the registrar clerks, it can be with one of the registrars. So, it can be misplaced.

Everyone in the court is important, from the judge to the messenger, the hierarchy. If the messenger does not get the files or the documents from the post office, there won't be work for the people to do. Yes, there are people that come in and deliver things and stuff like that, or courier wise, like here in Grahamstown Makanda, we have lot of attorney forms here, so we like the people, attorneys, NPA, article attorneys, they basically come here in person to bring documents. So, if those registrar clerks don't do their jobs, then they could be complaints, or may be the case cannot sit due to documents or things like that. Remember, everything must be in order by the time the file reaches the judge. This must happen before the court sitting because the judge must go through that file.

Court Registrar

We do experience challenges of misplacement of records since we deal with a lot of people coming in and out of the office, uplifting records twice a day, for example, people from attorneys come to uplift a record maybe they are from the side of the defendant or plaintiff, and they want to make an appeal. So, we do misplace records, but it is very rare. The misplacement does not affect justice delivery in anyway, because once we misplace the file, we can sometimes, if the matter is set down, we can always get the copies from the attorneys so that we can open a dummy file. So, it does not affect justice delivery, and sometimes a record just appears. Meaning when misplaced sometimes, it is when someone has labelled the file incorrectly.

4.5. Summary of findings

This section provides a summary of the findings presented in this chapter.

4.5.1 In Mthatha High Court they deal with both electronic and paper-based records, while in Grahamstown High Court they were still on paper-based records.

4.5.2 In Mthatha High Court they have a digital records management system. However, the system is not used in all departments, for instance, the civil side is still using paper-based records and there is no system used for backing-up their records in case of natural disaster. On the other hand, Grahamstown High Court does not have any system in place for managing digital records, in both the civil and criminal court. They are still in the manual.

4.5.3 Both courts lack the policy of managing records. Although the court managers of both High Courts said that they have policies, the court staff seemed unaware of the policies for the management of digital records.

4.5.4 The people who deal with court records are not trained in the management of records, therefore, they lack skills and knowledge in the field of records management programme.

4.5.5 When there is an issue of misplacement of records, both courts use one method. They temporarily re-generate the record so that court cases cannot be delayed.

4.6. Chapter Summary

This chapter presents the results of the study's findings. It covers the response rate and the biographical information of the court staff. The chapter also presents the management of digital court records, infrastructure used for the management of digital court records, legal and statutory framework for the management of digital court records, and the barriers to effective management of digital court records. The chapter also presents the interview schedule for key informants of both High Court and

summary of findings. Chapter five discusses the findings and provides the interpretation of the data presented.

CHAPTER FIVE

INTERPRETATION AND DISCUSSION OF THE FINDINGS

5.1. Introduction

The previous chapter dealt with the analysis and presentation of data obtained from the study respondents. The data presented was collected through questionnaires, interviews, and documents analysis. This chapter is about interpretations and descriptions of the meaning of the data collected from the sampled participants. For instance, the researcher analysed, interpreted, and described the population trends, opinions, and attitudes in a numerical or quantitative manner through data collected from the sample.

The purpose of this study was to investigate the management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province in South Africa, with the view to develop a framework for the management of digital court records. The study was guided by the following research objectives which were to:

- Determine the extent to which digital court records are managed in High Courts in the Eastern Cape Province.
- Determine the availability of infrastructure for the management of digital court records in High Courts in the Eastern Cape Province.
- Ascertain the compliance with legal and statutory framework for the management of digital court records for justice delivery by High Courts in the Eastern Cape Province.
- Establish the barriers to effective management of digital court records in High Courts in the Eastern Cape Province.

5.2. Biographical information

This section discusses the characteristics of the respondents from the selected High Courts that is, Mthatha and Grahamstown High Courts.

5.2.1. Highest education and training qualification

Application and use of information and communication technology is almost inevitable in the modern working environment. This has propelled the creation of digital records in the conduct of daily business (Guto and Jumba 2021: 55). Therefore, education and training in digital records management is important. The findings of the study revealed that in Mthatha High Court the majority (40%) of the respondents had attained a matric certificate (section 4.3.1.1), while in Grahamstown High Court the majority (40%) of the respondents had matric certificate and degree (section 4.4.1.1).

Digital records management needs skilled personnel in ICT (Mutsagondo and Ngulube 2018:4). Effective management of records in digital or manual bases requires the skilled personnel (Read and Ginn 2016). Mutsagondo and Ngulube (2018: 7) state that good electronic records management skills come because of training, education, staff development courses, exposure, and experience. Therefore, it was important to find out the professional education and training of the people working in both Mthatha and Grahamstown High Courts.

The researcher was of the view that knowledge and skills for the management of digital court records could be acquired through attending a higher institution (university/tertiary), attendance of workshops/seminars, conferences, and on the job training. The findings revealed that the majority (40%) of the respondents in Mthatha High Court had received education and training in the university/tertiary (section

4.3.1.2), while in Grahamstown High Court, the majority (40%) of the respondents had attended the university/tertiary, workshops/seminars and on job training (4.4.1.2). The results indicated that the staff in Grahamstown High Court had attended more than one training. This underscored the importance of skills and knowledge in the management of digital court records.

5.2.2. Position at the High Court

The judiciary comprises of personnel who occupy different positions for different purposes. The findings of the study revealed that the majority (60%) of the respondents in Mthatha High Court were registrar's clerks (section 4.3.1.3), while in Grahamstown High Court 40% of the respondents were registry clerks (section 4.4.1.3). This underscored the importance of clerical duties in Mthatha and Grahamstown High Courts. Experience plays a fundamental role in any organisational structure especially when it is nurtured and utilized effectively, efficiently towards knowledge creation and retention (Ntengenyane 2018: 121).

5.3. The management of digital court records

Records management is the process of managing records for the efficient and systematic control of the creation, receipt, maintenance, use, and disposition (ISO 15489-1: 2016: 3). Records management, in whatever format, is essential to ensure the authenticity, integrity, reliability, and usability of records for as long as they are required (Amofah 2017; Drabo 2018; Duranti 2010).

The discussion of findings on the theme of management of digital court records is presented under the following headings: types of records created, received, and used in High Courts; digital court records management systems; types of digital court

records management systems; advantages of digital records management systems in court; creation/receipt of digital court records; types of ICTs used in court for justice delivery; and importance of digital court records management.

5.3.1. Types of records/received and used in High Courts

Records are created in records management units, in offices and received from external organisations. It is worth noting that a court, like any organisation creates, receives, and manages records, in various formats, as evidence of its activities and transactions. The findings of the study revealed that there were various types of records created, received, and used in Mthatha and Grahamstown High Courts (section 4.3.2.1.1. and section 4.4.2.1.1.). The findings also revealed that both High Courts were mostly dealing with the same cases, as a result, they were creating, receiving, and using the same records. These included civil cases; opposed application cases; non-opposed application cases; default judgements; court orders; civil cases; summons; judgement, and court appeals.

This was supported by Court Registrars of both High Courts during the interviews when they were asked about the types of records they deal with in their everyday work operations. However, the Court Managers added that courts are also dealing with HR and Supply Chain records, which is part of court administration. The office of the court manager is regarded as an administration section which oversees everything in court and supports the judiciary system.

5.3.2. Digital court records management systems

The development of court technology has in recent years led to much innovation in the areas of case and information management. The best-case management systems, whether they are fully automated or manual, recognize that efficiency and

transparency are a means to a court system that functions according to international standards and norms, protecting the rights of the accused as well as victims and witnesses (United Nations 2006). As a result, the respondents were requested to answer whether they had a digital records management system for managing their digital court records. The findings indicated that in both High Courts, the majority (80%) indicated that there were no digital court records management systems. However, one (20%) respondent from Mthatha High Court explained that they previously had a system for managing their records, but the system was suspended due to financial challenges and corruption (section 4.3.2.1.2 and section 4.4.2.1.2). The findings reveal that although other courts in other countries are implementing digital records management systems for managing their records and promoting effective and efficient justice delivery, Mthatha and Grahamstown High Courts are still behind with the advent of technology.

The study aimed at finding out if there were systems in place for both High Courts. As a result, the respondents were further asked the types of digital court records management systems used in Mthatha and Grahamstown High Courts. The findings of the study show that 1 (20%) respondent in Mthatha High Court indicated that they were using CMM (Computer Management System), while 1 (20%) respondent indicated that they used to have digital records management system called Citrix which was suspended over the years (section 4.3.2.1.3). In addition, the respondent in Grahamstown High Court indicated that they were using online databases such as Juta and LexisNexis (section 4.4.2.1.3). The results indicated that there was no digital court records management system for managing digital court records in Grahamstown High Court. During the interview with the Registrar in Grahamstown High Court, the Registrar confirmed that they were not yet using the digital court records management

system. The records management system has been implemented in big regions, such as OCJ in Gauteng.

