

Management of electronic records to support judicial systems at Temba Magistrates' Court in the North West Province of South Africa

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Abstract

The management of electronic records has been a burning issue in many sectors, particularly the justice sector. 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. These concerns provided the impetus for research to assess the management of electronic records at Temba Magistrates' Court in the North West Province of South Africa. To achieve the stated aim, the study adopted a qualitative approach through a case study design. Data were collected by conducting interviews with purposely selected records officers, a records manager, registry clerks and document controllers. The findings of the study indicated that Temba Magistrates' Court has put in place relevant legislation and policies for managing electronic records. The study findings showed that staff are not complying with records management policy. The major findings of the study revealed that the Temba Magistrates' Court has experienced unforeseen consequences, including a backlog of cases, challenges of data storage, loss, and misplacement of electronic court records resulting from poor records management practices. The study concluded with recommendations for the need to motivate and encourage staff members to adhere to the records management policy. The study also revealed the need to adopt multifactor authentication mechanisms such as biometrics, passwords, and fingerprints to reduce or prevent unauthorised access to electronic court records. A comprehensive records management programme should be developed and implemented. It is concluded that staff members working at Temba Magistrates' Court should be suitably trained in all aspects of electronic court management.

Keywords: Records management, electronic court records, judicial, e-filing, magistrates' court, North West province, South Africa

1. Introduction and background to the study

Information and communication technology (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), the advent and deployment of ICT have radically transformed many governments and public institutions across the globe. Ewuim, Nkomah and Justine (2016) opine that public institutions and agencies use ICT as a tool to deliver information and services to citizens in a more convenient, citizen-centric, and cost-effective manner. During the last two decades, many courts have embraced ICTs in their internal and external processes, which led to an increase in the generation of electronic court records such as court proceedings, dockets, evidence, memoranda, and statutory declarations. Saman and Haider (2012) stipulate that the advancement of sophisticated ICTs has enabled courts around the world to create, receive, and maintain massive volumes of electronic records daily; therefore, these records play a vital role in any court of law. Given this context, electronic court records are integral to effective delivery and administration of justice in courts and to safeguard judicial proceedings and maintain the independence of the judicial system. Johare, Hussin and Jamaludin (2009) advocate that an efficient and effective legal system in a country relies on records, possibly more so than any other function in the public sector.

Mosweu and Kenosi (2018) argue that 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. In addition, they are increasingly widely used by researchers in the fields of history, politics, sociology, anthropology, law, education, and public policy, because new technologies make them more accessible (Schlanger & Lieberman 2006). 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 electronic court records are important in the judiciary system to facilitate decision-making. Despite the importance of electronic records in the administration of justice and their ability to provide information necessary for daily operating court operations, the management of electronic records has been a burning issue in many sectors, particularly the justice sector. Saman and Haider (2012) and Nafula (2018) attest managing electronic records effectively has always been considered a major challenge for many criminal justice institutions. There has been overwhelming evidence that many criminal justice institutions globally, including courts and ministries of justice, suffer from inadequate management of court records, which undermines the legal and judicial systems. Johare et al. (2009), Mafu (2014) and Namakula (2016) state many criminal justice systems around the world are overburdened with massive backlogs of court cases, resulting in delays in the delivery of justice because of mismanagement of electronic records as well as inadequate record-keeping procedures. Consequently, the management of records, particularly electronic records, poses a significant challenge for many judicial institutions in developing countries. Drabo (2021) affirms that electronic records management has become the most global and complex challenge for justice systems in some developing countries. The problems associated with poor records management in developing countries such as Zimbabwe, Zambia, Kenya, Tanzania, Malaysia, and Nigeria, in particular, have been reported by many scholars. For instance, Pumulo (2012) indicates that courts of law in Zambia are battling with managing both physical and electronic records, which affect the delivery of justice and duration of cases. Odeyemi, Issa

and Saka (2011), Ladan (2014), Mboya (2019) and Hassan, Dotto and Mwantimwa (2022) state that courts in Tanzania and Nigeria have a massive backlog of court cases that have delayed progress of hundreds of thousands of criminal cases because of ineffective management of electronic records. Furthermore, Maseh (2015), Nafula (2018) and Wanjiru and Learning (2022) advocate that Kenyan Judiciary experiences several challenges such as backlogs of cases, lost, misfiled, or damaged files, and delays in registering cases because of poor record-keeping practices. Johare et al., (2009) further report most courts in Malaysia are experiencing significant delays and backlogs in cases due to the absence of appropriate systems for electronic record keeping and controls. Based on this, it is clear that the management of records in any format is a challenge for many courts in developing countries like Africa.