5.3.3. Advantages of digital court records management systems in court

Digital court records management systems promote service delivery in any court of law. Although the respondents had indicated that there were no digital court records management systems in the selected High Courts, they supported the point that digital court records management systems are vital to justice delivery. As a result, they strongly agreed on the advantages of using digital court records management system (figure 4.5, and figure 4.13). This is supported by Tsvuura and Ngulube (2020: 21) when stating that technology has created the possibilities to improve the quality-of-service delivery in most, if not all organisations around the world.

In addition, in the digital world, more information can be stored in a smaller space, and it can be analyzed to reveal patterns with greater speed and accuracy (Guffin 2020: 101). Tsvuura and Ngulube (2020: 21) allude that currently, the ability of any organisation to perform well hinges on its adoption of technology and how that organisation infuses it, into sustainability of that technology. Both the literature review and findings of the study reveal that the digital court records management systems are very important in the court of law as they promote effective and efficient justice delivery

5.3.4. Creation/receipt of digital court records

It is worth noting that over time, courts depended on traditional paper dominated registry systems for court management and justice delivery. However, the advent of Information and Communication Technologies (ICTs) in the mid-20th century

witnessed a paradigm shift in court records registry systems. This has affected the structure of court records creation, receipt, preservation, use, and disposal. Many court registries now rely on various electronic and document records management systems (EDRMS) (Greenwood and Bockweg 2012; Tep *et al* 2019). In tandem with the provision of the records continuum model, records must be well managed right from the time they are created to their ultimate disposition to ensure their continuous availability.

The findings of the current study show that 3 (60%) respondents indicated that they were creating or receiving their court records through emails and telephone. Two (40%) respondents added that they were also creating and receiving their records through Microsoft Teams where a meeting is recorded for future referrals, Microsoft word and courier services. The respondents further indicated that when they receive a file, for example opposed applications or non-opposed applications, they capture it on the register and put a date stamp before they store it in the strong room. When there is a signature required and the person supposed to sign is not available, they courier the document.

Meanwhile 2 (40%) respondents indicated that they were creating or receiving their court records through emails. One respondent added that they were creating their records through CMM (Computer Management System) by capturing every case brought in the High Court. The respondent further explained that when capturing the record to the system, the folder is given a case number and the year (section 4.3.2.1.5). During the interviews with the Court Manager in Mthatha High Court, the researcher asked the interviewee about how digital court records were created of received. The court manager mentioned the recording machines that are used during

court proceedings. The senior administration officer also mentioned the same information as the court manager.

On the other hand, the findings show that all (100%) respondents in Grahamstown High Court indicated that they were creating or receiving their court records through emails and telephone. One respondent indicated that during the Covid-19 pandemic, before the court sits, records were created both manually and electronically. The respondent further indicated that when the individual opens the case, he or she was required to come to court in person for the process. Then when the court sits, records are uploaded on the computer, and they would print them and store them in the file. The other respondent added that they were receiving their records through online databases such as Juta and LexisNexis (section 4.4.2.1.5).

It is evident that ICTs are changing the normal way of creating or receiving records in courts. To support this point, Huni and Dewah (2019: 134) mentioned that the technological era has resulted in people creating, storing, and exchanging information through digital means. This has had a tremendous impact on the activities that are done in the legal fraternity as evidence of crimes committed can now be found in different modes and places, some of which include mobile phones, emails, and social media platforms. Although the advent of technology has changed how the world operates, the Grahamstown High Court has not yet adopted the management of records digitally. Records are still mostly created and received in a paper-based format.

5.3.5. Types of ICTs used in court for justice delivery

Courts are using various types of ICTs for justice delivery. Mosweu (2020: 64) states that ICTs enable the creation, storage, modification, distribution, and preservation of

digital records in a networked environment. Hasan and Rupa (2021: 49) state that the use of ICT is considered one of the key elements to improve justice administration. The direct correlation between rules of law, social and economic development and access to justice has further encouraged greater use of ICT in the justice system. The findings from this study revealed that most of the respondents in Mthatha High Court were using telephones, cellphones, email, intranet, as well as WhatsApp (section 4.3.2.1.6), while all (100%) the respondents in Grahamstown High Court were using telephones, cellphones, and emails (section 4.4.2.1.6).

The results indicated that the common ICTs that were used by the selected High Courts were telephones, cellphones, and email. The results also revealed that courts are no longer performing their duties in a traditional way. Courts are adopting the new technological era, where there is more use of information and communication technologies. To support this, Huni and Dewah (2019: 134) mentioned that the technological era has resulted in people creating, storing, and exchanging information through digital means. This has had a tremendous impact on the activities that are done in the legal fraternity as evidence of crimes committed can now be found in different modes and places, some of which include mobile phones, emails, and social media platforms. Thus, ICTs are currently considered to be an indispensable tool for both case management and efficient delivery of judiciary services (Hasan and Rupa 2021:49).

Lageson, Webster, and Sandoval (2021: 635) opine that with technological development, American criminal records are more available than ever before. Digital criminal records are routinely posted online by governmental agencies. In addition, Ismail *et al*, (2021: 198) state that the use of the digital document is one of the new (of

al-Qarinah) that can be regarded as evidence in a trial. Furthermore, Bangladesh has embarked on the process of adopting ICTs to improve justice administration (Hasan and Rupa 2021: 49). Courts all over the world are adopting ICTs to improve justice delivery (Hasan and Rupa 2021:49). However, the findings revealed that High Courts in the Eastern Cape are still in an initial stage of adopting ICTs. This could have implications of justice delays or justice denied in the courts of law.

5.3.6. Importance of digital court records management

Digital records need to be retained and maintained over the medium to long term as records which document accountability and preserve reliable access (Harries 2009), since failure to do this could have far reaching implications, such as loss of records leading to serious business, legal and financial consequences. Sound records management delivers transparency by documenting and providing evidence of an activity, a decision, or an agreement (Luyombya 2010). Practicing good and effective records management is particularly critical to organisations (Ismail and Jamaludin 2009). Although, the findings indicated that in both High Courts, court records were mostly created and received manually, most of the respondents had agreed that the management of digital court records is important in the delivery of justice (section 4.3.2.1.7; section 4.4.2.1.7). The researcher is of the view that the respondents had learnt the importance of digital court records management through first-hand experience, professional education and training.

During the interviews with the Court Manager and the Senior Administration Officer in Mthatha, both agreed on the importance of digital court records management, especially regarding the case of appeals in the court of law. The finding was supported by Zain *et al* (2017) who states that electronic records management allows for better

retrieval and availability of records when needed. It also reduces the case delays and backlogs (Zain *et al.* 2017).

5.4. Infrastructure used for the management of digital court records

Courts all over the world are faced with the use of digital evidence embedded in the record to solve their disputes. According to Huni and Dewah (2019), digital records in courts can aid the investigation and resolution of crimes by law enforcement agents. Goodison *et al.* (2015) mention that in the United States, courts rely extensively on digital evidence for important information about both victims and suspects. Due to the potential quantity of digital evidence available, cases where such evidence is lacking are more difficult to develop leads and solve. Records need to be efficiently managed. Ngoepe, Mokoena and Ngulube (2010) confirms that as with paper-based records, digital records should be properly secured and managed to ensure that they are not compromised in any way.

In any organisation, managing records should be a strategic function, with a continuing programme that is effective across the organisation (Shepherd and Yeo 2003). Records management programmes vary from one organisation to another, but typically comprise a few elements. These include setting and monitoring policies, and standards for records management throughout the organisation; designing and implementing records management systems; and informing and educating staff about records management.

5.4.1. Types of digital court records management system

The concept of records management aided by Information and Communication Technologies (ICTs) has recently been embraced by many organisations across the globe. For instance, organisations are adopting Electronic Records Management

Systems (ERMS), Electronic Document Management System (EDMS), or Electronic Records and Document Management Systems (EDRMS) (Shonhe and Grand 2019: 1-2). Organisations that have implemented the ERMS or EDRMS are deemed to be better equipped to have both internally and externally generated records. These organisations are said to operate at a higher level in terms of efficiency and effectiveness than those organisations that still rely on manual filing (Kaupa and Chisa (2020: 7).

A few countries are adopting the Electronic Records Management Systems (ERMS) (Zain *et al,* 2017). ERMS seeks to ensure the records remain fixed and any alterations or amendments generate another version of the record, which is also captured and stored as a different record. ERMS are designed to observe the principles of records management as much as possible (Ambira 2016: 104). The adoption of ERMS in the management of court records is rapidly growing and different countries around the globe have implemented these systems with varying degrees of success (Johare *et al*. 2009; Saman 2011).

In Malaysia both Civil and *Shariah* judiciary systems have implemented the electronic records management system. The systems lead to significant improvements to case management, resulting in efficient service delivery to the public at large (Saman 2011). For instance, the United States and Australia are implementing an electronic court filing system (Johare *et al*. 2009). Meanwhile, Kilgour (2013: 138) states that Canada has Canadian Police Information Center (CPIC). CPIC is a central, nationally available computer system that is responsible for storing, retrieving, and communicating police information between police stations.

In 2005, in Botswana, the administration of justice embarked on a Computerized Court Records Management System (CRMS) (Mosweu and Kenosi, 2018; Motsaathebe and Mnjama, 2009). The CRMS is a technological tool for recording and keeping all files and other information safe for accurate and quick reference. According to Nthomiwa (2007), the Court Records Management System (CRMS) was introduced in 2008. The intention of the programme is to help the staff manage case records that have since been traditionally managed manually. It is evident that systems are needed to ensure the efficiency and effectiveness of digital court records.

In addition, Guto and Jumba (2021: 54) mention that electronic records management systems play an important role in ensuring that there is easy and fast access to keeping and retrieval of information or records. The findings indicated that in Mthatha High Court, 40% of the respondents were using CMM. Another 40% of the respondents indicated that previously they were using the Citrix system. The respondents further indicated that the system was suspended due to corruption and financial challenges (section 4.3.2.2.2), while the majority (60%) of the respondents in Grahamstown did not respond to the question.

Twenty percent (20%) of the respondents indicated that they were using recording machines, and the other 20% of the respondents indicated Juta and LexisNexis (section 4.4.2.2.2). The researcher is of the view that those who did not respond to the question had no system in place. Szekely (2017) states that with ICTs, it is easy to retrieve information and very quickly. This can aid quick decision-making and give organisations a competitive advantage. However, it is evident that the selected High Courts are like courts in Uganda where the court electronic system is not fully fed

(Egonda-Ntende 2005). Therefore, those without the systems may experience challenges of delays in retrieving the information for the delivery of justice.

5.4.2. Types of records kept in the digital court records management system

Hasan and Rupa (2021:49) state that ICTs are currently considered to be indispensable tools for both case management and efficient delivery of judiciary services. For instance, Lageson, Webster, and Sandoval (2021: 635) opine that with technological development, American criminal records are more available than ever before. Digital criminal records are routinely posted online by governmental agencies. Thus, electronic records management is essential since it allows for better retrieval and availability of records when needed. It also reduces the case delays and backlogs (Zain *et al.* 2017). The findings indicated that in Mthatha High Court, 2 (40%) respondents were keeping case files and dockets, opposed applications, non-opposed applications, default judgements, registrar's certificates, 1 (20%) respondent kept case files and dockets, summons, court registers, judge's requests, and attorneys' records, while 2 (40%) respondents did not respond to the question (section 4.3.2.2.3).

On the other hand, the findings of Grahamstown High Court revealed that 2 (40%) respondents indicated keeping case files, summons, and court registers. The same respondents added other types of records, such as civil cases, opposed applications, non-opposed applications, default judgements. Meanwhile, 2 (40%) respondents indicated keeping case files, dockets, summons, calendars of hearings, court registers, judgments, while 1 (20%) respondent kept case files, minutes books and court registers. The respondent added law reports, statutes, and law textbooks (section 4.4.2.2.3). The results revealed that the selected High Courts were dealing with the same types of records for justice delivery.

However, the researcher believes that some of the respondents had also listed records that they deal with manually, for instance, the opposed and non-applications, were considered as records that are created/received, used, and managed manually. During the interview with the Mthatha High Court Senior Administration Officer, the Senior Administration Officer said that records created/received are judges' reports, court, records for departmental hearings, court proceedings. The findings of the study reveal that some records are kept traditionally.

5.4.3. Storage of digital court records

The findings of the study revealed that in the Mthatha High Court, 1 (20%) respondent indicated they were using computer, intranet, servers, hard drives, flash drives; 1 (20%) respondent indicated that they were using computer, cloud computing, servers, hard drives, flash drives; 1 (20%) respondent indicated that they were using emails (section 4.3.2.2.4). Meanwhile, in the Grahamstown High Court, the majority (60%) of the respondents were using the computers, hard drives, and flash drives (section 4.4.2.2.4). Other respondents had indicated that they are using strong rooms to keep their records. This has indicated that the selected High Courts are managing both paper-based and electronic records. When the researcher made some follow up with the interviewees in both High Courts, the Court Manager and Senior Administration Officer in Mthatha said that their records are kept in various places, such as flash drives, hard drivers, computer management system, local server, and strong rooms.

Mosweu and Kenosi (2018) and Motsaathebe and Mnjama (2009) state that in 2005, in Botswana, the administration of justice embarked on a Computerized Court Records Management System (CRMS). The CRMS is a technological tool for recording and keeping all files and other information safe for accurate and quick reference. Storage

is very important in records management programme. According to ISO 15489-1 (2016), records require suitable storage conditions and handling to protect the records from unauthorised access, loss, or destruction and from theft and imminent disasters. This is especially so regarding digital records with continuing value which require a higher quality of storage and handling to preserve them as long as the value exists. The ISO 15489-1 standard therefore advises that an appropriate storage environment and media, physical protective materials, handling procedures and storage systems should be considered when designing the records system to ensure their long-term preservation.

5.4.4. Human resources for the management of digital court records

Application and use of information and communication technology is almost inevitable in the modern working environment or organisations. This has propelled the creation of digital records in the conduct of daily business (Guto and Jumba 2021: 55). Digital records management needs skilled personnel in ICT (Mutsagondo and Ngulube 2018:4). Effective management of records in digital or manual bases requires skilled personnel (Read and Ginn 2016).

Knowledge and skills for every profession are vital in equipping human beings with informed planning and decision making (Segaetsho and Mnjama 2017). Records professionals are supposed to be equipped with the knowledge and skills necessary to fulfil their responsibilities. These can be acquired through formal education. Doing so will establish a trusted preservation system that can ensure that accurate and authenticate copies of the creator's records are acquired and preserved (Mosweu and Ngoepe 2019: 18).

The findings revealed that the majority (60%) of the respondents in Mthatha High Court had professional skills and they had received training (section 4.3.2.2.5). However, during the interview with the Senior Administration Officer in Mthatha High Court, it was revealed that some of the court staff had no training in the management of digital court records; as a result, work was not done accordingly. On the other hand, the findings revealed that in Grahamstown High Court, the majority (60%) of the respondents had been trained for the job (section 4.4.2.2.5). Guto and Jumba (2021:55) emphasise that organisations require the skill of the workers and other records management (RM) staff, IT staff, lawful staff, and records overseers. IT assumes a crucial part in keeping up electronic records as they make and keep the foundation on which the records dwell. it is critical for key staff to cooperate to guarantee that electronic data is accessible, safeguarded, and discarded by appropriate laws and guidelines. Although Guto and Jumba (2021: 55) emphasise the importance of skills, the findings revealed that courts are employing staff that do not have qualifications for managing digital court records. This could lead to negligence of court records or improper management or digital records.

5.4.5. Use of digital court records for justice delivery in court

Digital records play a significant role in the successful prosecution of crimes, hence the need for them to be preserved properly. Digital records in courts can aid the investigation and resolution of crime by law enforcement agents (Huni and Dewah 2019:135). The findings revealed that the common process in the use of digital court records for justice delivery in both High Courts is the application for a parole or appeals, and civil cases where there is divorce case or other matters (table 4.3 and table 4.9). The respondents indicated that they always retrieve the record a day before the court sits. The findings reveal that like paper-based records, digital records are a

vital source of information which serves as evidence in decision-making in the court of law.

5.4.6. Custody of digital court records

Digital court records are fragile and can easily be manipulated, therefore, they need to be protected all the time. As noted by Masenya (2021: 55) digital records are highly vulnerable to loss, and some cannot be recovered due to neglect or mismanagement. Therefore, digital records need to always be available, protected, and managed effectively so as to ensure effective delivery of justice in the courts (Issa and Wamukoya 2018: 30). The findings indicated that in the Mthatha High Court, the majority (60%) of the respondents indicated that court records custody was with registrar clerks, while in Grahamstown High Court the majority (40%) indicated court officials (section 4.3.2.2.7 and section 4.4.2.2.7). During the interview with the Court Registrar in Mthatha, it was revealed that Court Registrars are responsible for the keeping of records. The Court Manager said that digital records are kept and maintained by their Senior Administration Officer. On the other hand, in the Grahamstown High Court, the Court Registrar said that it is the registrars and the registrar clerks who are the custodians of records. Furthermore, the findings indicated that in Mthatha and Grahamstown High Courts, the majority (80%) of the respondents had experienced cases of theft, missing or loss of court records (table 4.4 and table 4.10). The findings reveal that theft, missing or loss of court records was a common issue in the courts of law.