Like any other country, South African courts, including the Constitutional Court, Supreme Court of Appeal, High Court, and magistrates' court experience backlogs, ongoing delays, and corruption, leading to delays in delivering justice. Mojapelo (2017) attests that the South African justice system, including the Mthatha Magistrate Court in the Eastern Cape (Ngezana & Muchaonyerwa (2019), is often delayed and denied due to inadequate documentation, poor record management, and dysfunctional records management (Thurston 2005), resulting in risks and consequences for South African courts (Hasan 2007:24). Mafu (2014) reports that the Xesi Magistrate Court has been experiencing many problems with poor recordkeeping, resulting in delays in the registration of cases and the actual trial of those cases.

The National Prosecuting Authority of South Africa (NPA) (2021) reports that many courts in the North West province experience an unprecedented backlog of over 120,000 cases since the Covid-19 pandemic, which is exacerbated by poor records management and a lack of resources. The NPA further reports the backlog had a huge impact on court cases, with several having been postponed and some withdrawn. Temba Magistrates' Court is one of the courts in South Africa that holds an enormous and rapidly growing amount of electronic records pertaining to court business but is burdened with criminal case backlogs, leading to protracted delays in delivering justice. This backlog is primarily due to inadequate management of records, limited resources, staffing shortages, and the Covid-19 pandemic. Nonetheless, the Temba Magistrates' Court has been making considerable efforts to enhance the management of electronic court records. This includes reformulation of record management policies, employment of new records staff, and installation of record systems. Despite this, the management of electronic records remains a persistent issue. Thus, this study sought to assess the management of electronic records at Temba Magistrates' Court in the North West province.

2. Statement of the problem

Efficient electronic records management underpins good governance and is fundamental to the effectiveness of day-to-day court operations and the fairness of judicial decisions. Ntengenyane and Khayundi (2021) support the view that good records management practices boost efficient and effective justice service delivery. However, the management of electronic court records has long been recognised as a highly challenging endeavour for many South African. News24, an online media publication in South Africa, earlier reported many issues regarding missing court files, long waiting periods for appeal dates, long trials, long waiting periods for grounds of judgement and case backlogs in South African courts. The underlying problem that prompted this study was that Temba Magistrates' Court is plagued by delays and backlogs, and

subsequent outstanding cases due to the dysfunctional management of electronic records, which led to many delays in trials and justice being served for crime victims and burdened the criminal justice system. 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). Burman and Brooks-Hay (2020) and Godfrey, Richardson and Walklate (2022) articulate that the mounting backlog of criminal cases arising from the pandemic and poor records management led to major disruptions and frustrating delays in the dispensation of justice for victims, witnesses, and defendants. Many cases of electronic records have been reported to have been altered, modified, and improperly located, leading to serious concerns about how electronic court records are managed, and what policies, mechanisms and systems are in place to manage court records at Temba Magistrates' Court.

3. Purpose and objectives of the study

The purpose of the study was to assess the management of electronic records at Temba Magistrates' Court in the North West province of South Africa to recommend strategies for enhancing the electronic records management. In pursuance of the above purpose, this study had the following objectives:

- To assess legal frameworks governing the management of electronic records at Temba Magistrates' Court in the North West province of South Africa.
- To establish the security mechanisms used for controlling access to electronic records at Temba Magistrates' Court in the North West province of South Africa.
- To examine the systems used for the management of electronic records at Temba Magistrates' Court in the North West province of South Africa.
- To determine the consequences of inadequate management of electronic records experienced by Temba Magistrates' Court in the North West province of South Africa.
- To recommend the strategies for enhancing the management of electronic records at Temba Magistrates' Court in the North West province of South Africa.

4. Literature review

This section presents the literature review on electronic records management, which is organised into sections that present themes in line with research objectives above.

4.1 Legal frameworks governing electronic records

The literature review consistently emphasised the importance of compliance with regulatory and legislative requirements in the management of electronic records. Courts at different levels must have comprehensive legislation and regulations in place to ensure that records are managed appropriately for effective administration of the current operation. All documentation and records generated and maintained by the courts must comply with any record-keeping requirements from legislation, laws, and other relevant regulations. In support of this assertion, Mosweu and Kenosi (2018) and Johare et al. (2011) substantiate that all levels of courts must ensure that electronic court records produced as evidence must comply with many regulations and laws.

Ntengenyane and Khayundi (2021) affirm that electronic records management for justice delivery requires compliance with legislative and statutory requirements as well as national and international standards for digital records management, which is supported by Allan (2009:174) and Netshakhuma (2019) and Marutha (2019). To ensure that records and archives are appropriately managed and preserved, there has to be a legal instrument mandating government to protect their records for accountability and historical reasons (Parer 2000:112).

Legislation and regulations provide a crucial framework that is the binding principles and rules that permit records and archives services to operate with authority in dealing with government organisations. National and provincial archival institutions in Southern Africa are assigned to facilitate the effective management of records to determine records of archival value for posterity (Ngoepe & Keakopa 2011:234). The legal and South African regulatory structure has a significant influence on how records are handled in the country's public sector. According to Marutha and Ngoepe (2018), the South African government enacted several pieces of legislation that regulate proper management of electronic records in organisations, including the Constitution of the Republic of South Africa (Constitution) (No. 108 of 1996), National Archives and Records Service of South Africa (NARSSA) Act (No. 43 of 1996), National Health Act (No. 61 of 2003), Promotion of Access to Information Act (No. 2 of 2000) (PAIA), Promotion of Administrative Justice Act (No. 3 of 2000) (PAJA), Protection of Personal Information (PPI) Act (4 of 2013), and Electronic Communication and Transaction Act (No. 25 of 2002) (Katuu & Ngoepe 2015).

These pieces of legislation are essential for ensuring that records are properly maintained to provide access to records and reasons for administrative decisions and to ensure the authenticity of records. Furthermore, Katuu (2016:60) stipulates that legislation and regulations established by the South African government are useful to ensure that records in any form are well maintained and securely protected. Ntengenyane (2018) echoes that when records are managed in accordance with legislative and regulatory requirements, they lead to an efficient and effective service-delivery process, in this case, justice delivery. Therefore, it is important for organisations such as government departments, hospitals, and courts to adhere to this set of legislation, because failure may result in serious penalties or fines, legal problems, and poor or inefficient management of electronic records and can directly affect the day-to-day operations of an organisation. Marutha (2018) notes that non-compliance with legislation contributes to poor control and management of electronic records, causing organisations difficulty in producing quality data that can be utilised for decision-making and problem solving.

ISO 15489-1 (2016) states that policies are necessary to define how legislation, regulations, standards, other mandates, and best practices affect the creation, capturing, or management of records. According to Ngoepe and Van der Walt (2010), policies, including procedures and guidelines, are intended to draw attention to the importance of records and enhance sound records management practices. They define what information must be retained as a record, how those records should be handled, for how long they should be retained, how to ensure their secure destruction, serve as a means of establishing the institution's institutional memory. Penn and Pennix (2017) and Saman and Haider (2012) accentuate that policies and procedures can help an organisation promote proper management, storage, preservation, and disposal of electronic records of its operations, ensuring effective and efficient management, preserving a historical record, complying with legal obligations, and eliminating outdated and unnecessary records (Mnjama & Wamukoya 2007; Keakopa 2013). Therefore, it is essential for courts to

formulate and implement strict policies and procedures that regulate day-to-day records management activities and ensure they are complied with.

4.2 Security mechanisms for controlling access to electronic records

Security has become the most imperative concern for many organisations that handle the most sensitive and confidential records. Gusmeroli, Piccione and Rotondi (2013) advocate that security and access control play a vital role in any organisation that has critical and confidential records and data they cannot afford to lose. Ngoepe and Makhubela (2015) argue that security is an essential part of the criminal justice industry for protecting confidential information and adhering to regulations. Furthermore, Moonsamy (2018) stipulates that security features are crucial since court documents may contain sensitive and compromising information; therefore, it is imperative that the sanctity of the information contained in these electronic repositories be handled and stored with the utmost care. Senese (2015: 23) defines the term ‘access control’ as “the method of preventing unauthorised use of organisation records or information without permission or without being authorised”. Access control consists of rules that only certain authorised people have access to certain information. Electronic records could contain evidence of business transactions or activities that should remain confidential and may possess personal, confidential, or sensitive information about individuals, companies, or organisations; therefore, access to these records must be controlled to ensure compliance with the regulatory environment, the organisation's policy, and its security.