The respondents were asked how they protect their records against alteration, theft, and loss. The majority (80%) of the respondents in Mthatha High Court explained that they were using passwords. This was supported by the Court Manager and Senior

Administration Officer. In Grahamstown High Court, the majority (80%) of the respondents did not respond to the question. Moreover, the researcher was keen to find out about the person responsible for the security of records. The findings reveal that in the Mthatha High Court, the majority (60%) indicated registrars, while in Grahamstown High Court, the majority (40%) indicated that it was clerks. The respondents were asked how they maintain their records as the maintenance of records is the stage of a records lifecycle. The findings revealed that court staff were using passwords, biometric system and they were updating the system all the time (table 4.5 and table 4.11).

5.5. Legal and statutory framework for the management of digital court records

With an increase in digital transformation, or electronic records that document the government transactions and online activities, it is imperative that governments ensure that the legal and regulatory frameworks are in place for effective management and implementation of both e-records (Nkala, Ngulube and Mangena 2012). According to Maseh (2015: 60), the goal of the organisation's records management policy should be to create and maintain authentic, trustworthy, and useable records that can support business operations and activities for as long as they are needed. This policy should be defined and documented. Furthermore, the organisation must make sure that the policy is understood and followed by every department inside the company. To make sure the policy still meets the needs of the business, it should be evaluated on a regular basis (Maseh 2015: 60).

5.5.1. Policies for the management of digital court records

Policies are vital for the management of digital court records in any organisation. The findings of the study revealed that in the Mthatha High Court all (100%) the

respondents indicated that they do not have policies (4.3.2.3.1) in the interview with the Court Manager, it was mentioned that there is records management policy, however, the Court Manager was not sure when the policy was issued and if all the court staff was aware about it. In Grahamstown High Court, the majority (60%) of the respondents also indicated that they do not have policies in place (section 4.4.2.3.1), however, the Court Manager mentioned that they have policies in place. The findings revealed that in both High Courts, it was only the Court Managers that were aware of the policies in place in the courts of law. The researcher is of the view that the reason why Court Managers know the policies in place in court is because they are the controllers of the court administration. When 40% of the respondents who indicated that they have policies in place in Grahamstown High Court were asked what types of policies, they indicated that the rules and regulations as well as library policy. The findings revealed that most of the court staff were not aware of the policy mentioned. The findings also revealed that the majority (80%) of the respondents were not aware of rules and regulations regarding the management of digital court records (section 4.3.2.3.3 and 4.4.2.4). During the interview with the Court Registrar in Grahamstown, it was mentioned that there was no policy written down, they were operating according to what is right or wrong, and what was helping them to meet their work targets.

5.6. Barriers to effective management of digital court records

Application of technology in record management is a challenge that undoubtedly impacts the retrieval of information for public accountability. The ICT has created challenges as current laws do not cater for the authentication of digital records and other complexities associated with electronic transformation of the information landscape, thus courts are still grappling in terms of the administration of justice. The court must believe that records admitted before it, are trustworthy and relate to the

facts of what originally transpired to enable the right decisions to be made in cases (Huni and Dewah 2019: 135). The respondents were asked if they were experiencing challenges in the management of records. The findings indicated that in Mthatha High Court, the majority (80%) of the respondents indicated that they were experiencing challenges, while in Grahamstown High Court, the majority (60%) of the respondents also indicated that they were experiencing challenges in the management of records (section 4.3.2.4.1 and 4.4.2.4.1). Furthermore, the respondents were asked to state the challenges they were experiencing, the majority (80%) of the respondents in Mthatha High Court responded to the question, while only 2 (40%) of the respondents in Grahamstown High Court responded to the question. The findings revealed that in both High Courts, there was inadequate information and communication technologies infrastructure; insufficient infrastructure for storage, preservation, and security of electronic court records, lack or weak compliance with the existing legal and statutory requirements for electronic records management (figure 4.8 and 4.16). Moreover, the respondents were asked how they overcome these challenges for justice delivery. The findings indicated that the normal procedure for both High Courts was to re-generate the records through requesting the information from the relevant party of the court case.

The findings further revealed that a dummy file was opened for temporary purposes, to ensure justice is served and this was confirmed by the Court Registrar in Grahamstown High Court. The Court Manager and the Senior Administration Officer in Mthatha stated that if the recording was not well recorded during the court proceedings, it is very hard to get the information. This means that due to negligence in court, if court proceedings are not recorded properly, that can affect the justice delivery in the case of appeals.

5.7. Chapter Summary

This chapter presented the biographical information for the court staff of Mthatha and Grahamstown High Courts; the management of digital court records; infrastructure used for the management of digital court records, legal statutory framework for the management of digital court records and the barriers to effective management of digital court records.

CHAPTER SIX

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

6.1. Introduction

This chapter summarises the findings of the study as presented in chapter four and discussed and interpreted in chapter five. This chapter draws conclusions from the findings and makes recommendations based on both the findings and conclusions of the study.

The purpose of this study was to investigate the management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province in South Africa, with the view to develop a framework for the management of digital court records. Mixed Methods Research was used to collect both qualitative and quantitative data, and the data was analysed and presented using themes, tables, graphs and pie charts. The study sought to answer the following research questions:

- What is the extent to which digital court records are managed in High Courts in the Eastern Cape Province?
- What is the availability of infrastructure for the management of digital court records in High Courts in the Eastern Cape Province?
- To what extent does the management of digital court records for justice delivery comply with the legal and statutory framework in High Courts in the Eastern Cape Province?
- What are the barriers to effective management of digital court records in High Courts in the Eastern Cape Province?

- What is the framework to be proposed to enhance management of digital court records for justice delivery in High Courts in the Eastern Cape Province?
- What recommendations can be made on the management of digital court records for justice delivery in High Courts in the Eastern Cape Province?

6.2. Summary of findings

The summary of the research findings is based on the research questions as stated in above and in chapter one.

6.2.1 The management of digital court records

The findings on this research question are summarised under various themes which include types of records created, received, and used in High Courts; digital court records management systems; types of digital court records management systems; advantages of digital records management systems in court; creation/receipt of digital court records; types of ICTs used in court for justice delivery; and importance of digital court records management.

6.2.1.1. Types of records created/received and used in High Courts

The findings of the study revealed that there were various types of records created, received, and used in Mthatha and Grahamstown High Courts (section 4.3.2.1.1. and section 4.4.2.1.1.). The findings also revealed that both High Courts were mostly dealing with the same cases; as a result, they were creating, receiving, and using similar records. These included civil cases; opposed application cases; non-opposed application cases; default judgements; court orders; civil cases; summons; and judgements, court appeals.

This was supported by Court Registrars of both High Courts during the interviews when they mentioned the types of records they deal with in their everyday work operations. The Court Managers added that courts are also dealing with HR and Supply Chain records which is part of court administration. The office of the court manager is regarded as an administration section which oversees everything in court and supports the judiciary system.

The findings showed that common legislation, legal precedents, demographics, and judicial ideologies all contribute to the fact that High Courts handle cases that are similar to one another. When similar legal issues arise, court judges may reference earlier judgements, leading to consistent case types across jurisdictions.

6.2.1.2. Digital court records management systems

The findings indicated that in both High Courts, the majority (80%) indicated that there were no digital court records management systems. However, one (20%) respondent from Mthatha High Court explained that they had a system for managing their records, but the system was suspended due to financial challenges and corruption (section 4.3.2.1.2 and section 4.4.2.1.2). The findings of the study also show that 1 (20%) respondent in Mthatha High Court indicated that they were using CMM (Computer Management System), while 1 (20%) respondent indicated that they used to have digital records management system called Citrix which was suspended over the years (section 4.3.2.1.3).

On the other hand, the respondent in Grahamstown High Court indicated that they were using online databases such as Juta and LexisNexis (section 4.4.2.1.3). The results indicated that there was no digital court records management system for the management of digital court records in Grahamstown High Court. During the interview

with the Registrar in Grahamstown High Court, the Registrar confirmed that they were not yet using a digital court records management system but were still doing manual processing.

6.2.1.3. Advantages of digital court records management systems in court

Although the respondents had indicated that there were no digital court records management systems in the selected High Courts, they supported that digital court records management system are vital to justice delivery. As a result, they strongly agreed and agreed on the advantages of digital court records management system (figure 4.5, and figure 4.13).