Ndenje-Sichalwe and Ngulube (2009) opine that access to electronic records that contain the most confidential or sensitive information should be adequately controlled to regulate who access them and under what circumstances. Furthermore, Ngoepe, Mokoena and Ngulube (2010) caution that appropriate access control must be reliably and securely maintained according to well-defined criteria to ensure the confidentiality, integrity, and authenticity of electronic records stored on a computer system. Given that courts deal with vast quantities of highly sensitive documents and records, access to, processing of, and storage of, such records must be controlled through a set of procedures that establishes rules for granting access, determining initial right of access, and amending the initial right of access. Sudbeck (2006) articulates that security and access control should be properly implemented and maintained to protect court records.

According to the Government Records Service (2020), various access control mechanisms can be used in organisations to strengthen the security and protection of electronic records. Some of the most common mechanisms that can be used to control access to electronic records include password-based, multi-factor and biometric authentication. Solana and Pérez (2011) stipulate that password and username are the most common form of authentication used to control access to electronic records in many organisations. According to Simpson and Foltz (2016) and Park (2013), access to electronic records captured on computer systems can be reliably and securely controlled through file encryption, identifying pin and username, and security audit log. Furthermore, access control mechanisms such as fingerprint scanners, voice recognition and identification, and eye scanners restrict user access to electronic records (Mir & Banday 2012; Hathaliya, Tanwar & Evans 2020; Purkayastha, Goyal, Oluwalade, Phillips, Wu & Zou 2021).

4.3 Systems used for managing electronic records

Computer systems play an important role in managing electronic records generated by organisations such as hospitals, courts, and government departments. Katuu (2015) concurs that organisations must develop and deploy a variety of records management systems to manage electronic records captured on computer systems. The study established various developed systems used for the management of electronic records. Numerous systems are available for organisations to help them enhance how they manage their electronic records. Several common records management systems are used for the management of electronic records identified in the literature reviewed, including: Electronic Document and Records Management (EDRM), Electronic Document Management (EDM), Electronic Records Management (ERM), Enterprise Content Management (ECM), and Enterprise Knowledge Management (EKM) systems (Stringer 2006; Katuu & Ngoepe 2015; Hsu, Chen & Wang 2009; Mosweu, Bwalya & Mutshewa 2017). In addition, other systems used for managing electronic records are Integrated Document and Records Management Systems (IDRMS), Decision-Support System (DSS), Transaction Processing System (TPS), Content Management System, Document Management System (DMS) and Document Imaging System (DIS) (Ab Aziz, Mohammad Yusof, Mokhtar & Jambari 2018; Kwatsha 2010). These systems can assist organisations to achieve their objectives and extract knowledge for decision-making and problem solving.

In judicial systems, Saman and Haider (2012) identify systems used for the management of electronic court records, including e-Filing Systems (EFS), Case Management System (CMS), Queue Management System (QMS) and Court Recording and Transcribing (CRT). Mohamad, Hamin and Othman (2017) and Saman and Haider (2012) identify the following systems used in courts for electronic records management: e-filing, QMS and CRT. The literature review revealed that South African courts are among of the many public institutions that manage electronic court records through manual processes. Despite many courts using manual processes, the South African government has implemented a number of systems to support court administrative functions such as Integrated Case Management System (ICMS), CMS, DMS, e-docket system, Integrated Justice Systems (IJS), Investigation Case Docket Management System (ICDMS) and Electronic Case Management System (ECMS) (Moonsamy 2018; Department of Justice and Constitutional Development 2017). These systems are useful in the management of court cases, tribunals, and debtor payments by integrating with other justice systems. They can hold and store personal and sensitive information regarding court proceedings and outcomes.