6.2.1.4. Creation/receipt of digital court records

The findings of the current study show that 3 (60%) respondents indicated that they were creating or receiving their court records through emails and telephone. Two respondents added that they were also creating and receiving their records through Microsoft Teams where a meeting is recorded for future referrals, Microsoft word and courier services. The respondents further indicated that when they receive a file, for example opposed applications or non-opposed applications, they capture it on the register and put a date stamp before they store it in the strong room. When there is a signature required and the person supposed to sign is not available, they courier the document, while 2 (40%) respondents indicated that they were creating or receiving their court records through emails.

One respondent added that they were creating their records through CMM (Computer Management System) by capturing every case brought in the High Court. The respondent further explained that when capturing the record to the system, the folder is given a case number and the year (section 4.3.2.1.5). During the interviews with the

Court Manager in Mthatha High Court, the researcher asked the interviewee about how digital court records were created or received. The court manager mentioned the recording machines that are used during court proceedings. The senior administration officer also mentioned the same information as the court manager.

In addition, the findings show that all (100%) respondents in Grahamstown High Court indicated that they were creating or receiving their court records through emails and telephone. One respondent indicated that during the Covid-19 pandemic, before the court sits, records were created both manually and electronically. The respondent further indicated that when an individual opened a case, he or she was required to come to court in person for the process. Then when the court sits, records are uploaded on the computer, and they would print them and store them in the file. The other respondent added that they were receiving their records through online databases such as Juta and LexisNexis (section 4.4.2.1.5).

6.2.1.5. Types of ICTs used in court for justice delivery

The findings from this study revealed that most of the respondents in Mthatha High Court were using telephones, cellphones, email, intranet, as well as WhatsApp (section 4.3.2.1.6), while all (100%) the respondents in Grahamstown High Court were using telephones, cellphones, and emails (section 4.4.2.1.6).

The results indicated that the common ICTs that were used by the selected High Courts were telephones, cellphones, and email. The results also revealed that courts are no longer performing their duties in a traditional way management which has increased efficient delivery of judiciary services (Hasan and Rupa 2021:49).

6.2.1.6. Importance of digital court records management

Although, the findings indicated that in both High Courts, court records were mostly created and received manually, most of the respondents had agreed that the management of digital court records was important in the delivery of justice (section 4.3.2.1.7; section 4.4.2.1.7). The researcher is of the view that the respondents had learnt the importance of digital court records management through professional education and training. During the interview with the Court Manager and the Senior Administration Officer in Mthatha High Court, the researcher found out that they also agreed on the importance of digital court records management, especially in the case of appeals in the court of law.

6.2.2. Infrastructure used for the management of digital court records

The findings presented under this section includes types of digital court records management system; types of records kept in the digital court records management system; storage of digital court records; human resources for the management of digital court records; use of digital court records for justice delivery; custody of digital court records.

6.2.2.1. Types of digital court records management system

The findings indicated that in Mthatha High Court, 40% of the respondents were using CMM. The other 40 % of respondents indicated that previously they were using Citrix system. The respondents further indicated that the system was suspended due to corruption and financial challenges (section 4.3.2.2.2), while the majority (60%) of the respondents in Grahamstown did not respond to the question. Twenty percent (20%) of the respondents indicated that they were using recording machines, and the other

20% of the respondents indicated Juta and LexisNexis (section 4.4.2.2.2). for the delivery of justice.

6.2.2.2. Types of records kept in the digital court records management system

The findings indicated that in Mthatha High Court, 2 (40%) respondents were keeping case files and dockets, opposed applications, non-opposed applications, default judgements, registrar's certificates, 1 (20%) respondent indicated case files and dockets, summons, court registers, judge's requests, and attorneys' records, while 2 (40%) respondents did not respond to the question (section 4.3.2.2.3). On the other hand, the findings of Grahamstown High Court revealed that 2 (40%) respondents indicated case files, summons, and court registers. The respondents added other types of records, such as civil cases, opposed applications, non-opposed applications, default judgements, 2 (40%) respondents indicated case files, dockets, summons, calendars of hearings, court registers, judgements, while 1 (20%) respondent indicated case files, minutes books and court registers. The respondent added law reports, statutes, and law textbooks (section 4.4.2.2.3). The results revealed that the selected High Courts were dealing with the same types of records for justice delivery.

However, the researcher believes that some of the respondents had also listed records that they deal with manually, for instance, the opposed and non-applications, were considered as records that are created/received, used, and managed manually. During the interview with Mthatha High Court Senior Administration Officer, the Senior Administration Officer said that records created/received are judges' reports, court records for departmental hearings, and court proceedings. The findings of the study reveal that some records are kept manually.

6.2.2.3. Storage of digital court records

The findings of the study revealed that in Mthatha High Court, 1 (20%) respondent indicated they were using computer, intranet, servers, hard drives, flash drives; 1 (20%) respondent indicated that they were using computer, cloud computing, servers, hard drives, flash drives; 1 (20%) respondent indicated that they were using emails (section 4.3.2.2.4), while in Grahamstown High Court, the majority (60%) of the respondents were using computer, hard drives, and flash drives (section 4.4.2.2.4). Other respondents had indicated that they are using strong rooms to keep their records. This has indicated that the selected High Courts are managing both paper-based and electronic records. The researcher made a follow up with the interviewees in both High Courts, the Court Manager and Senior Administration Officer in Mthatha said that their records are kept in various places such as flash drives, hard drivers, computer management system, local server, and strong rooms.

6.2.2.4. Human resources for the management of digital court records

The findings revealed that the majority (60%) of the respondents in Mthatha High Court had professional skills and they had received training (section 4.3.2.2.5). However, during the interview with the Senior Administration Officer in Mthatha High Court, it was revealed that some of the court staff had no training in the management of digital court records; as a result, work was not done accordingly. On the other hand, the findings revealed that in Grahamstown High Court, the majority (60%) of the respondents had been trained for the job (section 4.4.2.2.5).

6.2.2.5. Use of digital court records for justice delivery in court

The findings revealed that the common process in the use of digital court records for justice delivery in both High Courts is the application for a parole or appeals, and civil cases. Appeals are the most processes that require the use of court records. When there is an appeal, court records are used to check the criminal record of the person appealing. Records are also used when the person is applying for parole. The Senior Administration Officer in Mthatha High Court mentioned that without the records, the defendant can remain imprisoned instead of being pardoned if their case was not reviewed.

6.2.2.6. Custody of digital court records

The findings indicated that in Mthatha High Court, the majority (60%) of respondents indicated registrar clerks, while in Grahamstown High Court, the majority (40%) indicated court officials (section 4.3.2.2.7 and section 4.4.2.2.7). During the interview with the Court Registrar in Mthatha, it was revealed that Court Registrars are responsible for the keeping of records. The Court Manager said that digital records are kept and maintained by their Senior Administration Officer. On the other hand, in Grahamstown High Court, the Court Registrar said that it is the registrars and the registrar clerks who are the custodians of records. Furthermore, the findings indicated that in Mthatha and Grahamstown High Courts, the majority (80%) of the respondents were experiencing cases of theft, missing or loss of court records (table 4.4 and table 4.10). The findings reveal that theft, missing or loss of court records was a common issue in the courts of law.

The respondents were asked how they protect their records against alteration, theft, and loss. The findings indicated that the majority (80%) of the respondents in Mthatha

High Court explained that they were using passwords. This was supported by the Court Manager and Senior Administration Officer. In Grahamstown High Court, the majority (80%) of the respondents did not respond to the question. Moreover, the researcher was keen to find out about the person responsible for the security of records. The findings reveal that in Mthatha High Court, the majority (60%) indicated registrars, while in Grahamstown High Court, it was indicated that the majority (40%) were clerks.

The respondents were asked how they maintain their records as the maintenance of records is the stage of a records lifecycle. The findings revealed that court staff were using passwords, biometric system and they were updating the system all the time (table 4.5 and table 4.11).

6.2.3. Legal and statutory framework for the management of digital court records

This section presents the policies for the management of digital court records.

6.2.3.1. Policies for the management of digital court records

The findings of the study revealed that in Mthatha High Court, all (100%) the respondents indicated that they do not have policies (4.3.2.3.1). In the interview with the Court Manager, it was mentioned that there is a records management policy. However, the Court Manager was not sure when the policy was issued and if all the court staff are aware about it. In Grahamstown High Court, the majority (60%) of the respondents also indicated that they do not have policies in place (section 4.4.2.3.1), however, the Court Manager mentioned that they have policies in place. The findings revealed that in both High Courts, it was only the Court Managers that were aware of the policies in place in the courts of law.

As a follow-up, 40% of the respondents who indicated that they have policies in place in Grahamstown High Court were asked the types of policies. The findings indicated that there were rules and regulations as well as a library policy. The findings revealed that most of the court staff were not aware of the policy mentioned. The findings also revealed that the majority (80%) of the respondents were not aware of rules and regulations regarding the management of digital court records (section 4.3.2.3.3 and 4.4.2.4). During the interview with the Court Registrar in Grahamstown, it was mentioned that there was no policy written down, they were operating according to what is right or wrong, and what was helping them to meet their work targets.

6.2.4. Barriers to effective management of digital court records

The respondents were asked if they were experiencing challenges. The findings indicated that in Mthatha High Court, the majority (80%) of the respondents indicated that they were experiencing challenges in the management of records, while in Grahamstown High Court, the majority (60%) of the respondents also indicated that they were experiencing challenges in the management of records (section 4.3.2.4.1 and 4.4.2.4.1). Furthermore, the respondents were asked to state the challenges they were experiencing, the majority (80%) of the respondents in Mthatha High Court responded to the question, while only 2 (40%) of the respondents in Grahamstown High Court responded to the question (figure 4.8 and 4.16).

Moreover, the respondents were asked how they overcome these challenges for justice delivery. The findings indicated that the normal procedure for both High Courts was to re-generate the records through requesting the information to the relevant party of the court case. The findings revealed that to any avoid delay in justice, a dummy file was opened for temporary purposes. This was confirmed by the Court Registrar in

Grahamstown High Court. The Court Manager and the Senior Administration Officer in Mthatha High Court stated that if the recording was not well recorded during the court proceedings, it is very hard to get the information.

6.3. Conclusions

Based on the foregoing summary discussion of the findings and their link to the research objectives the researcher derived the following conclusions.

6.3.1. The management of digital court records

The study indicated that Mthatha High Court was creating and receiving both paper-based and electronic records. The records that were created using recording machines sometimes could not be retrieved due to negligence by the court staff. They were managed by staff who were not trained in the field of records management, particularly in digital or electronic records management. On the other hand, the findings reveal that in the Grahamstown High Court, records are created and received in a paper-based format. The findings also reveal that records were managed by a lot of people, and that was a risk in terms of security of records.

6.3.2. Infrastructure used for the management of digital court records

The study revealed that there was lack of infrastructure for the management of digital court records in both High Courts, especially in Grahamstown High Court. In Mthatha High Court, the services for the system of recording court cases were dependent on service providers, as a result, this was putting records at risk of being lost due to the change of service providers when a new tender was approved. In Grahamstown High Court, the study revealed that there was no system in place for the digital court records

management. In both High Courts, there was a lack of staff and appropriate training which serves as a major factor that hinders effective digital court records management.

6.3.3. Legal and statutory framework for the management of digital court records

The study revealed that in both High courts, the existing policy and regulatory framework for management of digital court records was weak and could negatively affect the provision of effective justice delivery. This was because of lack of knowledge about the records management policy. The findings revealed that court staff in both courts had no idea about the records management policy, particularly the digital records management policy.

6.3.4. Barriers to effective management of digital court records

The findings of the study revealed that the court staff who were dealing with the management of digital court records experienced challenges of inadequate skills and expertise for the management of digital court records. The findings also revealed that there was weak or lack of electronic/digital court records management systems that would help in capturing, managing, and preserving digital court records.

6.4. Proposed framework for management of digital court records for justice delivery in the High Courts.

The framework for managing digital court records for justice delivery of justice in the High Courts was one of the main results of the current study. The theory behind the suggested framework is that High Courts need to manage their digital court records efficiently and effectively in order to succeed in the delivery of justice.

6.4.1. Proposed framework

The aim of this study was that this framework would make a positive contribution to the improvement of the state of records management in the High Courts in such a way that digital records are secured, easily located, and retrieved timely through electronic records and a document management system for justice delivery. Figure 6.1 below provides a framework that courts could implement to effectively manage their records, improve operational efficiency, enhance data security, and ensure compliance with legal and regulatory requirements.

Figure 6.1: The proposed framework for management of digital court records for justice delivery

6.4.1.1. Document capture and ingestion

Document capture and ingestion are crucial steps in the management of digital court records, ensuring that documents are efficiently and accurately kept in the electronic

records management system. The study recommends the following document capture and ingestion:

- **Document classification:** The High Courts should implement document classification helps to organise documents within the electronic records and document management system and simplifies retrieval.

- **Security and compliance:** The High Courts should implement security measures to protect digital records from unauthorized access, alteration, or deletion. Also ensure compliance with relevant data protection laws and regulations governing the handling of sensitive court records.

- **Staff training and documentation:** The High Courts should provide comprehensive training to court staff responsible for document capture and ingestion processes. Provide document standard operating procedures and best practices to guide staff and ensure consistency. This will provide skills in the management of digital court records for justice delivery.

6.4.1.2. Document classification and indexing of digital court records

The document classification and indexing of digital court records involves the categorizing and organizing of the legal documents within the database or repository of courts. This process is crucial for efficient retrieval, analysis, and management of legal information. This may be done according to the following:

- **Identifying document type:** The High Courts should begin by identifying the various types of records created or received in the High Courts. These may include pleadings, criminal records, motions, court orders, judgements, evidence exhibits, transcripts, and more.

- **Defining classification system:** The High Courts should develop a classification system which will capture the document type, case number, date filed, parties involved in a case, legal issues addressed, and court jurisdiction. This will assist the court staff to easily retrieve a document into the system either by using case number or through document types.

- **Quality assurance:** The High Courts should implement processes for verifying the accuracy of document classification and indexing. This may involve manual review by legal professionals to ensure that records are correctly uploaded, categorized and metadata is accurately assigned. This will monitor the movement of electronic records and identify who has access to the court record and the reason for accessing the court record.

6.4.1.3. Document storage and management for digital court records

The document storage and management for digital court records involves the systematic organisation, storage, retrieval, and maintenance of legal documents in electronic format. This document storage and management of digital court records may provide guidance through the following:

- **Selecting an Electronic Document and Records Management System (EDRMS):** The High Courts should develop a system that will accommodate the management of both electronic and paper-based records.

- **Establishing a file structure:** The High Courts should develop a logical and intuitive structure for organizing digital court records with the EDRMS. This structure should reflect the hierarchy of court cases, including folders for each case, subfolders for different types of documents, and additional categorization as needed.

- **Implementing version control:** The High Courts should ensure that the EDRMS supports version control features to track revisions and updates made to the records over time. This is very important for maintaining an accurate record of changes and ensuring document integrity. This will also assist in determining the person who revised or deleted the record in the system.

- **Backup and disaster recovery:** The High Courts should implement regular backup procedures to safeguard against data loss due to hardware failures, cyber-attacks, or natural disasters. This will ensure that there are stored backup copies of digital court records in secure off-site locations.

6.4.1.4. Security and access control of digital court records

Security and access control are vital to consider in the management of digital court records to safeguard sensitive legal information and ensure compliance with regulations. The approach to implementing the security measures includes the following:

- **User authentication:** The High Courts should enforce stronger authentication mechanisms such as passwords, PINs, biometric authentication to verify the identity of individuals accessing the digital court records system. Also encourage users to use strong, unique passwords and regularly update the passwords.

- **Audit trails and logging:** The High Courts should maintain detailed audit trails and logs of all user activities within the digital records management system. Records information such as user login, document accesses, modifications, and administrative actions. Regularly review audit logs to detect any suspicious or unauthorized activities.

- **Physical security:** The High Courts should ensure physical security measures are in place to protect servers, storage devices, and other infrastructure hosting digital court records. Also restrict access to server rooms through biometric authentication, access control system, surveillance cameras, and security guards.

- **Data Loss Prevention (DLP):** The High Courts should implement data loss prevention measures to prevent the unauthorized disclosure or leakage of sensitive court records. Use content inspection and filtering techniques to identify and block the transmission of confidential information outside of authorised channels.

6.4.1.5. Training and support

The training and support are critical components of successfully managing digital court records. Proper training ensures that court personnel understand how to use the digital court records management system effectively, while ongoing support helps to address any issues or questions that arise. The approach to these components is as follows:

- **Develop comprehensive training:** The High Courts should design training programs tailored to specific roles and responsibilities of court personnel, such as judges, court registrars, clerks, attorneys, and support staff. The training should cover the basic functionality of the digital records management system; document uploading, indexing, and categorization procedures; search techniques to locate specific records or case information; security protocols and best practices for safeguarding sensitive information; compliance with legal requirements and court policies regarding digital records management.

- **Offer training materials and resources:** The High Courts should develop comprehensive training materials, including user manuals, quick reference guides, video tutorials, that users can reference as needed. These resources should be easily accessible within the digital records management system or through the intranet of the High Courts.