4.4 Consequences of poor management of electronic records

Ntengenyane (2018) advocates that good records management is an integral part of the management of court business. Thus, poor records management is considered as the biggest operational burden for any type of court. Ladan (2014) postulates that poor management of electronic court records can negatively affect day-to-day operations of the judicial service delivery. Touray (2021) states that inadequate management of electronic records can affect the organisation's ability to perform its functions. Inefficient records management programmes can lead to financial and legal consequences for many organisations that handle the most

sensitive and confidential electronic records such as court dockets, pleadings, court orders, expert testimonies, court judgements, and liens. Consequences associated with poor records management include deletion of electronic documents, misfiling of documents, poor decision-making, mishandling of information, time and efficiency loss, and poor auditing of records (Mosweu & Rakemane 2020).

Iwhiwhu (2011) emphasises that poor management of electronic records can have many unintended consequences such as data loss, data theft, and misfiling; therefore, the organisation can end up losing vital or sensitive electronic records, particularly if they do not have a reliable back-up system. Ngoepe (2014) asserts that poor records management practices can contribute to organisational and societal risks such as poor service delivery; unavailability of records; lack of evidence; loss of collective, corporate, and personal identity; exposure to penalties in litigations and investigations; and unauthorised access to organisational records. Organisations without proper records management can face legal implications that reflect poorly on the organisation's brand and reputation. Dewah, Mpala and Huni (2020) contend that poor records management can expose organisations to legal consequences such as regulatory fines, penalties, and damaged reputation. Furthermore, Ngoepe and Makhubela (2015) affirm that the weak court records management practices compromise justice delivery, since the managing of records is left to those who lack the necessary knowledge and skills to deal with it efficiently and effectively.

Mafu (2014) indicates that many courts globally are experiencing severe and serious consequences resulting from poor or weak records management. According to this study, some of the most common consequences of poor management include unavailability of court records, misplaced or stolen records, inevitable delays and case backlogs, and unauthorised access to courts records (Mafu 2014). Musembi (2005) argues that the poor state of records management undermines good governance. Furthermore, inadequate records management practices can lead to delays in registering cases, poor retrieval of court records, and missing or misplaced court records. Wamukoya (2007) underscores that poor or lack of records management leads to weak or contradictory decision-making, lack of transparency and accountability, theft, corruption and plundering of resources, mistrust among stakeholders and citizens, poor productivity, failure to meet obligations and mandates, and vulnerability to lawsuits.

5. Research methodology

The interpretivism paradigm was used as the philosophical assumption underpinning the context of this study. Siddiqui (2019) posits that the interpretivism paradigm is useful to get a better understanding of the phenomenon and its complexity within its own context, rather than generalising it to the entire population. Therefore, this paradigm enabled the researchers to understand the management of electronic records through participants' experiences and perspectives. This study adopted a qualitative research approach in the form of a case study to assess electronic records management at Temba Magistrates' Court in North West. The justification for using this approach was for the researchers to gain a deeper understanding of the phenomenon under investigation. Qualitative data were gathered through in-depth interviews with 15 participants working at Temba Magistrates' Court to provide the most relevant and useful information relating to the management of electronic court records.

Purposive sampling was chosen to sample records officers, records managers, registry clerks, admin clerks, and document controllers working at Temba Magistrates' Court. To complement the data gathered through interviews, the researchers analysed existing and relevant documents such as manuals, white papers, reports, legislation, and policies. An audio tape recorder was used to record the interviews and field notes were written to provide a backup. A thematic analysis was used to analyse and interpret qualitative data collected through interviews and document reviews. Atlas.IT software (version 9.0) was used to code and organise the themes and categories that emerged from the collected data.

As part of the interviews, participants were required to provide demographic information, such as their gender, educational level, number of years' service, and position held in court as shown in Table 1.

Table 1: Demographic information of the participants

Quote no.	Job title	Years of experience	Educational qualification	Gender
RC-1	Registry clerk	10 years	Diploma in administration	Male
RC-2	Registry clerk	8 years	Matric certificate	Male
RM-1	Records manager	8 years	Diploma in records management	Female
RO-1	Registry officer	5 years	Matric certificate	Male
RC-4	Registry clerk	3 years	Diploma in administration	Male
RC-5	Registry clerk	4 years	Matric certificate	Male
DC-1	Document controller	7 years	Matric certificate	Female
RC-6	Registry clerk	6 years	Diploma in administration	Female
RC-7	Registry clerk	4 years	Matric certificate	Male
DC-2	Document controller	3 years	Matric certificate	Male
CC-1	Admin clerk	9 years	Diploma in administration	Female
CC-2	Admin clerk	7 years	Matric certificate	Male
RO-2	Registry officer	6 years	Diploma in administration	Female
RC-8	Registry clerk	3 years	Matric certificate	Male
RC-9	Registry clerk	3 years	Diploma in administration	Female

6. Data presentation and analysis

This section presents the qualitative data collected through in-depth interviews. The presentation of the findings was guided by the following research objectives:

- To analyse legal frameworks governing the management of electronic records at Temba Magistrates' Court in the North West province of South Africa.
- To establish the security mechanisms used for controlling access to electronic records at Temba Magistrates' Court in the North West province of South Africa.
- To examine the systems used for the management of electronic records at Temba Magistrates' Court in the North West province of South Africa.
- To determine the consequences of inadequate management of electronic records experienced by Temba Magistrates' Court in the North West province of South Africa.

- To recommend the strategies for enhancing the management of electronic records at Temba Magistrates' Court in the North West province of South Africa.

6.1 Background of the participants

The findings revealed that there were proportionally more male participants than females, which resulted in a gender imbalance among the study participants. The study findings revealed that some participants involved in this study had a Diploma in Records Management, while others had a Diploma in Administration or matric certificates. Relating to years of service, the findings revealed that participants have been working at Temba Magistrates' Court for between one and ten years. Other participants in the study had been working in the court for five to ten years and some for 1 to 4 years. This shows that participants in this study were more knowledgeable about the management of electronic records in court.

6.2 Legal frameworks governing the management of electronic records

This research objective sought to analyse legal frameworks governing the management of electronic records at Temba Magistrates' Court. Legal frameworks governing record management generally require that all public offices create and maintain adequate records for the purposes of supporting their daily operations in line with the government's records management regulations. During the interviews, participants were asked to identify pieces of legislation that regulate the management of electronic records in the magistrates' court. It was established that TMC complied with several pieces of legislation, including NARSSA Act, PAIA, the Constitution, and PPI Act. For instance, participant [RM-1] responded as follows:

“Thank you for your question. The Temba Magistrates' Court has implemented and complies with several legal acts that guide the management of electronic records. I will only mention a few legislative acts that I am familiar with. Among the legislation that regulates records in our court include the Promotion of Access to Information Act, the Protection of Personal Information Act, and the National Archives and Records Service of South Africa Act. These regulations are useful to guide us as records officials in terms of managing and maintaining our court records and transcripts.”

Other participants offered a similar response. For example, participant [RO-2] expressed that:

“Although I might not recall all the legislation, but our Court strictly complies with several pieces of draft legislation for the management of court records, which are the Constitution of the Republic of South Africa, National Archives and Records Service of South Africa Act, and Promotion of Access to Information Act, and Protection of Personal Information Act”. These pieces of legislation provide a framework to manage court records under North West Division jurisdiction in an integrated way. So as staff members, we rely heavily on these legislation for effective records management.”

As a follow-up question, participants were asked whether TMC had put in place the policies and procedures for the management of electronic records. In the interviews, participants revealed that TMC had put in place records management policy that guide records staff for

ensuring access to information in records. Furthermore, participants expressed concern that the records management policy was not routinely reviewed and updated. For example, participant (DC-1) said:

“Our court has the records management policy in place that outlines practices and procedures on what staff members need to do to keep court records accurate, secure, and accessible.”

As a follow-up question, participants were asked about the level of compliance with the records management policy implemented in court. Through interviews, participants revealed that staff members failed to comply with the existing records management policy. Interviewee (RO-1) said:

“As far as I am aware, our staff members do not adhere to the records management policy; however, we regularly encourage them to comply with the policy during our regional meetings and workshops”.

Another participant (RC-6) elaborated:

“Ensuring compliance with the records management policy remains a challenge in our court, because most of the staff members fail to meet strict compliance requirements of the policy. However, this is something we are working on, and we plan to monitor staff compliance with the records management policy as part of our plan. Another challenge that we are facing is that our records management policy is not updated and reviewed regularly, and this put our court at risk. I think this policy must be reviewed and audited at least annually to ensure that our court remain relevant in terms of the management of records.