- **Schedule regular refresher sessions:** The High Courts should offer periodic refresher training sessions to reinforce key concepts and introduce any updates or enhancements to the digital records management system. Encourage ongoing learning and skill development among court personnel.

6.4.1.6. Policy for the management of digital court records

Developing a policy for the management of digital court records is crucial to ensure consistency, efficiency, and compliance with legal requirements. The policy should outline the following:

- **Compliance and legal consideration:** The High Courts should address compliance with relevant laws, regulations, and standards governing the management of digital court records, such as court specific confidentiality policies and procedural rules, ECTA, PAJA, Law of Evidence Act, and Standards for electronic signatures and records authentication.

- **Training and awareness:** The High Courts should conduct ongoing training and awareness programmes to ensure that court personnel understand and adhere to the policies and procedures. This should include proper use of the electronic document and records management system (EDRMS); security best practices for handling digital court records; and compliance requirements and legal obligations related to recordkeeping.

- **Policy review and updates:** The High Courts should establish a process for regular review, evaluation, and updates of the digital court records management policy to reflect changes in technology, regulations, or court procedures. It should specify the frequency of policy reviews and the parties responsible for conducting them.

6.5. Recommendations

This section provides the recommendations for both Mthatha and Grahamstown High Courts on the management of digital court records to delivery justice to all the members of public.

6.5.1. Digital court records management programme

The study recommends that the Mthatha and Grahamstown High Courts should adopt electronic records management systems that would enhance and improve efficiency and effective management of digital court records for justice delivery. This will eliminate cost overheads arising from space and storage of court records that are due for disposal.

6.5.2. Policy for the management of digital court records

The study recommends the need for Mthatha and Grahamstown High Courts to comply with applicable legislation including PAIA, PAJA, POPIA and ECTA. Court Managers should motivate and encourage court staff to adhere to the digital court records management policies. This may be done through in-house workshops. The study also recommends that the courts should develop policies and procedures to ensure that all digital court records arising from official transactions are captured.

6.5.3. Training

Training is an important component of modern management. Records personnel at all levels require appropriate training to enable them to acquire new knowledge and skills. Digital records are fragile and easily manipulated, therefore, they need to be managed by trained personnel. Therefore, the study recommends that the Mthatha and Grahamstown High Courts should consider training that will improve knowledge and skills of staff in the management of digital court records. This may be done by approving bursaries for short courses and external workshops.

6.5.4. Development of digital court records management strategies

The development of a digital court records management strategy can help to establish the intellectual control over all records created by the courts of law. The strategy should address the legal, policy and regulatory framework, an appropriate infrastructure for digital court records, and awareness raising.

6.6. Suggestions for further study

The study revealed that the Mthatha and Grahamstown High Courts lacked the digital or electronic records management system. The Digital or electronic records management system is vital for speedy and easy retrieval of records. It also enhances the improvement in the delivery of justice. Therefore, this study recommends a follow-up study focusing on the adoption of electronic records management systems by High Courts.

The study also revealed that court staff who were dealing with and using court records for justice delivery were not trained in the field of records management. Therefore, the study recommended a study focusing on the training of court staff in electronic or digital court records management. Moreover, the study recommended the study on

policy for the management of digital court records, since digital records are fragile and easily manipulated, therefore, there should be policy formulated to protect the records from unauthorized access.

6.7. Final conclusion

Digital court records are vital to the administration of justice and can aid in the investigation and resolution of crimes by law enforcement agents. Although the Mthatha and Grahamstown High Courts made their first step in the management of digital records using Electronic Document and Record Management Systems (EDRMS) and other record keeping systems, some other High Courts have been slowly adopting digital technologies in the management of their records which is commendable. As for the two-case study High courts, due to lack of understanding of these technologies, lack of organisational commitment, inadequate resources, poor infrastructure for the management of digital court records, lack of knowledge and skills in the management of digital court records, ICTs, and technical support this has not happened. Records management practices should be prioritised in High Courts and digital technologies be implemented and adopted in managing digital court records. The study proposed a framework that would effectively manage the records, improve operational efficiency, enhance data security, and ensure compliance with legal and regulatory requirements.

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Appendices

Gatekeeper Letter

To:
Grahamstown High Court
104-106 High Street
Grahamstown
Eastern Cape
6140

RE: REQUEST FOR PERMISSION TO CONDUCT RESEARCH AT YOUR PREMISES

Dear Sir/Madam

My name is Khunjulwa Ntengenyane, a postgraduate student at Durban University of Technology. My student number is 2214997. My thesis entitled: '*A framework for management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province, South Africa*'.

I am hereby seeking your consent to undertake part of this research with your staff as willing participants. I have provided you with a copy of my research proposal which includes the data collection tools and consent forms to be utilized in the research process. I also provide a copy of the approval letter which I received from Faculty of Accounting and Informatics Research Committee.

I would like to visit your High Court premises located on 104-106 High Street in Grahamstown, Makhanda where I will engage with employees who deals with the creation/or receipt, and management of digital court records. I will explain my research, invite questions, and ask them to volunteer to participate. All participation is on a voluntary basis with all responses being kept

confidential and their identities anonymous. After obtaining their written consent, I will distribute my questionnaires/conduct my interviews. The process should take about 30 minutes.

If you require any further information, please contact me via cell phone 071 983 3866 or email my email 22174997@dut4life.ac.za. My supervisors may be contacted via email TlouM@dut.ac.za or office-phone number 031 373 5639.

Thank you for your time and consideration in this matter. Kindly sign below to acknowledge consent for me to conduct the requested research.

Yours faithfully

Khunjulwa Ntengenyane

DUT PhD Student

Approved by:

_____ _____

FREC Chair Date
Faculty of Accounting and Informatics Research Ethics Committee

Gatekeeper Letter

To:
Mthatha High Court
74 Victoria Street
Cor Frere Road
Mthatha
Eastern Cape
5100

RE: REQUEST FOR PERMISSION TO CONDUCT RESEARCH AT YOUR PREMISES

Dear Sir/Madam

My name is Khunjulwa Ntengenyane, a postgraduate student at Durban University of Technology. My student number is 2214997. My thesis entitled: '*A framework for management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province, South Africa*'

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anonymous. After obtaining their written consent, I will distribute my questionnaires/conduct my interviews. The process should take about 30 minutes.

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Thank you for your time and consideration in this matter. Kindly sign below to acknowledge consent for me to conduct the requested research.

Yours faithfully

Khunjulwa Ntengenyane

.
DUT PhD Student

Approved by:

_____ _____

FREC Chair Date

Faculty of Accounting and Informatics Research Ethics Committee

DUT
DURBAN UNIVERSITY OF TECHNOLOGY
INYUVESI YASETHEKWINI YEZOBUCHWEPHESHE

FACULTY OF ACCOUNTING & INFORMATICS

Faculty Research Office
Durban University of Technology
Date: 2 May 2023

Student: Ms Khunjulwa Ntengenyane
Student Number: 22174997
Degree: Doctor of Philosophy in Library and Information Science
Email: 22174997@dut4life.ac.za
Supervisor: Dr T.M Masenya
Supervisor email: TlouM@dut.ac.za

Dear Ms Ntengenyane

ETHICAL APPROVAL: LEVEL 2

I am pleased to inform you that the Faculty Research Ethics Committee (FREC) following feedback from two reviewers, has granted preliminary permission for you to conduct your research 'A framework for management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province, South Africa.'

When ethics approval is granted:
You are required to present the letter at your research site(s) for permission to gather data. Please also note that your research instruments must be accompanied by the letter of information and the letter of consent for each participant, as per your research proposal.

This ethics clearance is valid from the date of provisional approval on this letter for one year. A student must apply for recertification 3 months before the date of this expiry.

Recertification is required every year until after corrections are made, after examination, and the thesis is submitted to the Faculty Registrar.

A summary of your key research findings must be submitted to the FRC on completion of your studies.

Kindest regards.

Yours sincerely

Dr Mogiveny Rajkoomar
FREC Chair
Faculty of Accounting and Informatics
Durban University of Technology
Ritson Campus
Durban, South Africa
4001

CERTIFICATE OF EDIT

Date: 24 May 2024

Issued to Durban University of Technology Student: Khunjulwa Ntengenyane (Student number:22174997)

Thesis Title: A framework for management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province, South Africa

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To whom it may concern:
This letter serves to confirm that the thesis corresponding to the above information, was edited by a professional academic editor, ***Dr Nqobile Zulu at Professori Consultancy***.

I guarantee language accuracy in the text as edited and delivered to the author on the 17th of March 2024. I make no claims as to the substantive matter covered by the thesis and have not altered the intent or research content drafted by the author.