6.3 Security mechanisms used for controlling access to electronic court records

Mafu (2014) argues that court records contain the most sensitive information, and it is essential that security mechanisms should be in place to protect the privacy, availability, and integrity of the information contained in the records from internal breaches or threats. Participants were asked to identify the security control mechanisms in place to protect and control access to electronic court records. Participants indicated username-and-password authentication and audit trail as security mechanisms used in TMC to protect electronic court records. Participant (RC-9) said:

“In our records management division, we use username-and-password authentication and audit trail system to prevent any unauthorized access to court electronic records. We always ensure that our passwords contain at least 8 characters or more as instructed in the security policy”. Although we use security systems, we often experience unauthorised access to our records, and this negatively affects our day-to-day operations”.

Participant (RC-1) said:

“We use the audit trail system to secure our records. Through this system, we are able to monitor and trace any discrepancies or suspicious activities in the computer system, such as who has accessed court records and what activities have been performed and at what time”.

6.4 System used for the management of electronic court records

Zain, Saman and Yatin (2017) caution that records management systems are essential to facilitate litigation procedures through modern scientific data to improve courts' performance. The third research objective of this study was to examine the system used for the management of electronic records in TMC. During the interviews, participants were asked to elaborate on the system they use to manage electronic court records. Most participants indicated that they used ICMS to manage court records. For example, participant (RC-8) elaborated as follow:

“Our current system for managing court records captured in computers is the Integrated Case Management System. We use this system to manage, access, and retrieve all the records required to perform our day-to-day routine activities in court”.

A participant (RC-1) responded similarly:

“The system that we use to manage electronic information and records within the court's workflow is the Integrated Case Management System”. This system was installed towards the end of last year”.

As a follow-up question, participants were asked if the system was able to back up and restore data during power outages. Participants expressed concern that ICMS lacks the capability to back up and restore data during power outages such as load shedding, resulting in sudden loss of records. Participant (CC-1) said:

“As far as I know, one of the problems with this system is that it doesn't have the functionality to back up the data and cannot restore it, especially during power outages like load shedding. In most cases, our court records are missing because our system fails to back up and restore them”. Just to add on these issues, the system performs very slow, I don't know if this is due to poor internet connection, and this often disrupts and delays justice delivery.

6.5 Unintended consequences of poor management of electronic records

Poor management of electronic records was noted as the main cause of breakdown of many organisations and institutions. Ngoepe (2014) accentuates that organisations dealing with sensitive and confidential records could face financial and legal consequences due to poor or faulty records management practices. This research objective was sought to determine the consequences associated with poor management of records in TMC. Participants were asked to share their experiences related to the unintended consequences of poor electronic court

records management. Most of the participants indicated that they had experienced a backlog of cases, delays in registering court cases, and duplicate copies of records. Participants (RC-5) and (RC-6) said:

“Our staff members usually experience duplicate copies of records because of poor record management. In most cases, the same record can be found in multiple copies in our computer systems. We encounter this challenge regularly. Another problem that we encounter is the backlog of cases because most of our records in whatever format are not properly managed and controlled”.

“A backlog of cases has been one of the biggest problems we have in our court because of poor records management. In addition to this, our staff members have trouble registering court cases because records are often missing”.

Some participants expressed they had experienced difficulties in tracking and retrieving court records, misplacement of records and missing of records because of lack of a backup and recovery system. Participant (RM-1) said:

“Most of the time, our staff members have trouble tracking, accessing, and retrieving court records when they need them, especially in our division. Misplaced records and missing records are among the problems we often experience, which causes delays in cases and compromises justice administration. I think our records and transcripts are misplaced and missing because of poor record keeping practices as well as lack of reliable back-up and recovery system”.

7. Discussion of the findings

This section presents findings related to the data collected from the Temba Magistrates’ Court. The findings of the study are discussed in line with research objectives stated above.

7.1 Legal frameworks governing the management of electronic records

The management of electronic records must be compliant with legal requirements or applicable regulations. The first objective of the study sought to assess legal frameworks governing the management of electronic records at Temba Magistrates’ Court. Based on the findings, it was evident that the Temba Magistrates’ Court was managing records in accordance with the broad policy guidelines contained in the NARSSA Act, the PAIA, the Constitution, and the PPI Act. The findings in this study are congruent with Mafu (2014) who emphasised that courts in South Africa must ensure to comply with several pieces of legislation for records management including the Constitution, the PAIA, PPI Act and Electronic Communications and Transactions Act 25 of 2002. Smith (2016) echoes that policies and procedures are an essential part of any organisation to ensure the authenticity, availability, and accessibility of records. It was clear from the study findings that the Temba Magistrates’ Court had a records management policy in place to guide the staff on how to manage court records effectively. Malatji and Marutha (2023) articulate that compliance with policies and procedures is mandatory for institutions dealing with sensitive records. The results of the study showed that records staff

were not adequately complying with the records management policy. Moreover, it was found that the records management policy was not reviewed and updated regularly.

7.2 Security mechanisms used for controlling access to electronic court records

According to Lane and Marie (2010), access control plays a vital role in the security of any business, organisation or institution dealing with very sensitive and confidential information. This research objective aimed to establish the security control mechanisms used for controlling access to electronic records at Temba Magistrates' Court in the North West province of South Africa. Based on the findings, username-and-password authentication and audit trail system were identified as security mechanism used in Temba Magistrates' court to control access and protect court records. Moreover, it was found that Temba Magistrates' Court had experienced unauthorised access to electronic court records.

7.3 Unintended consequences of poor management of records

The lack of proper management of electronic records has been identified as one of the main reasons behind the breakdown of many organisations and institutions. Ngoepe (2014) accentuates that organisations dealing with sensitive and confidential records could face financial and legal consequences resulting from poor or faulty records management practices. This objective sought to determine the consequences associated with poor management of electronic records at Temba Magistrates' Court. The study findings revealed the following as major consequences experienced in court: backlog of cases, disrupted flow of records, delays in registering cases, and duplicate copies of legal records. participants revealed that they had experienced consequences difficulties in tracking and retrieving court records, misplacement and misfiling of records. These findings are consistent with Mafu (2014), Pumulo (2012), and Ngoepe and Makhubela (2015) 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.

8. Conclusion and recommendations

The study concluded that electronic court records generated by the Temba Magistrates' Court are governed by different pieces of legislation dealing with records management. The Temba Magistrates' Court has put in place a formal written records policy that appropriately guides staff members toward the management of electronic court records. However, participants fail to comply with the records management policy. It was disclosed that access to electronic records is controlled through username-and-password authentication and audit trail system. It was established that Temba Magistrates' Court was using ICMS for the management of electronic court records. The study findings revealed a number of consequences associated with poor management of records in court, including a backlog of cases, difficulties in tracking and retrieving court records, misplacement of records and missing of records due to lack of a backup and recovery system. Considering the findings of the study, the following recommendations are put forward for immediate consideration:

- The study recommends the need to Temba Magistrates to compliance with other applicable pieces of legislation, including PAJA, and the Electronic Communications and Transactions Act of 2002.
- Records managers should consistently motivate and encourage staff members to adhere to the records management policy.
- The records management policy should be reviewed against legislation quarterly or annually, and/or in conjunction with audits, and updated when necessary.
- The study recommends the need to adopt multifactor authentication mechanisms such as biometrics, OTP, password, and fingerprint to prevent or reduce unauthorised access to gain access to sensitive electronic court records.
- A records management programme should be developed and implemented to strengthen the management of electronic court records.
- The Temba Magistrates' Court should organise training and development programmes to equip staff members with the necessary up-to-date knowledge and skills needed for the management of electronic court records.
- The study further recommends the improvement of the internet infrastructure network to boost the speed of the ICMS.
- A comprehensive backup and recovery system alongside disaster recovery plan should be implemented to prevent loss of data during power outages or load shedding.

Declarations

Authors declare that:

- The manuscript has not been previously published and is not under consideration for publication with any other journal or copyrighted publishing platform of any kind.
- Ethical clearance was obtained from the University of South Africa Ethical Review Committee (clearance number *62113542_CRECHS_2022*).
- Unlawful statements that infringe any existing copyrights are avoided in the manuscript.
- Authors have sought permission for copyright from third parties by obtaining the necessary permission from the copyright holder/s to reproduce their materials in different media in the article, such as tables, diagrams, and photographs owned by them.
- Manuscript and study meet all the ethical requirements of the journal and that of my institution or company, as well as legal requirements of the study country.
- All authors are familiar with the content of this manuscript and gave consent to co-publish.
- All authors contributed to the writing of the article manuscript.
- Authors take responsibility to keep participants information confidential as required by legislations including PPI Act.
- Authors give consent to the Journal of South African Society of Archivist to publish the manuscript.
- The authors declare no competing interests.

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