It is the author's prerogative to accept or reject any of my comments or suggestions upon receipt of the document I edited.

Should you have any queries or concerns, please contact ***Dr Nqobile Zulu at +27 (0)739240208 or zulunqobile@gmail.com***

Sincerely,
Dr Nqobile Zulu,
Academic Editor,
PhD Development Studies, Wits

INSTRUMENT 1: QUESTIONNAIRE

Dear Sir/Madam

My name is Khunjulwa Ntengenyane, a postgraduate student at Durban University of Technology. My student number is 22174997. My thesis entitled: '*A framework for management of digital court records for justice delivery in selected High Courts in the Eastern Cape Province, South Africa*'.

It is expected that the outcome of the study will provide a records management framework that would facilitate the management of digital court records for justice delivery in the High Courts. The researcher will gather data on digital court records management practices, infrastructure of the management of digital court records, records management legal and statutory framework, and the barriers to effective management of digital court records. The study is focused on how court records are managed from creation to disposition and excludes other records maintained by the High Court such as the administrative records.

The purpose of this communication is to kindly request you to set aside some time to complete the attached questionnaire which will enable me to obtain data that will address the research problems of this study. All participation is on a voluntary basis. The information you will provide will be kept in confidence and used only for the academic purposes of the study.

If you require any further information, please contact me via cell phone 071 983 3866 or email my email 22174997@dut4life.ac.za. My supervisors may be contacted via email TlouM@dut.ac.za or office-phone number 031 373 5639.

Thank you for your time and consideration in this matter.

Yours faithfully,

Khunjulwa Ntengenyane
DUT PhD Student

QUESTIONNAIRE FOR MTHATHA AND GRAHAMSTOWN HIGH COURTS

Instructions: please put a tick in the box next to the answer of your choice or write in the space provided as the case may be.

Please indicate by placing a tick [√] in the appropriate box provided

1. Please tick your appropriate highest education and training qualifications

Postgraduate degree	
Degree	
Post graduate diploma	
Diploma	
Tertiary Certificate	
Matric Certificate	
Other (please specify)	

2. Please indicate where you receive your professional education and training (Please put a tick on all that apply).

University/Tertiary	
Attendance of workshops/seminars	
Attendance of professional conferences	
On job/Office training	
Other (please specify)	

3. What is your position at the High Court?

Judge	
Registrar Clerks	

Registry Clerks	
Other (Please specify)	

4. Period served in the present position. Please tick the appropriate choice.

0-4 years	5-9 years	10-14 years	15-19 years	20+

5. Please indicate how long have you worked in the Court System/Justice System

0-4 years	5-9 years	10-14 years	15-19 years	20+

6. Please indicate your gender

Male	
Female	

SECTION B: MANAGEMENT OF DIGITAL COURT RECORDS

1. Types of records created/received in the High Court?

……
……
……
…….

2. Do you have a digital records management systems?

Yes	
No	

3. If Yes, please tick the applicable digital records management systems

Electronic Document and Records Management System	
Electronic Records Management System	

Court Records Management System	
E-Court Management System	
Other (Please specify)	

4. Please indicate your choice by ticking; ***strongly, agree, disagree, strongly disagree, not sure*** on the chosen advantages of digital records management system in your court:

BENEFITS	**STRONGLY AGREE**	**AGREE**	**DISAGREE**	**STRONGLY DISAGREE**	**NOT SURE**
Improves records creation and receipt					
Ensures compliance with best practice of electronic records keeping					
Ensures accuracy, integrity, authenticity, and reliability of records					
Efficient sharing and dissemination of information within and outside the court					
Saving of office space					
Protects against unauthorized access, theft and loss of records					
Speeds up decision making based on evidence in records					
Improves justice delivery processes					
Encourages professional efficiency					
Other (please specify)					

5. How are digital records created or received by the High Court? (Please tick all that apply)

Email	
SharePoint	
Telegram	
Telephone	
Other (Please specify)	

6. What types of ICTs are used in your court for official business/justice delivery. Participants to be asked to choose from the following options:

Telephone	
Cellphone	
Email	
Internet	
Intranet	
SharePoint	
Facebook	
Instagram	
Telegram	
YouTube	
Other (Please specify)	

7. To what extent do you agree that digital court records management is importance? Please tick the relevant answer

Strongly agree	Agree	Not sure	Disagree	Strongly disagree

SECTION C: INFRASTRUCTURE FOR THE MANAGEMENT OF DIGITAL COURT RECORDS

1. Do you have digital court records management systems?

Yes	
No	

2. If yes, what type (s) of systems do you use for the management of digital court records?

EDRMS	
ERMS	
Other (Please specify)	

3. What types of records do you keep in the records management system?

Case Files	
Summons	
Dockets	
Minute Books	
Calendars of hearings	
Court registers	
Other (please specify)	

4. How are digital court records stored?

Computer	
Cloud computing	
Intranet	
Internet	
Servers	
Hard drives	
Flash drives	
Other (Please specify)	

5. What types of human resources are available for the management of digital court records?

Professionals	
Semi-professionals	
Trained	
Other (Please specify)	

6. What are the court processes that require the use of digital court records for justice delivery in the High Court?

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……
……
……

7. Who is responsible for the custody of the digital court records?

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……
…….

8. Do you experience cases of theft, missing or loss of digital court records?

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…….

9. How are the digital court records protected against alteration, theft, or loss?

……
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…….

10. Who is responsible for the security of the digital court records?

……
……
…...

11. How do you maintain the security of digital court records?

……
……

SECTION D: LEGAL AND STATUTORY REQUIREMENTS FOR THE MANAGEMENT OF DIGITAL COURT RECORDS

1. Does your organisation have policies for the management of digital court records?

Yes	
No	

2. What types of policies that regulates the management of digital court records?

NARSA	
PAIA	

ECTA	
PAJA	
Other (Please specify)	

3. Are all staff members of your organisation aware of the policies governing the management of digital records?

Yes	
No	

4. What methods are used to make staff aware of the policies governing the management of digital records?

Intranet	
Email	
Circulars	
Other (Please specify)	

5. Do staff members manage digital records according to policies?

Yes	
No	

6. Are the rules and regulations based on the organisation policy for the management of digital court records?

Yes	
No	

SECTION E: BARRIERS TO EFECTIVE MANAGEMENT OF DIGITAL COURT RECORDS

1. Do you experience challenges in managing digital court records?

Yes	
No	

2. Challenges/Barriers to electronic courts records management (tick all that apply):

CHALLENGES	**YES**	**NO**	**NOT SURE**
Lack of staff information and Communication technology literacy			
Staff negative attitudes towards of information and communication technologies for official work			
Inadequate information and communication technologies infrastructure in court			
Insufficient budgets and resources in court			
Lack of competencies, knowledge and skills for electronic court records management			
Lack of management support			
Lack or weak compliance with the existing legal and statutory requirements for electronic court records management			
Insufficient infrastructure for storage, preservation, and security of electronic court records			
Inability to provide access and use of electronic court records to those who cannot access electronic court records management systems			
Other (please specify)			

3. Please indicate if these challenges deny/delay the delivery of justice?

Yes	
No	

4. How do you overcome these challenges for justice delivery?

……
……
…

INSTRUMENT 2: INTERVIEW SCHEDULE

INDEPTH (FACE TO FACE) INTERVIEW GUIDE WITH KEY INFROMANTS (registrars, court managers, senior administration officer).

Name of the court……..…….

Date of interview…….……..

Current position of interviewee……..……

Duration in the current position ……

Duration worked in the present institution or system……

1. What is the extent to which digital court records are managed in High Courts in the Eastern Cape Province?

- What are the types of records you are dealing with?
- How are digital court records created?
- How do you use digital records for justice delivery in court?
- How do you ensure that digital court records are accessed only by authorised persons?
- What is the importance of managing digital court records?

2. What is the availability of infrastructure for the management of digital court records in High Courts in the Eastern Cape Province?

- How are the digital court records stored?
- What types of systems do you use for the management of digital court records?
- Do you have a tracking system for those records which have been issued out? How do you do this?
- How is the security of stored records ensured?

3. To what extent does the management of digital court records for justice delivery comply with the legal and statutory framework in High Courts in the Eastern Cape Province?

- What are the policies that regulates the management of digital court records?
- How do the policies available apply to the different types and formats of records created/received?

4. What are the barriers to effective management of digital court records in High Courts in the Eastern Cape Province?

- Have you ever experience any case backlogs?
- What digital records management issues could have contributed to the backlogs
- Do you experience the issue of missing files as you deliver justice?
- What is being done to alleviate the problem of missing files?

5. What recommendations can you give regarding the use and management of digital court for justice delivery?

Thank you for your participation