THE EFFECTIVENESS OF RECORDS MANAGEMENT PRACTICES AT THE JUDICIARY: A CASE OF ELDORET HIGH COURT REGISTRY, UASIN GISHU COUNTY, KENYA

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NOVEMBER 2022
DECLARATION

I declare that this project is my original work and has not been presented in any other university/institution for consideration of any certification. This research project has been complemented by referenced sources duly acknowledged. Where text, data (including spoken words), graphics, pictures or tables have been borrowed from other sources, including the internet, these are specifically accredited and references cited using current APA system and in accordance with anti-plagiarism regulations.

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DEDICATION

I dedicate this work to my son Kabata Kang’ang’a.
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<td>CCTV</td>
<td>Closed Circuit Television</td>
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<tr>
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<td>Chief Information Officer</td>
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<td>CMIS</td>
<td>Court Management Information System</td>
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<td>EFS</td>
<td>Electronic Filing System</td>
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<td>GARP</td>
<td>Generally Accepted Recordkeeping Practices</td>
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<td>ICT</td>
<td>Information Communication Technology</td>
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<td>IT</td>
<td>Information Technology</td>
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<td>ISO</td>
<td>International Standards Organization</td>
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<td>NACOSTI</td>
<td>National Commission for Science, Technology &amp; Innovation</td>
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<td>RC</td>
<td>Records Continuum</td>
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<td>RM</td>
<td>Records Management</td>
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<td>SPSS</td>
<td>Statistical Package for Social Sciences</td>
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ABSTRACT

Efficiency in managing court records has been a key issue of concern for the Kenyan Judiciary. Good records management practices are vital for timely administration of justice. This study addressed the key issues related to records management. They include missing and misplaced files, incomplete files and poor physical state of the files that hindered the administration of justice for the parties seeking justice and backlog of cases. Records management practices have been put in place to streamline these issues. The study sought to assess effectiveness of records management practices in place at the Eldoret High Court. The study was guided by research objectives and sought to assess the policies and procedures in place at the Eldoret High Court; the disposal procedures, compliance and accountability procedures that are in place at the high court. The study used descriptive research design, and data was collected using questionnaires. Purposive sampling was used to select the sample for this study. There were 27 respondents selected for the purpose of this study since they are the personnel that handle records and are knowledgeable on records management practices. Pilot study was carried out at the Nakuru High Court registry staff. Validity was ensured by administering the questionnaires to the Nakuru high Court to assess ambiguity and relevance of the questions in the questionnaires. The reliability of the research tools in the pilot study ensured that gaps, ambiguous statements and errors in the questionnaires were identified. The validity also sought to establish if the questionnaire would collect the intended data. Data analysis was by use of SPSS and descriptive statistics and represented using graphs and charts. The findings revealed that there is a records management program in place and the classification system enhances ease of retrieval of the files. Despite having records management measures in place, the issues of missing files, poor state of records is still prevalent. The major recommendation was ICT adoption in the management of records to achieve efficiency in handling court records. The significance of this study was to provide guidelines understand their roles and responsibilities in handling records and ensure efficient records management practices in managing the case files at the Eldoret high court registry.
CHAPTER ONE
INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction
This chapter covers the statement of the problem, background to the study, the objectives, the research questions, purpose of the study, the assumptions, limitations and delimitations of the study, significance of the study, the theoretical framework and operational terms.

1.2 Background to the Study
Generally Accepted Recordkeeping Principles (GARP) is an international standard that provide a baseline for the records management practices across all organizations. They are used as a measurement tool to ensure records management practices in an organization meet the required international standards. The 8 GARP are the principle of transparency, integrity, accountability, protection, availability, retention and disposition and compliance. The principle of accountability gives guidelines on the involvement of senior management in the information management activities (ARMA, 2021). The principle of transparency states that business operations should be well documented, verifiable and easily accessible to the staff and authorized personnel in an organization. The principle of integrity states that an information governance program shall be made and implemented to ensure all information generated by an organization is authentic and reliable. The principle of protection outlines that information management program should be constructed to ensure restrictions to different levels of access to records such as confidential, secret, classified records to ensure intellectual security. The principle of compliance outlines that an information management program should be in compliance with legislations that govern the management of those records. For example, for court records, the Records Disposal Act Cap 14
gives guidelines on the management of court records in Kenya. The principle of availability states that organizations should ensure their records are maintained in a manner that will ensure accurate and timely retrieval. The principle of retention states that organizations should maintain their information for an appropriate time taking into consideration the value of those records such as evidential value, fiscal value, intrinsic value and operational value. The principle of disposition gives guidelines that an organization should ensure appropriate measures in place to dispose of ephemeral records (ARMA, 2021).

The constitutional framework of majority of countries provides for judiciary that is independent and for the clear jurisdiction for the arms of government which are: legislature, parliament and judiciary are independent so that each does not have the opportunity to interfere with another arm of government (IRMT, 1999).

Roper (1999), states that managing legal records faces various challenges such as the large volume of records. Practitioners within the public sector legal institutions are generally well aware of the importance of their records. The legal practitioners often work under constant pressure and put minimum effort to care for their records. The courts then therefore have a backlog of cases pending hearing since there is little care of the records from the creation phase of the legal records; the public prosecutors and the police will be dealing with a continuous crime caseload.

IRMT (2009) states that court records are either documents or materials received, maintained by court in connection with or in relation to judicial proceedings. They include records that emanate
from legal processes, work of courts, public prosecutors and the police departments of a particular or respective country. Daily running of the court is dependent on the accuracy, authenticity and reliability of information that is available and presented in time upon request. There is therefore the need to maintain a functional system for keeping record for the judicial system. The court staff should have access to the records and ability to retrieve them on time. If they cannot find a file relating to the particular case being handled it hinders the judges from passing judgment, thus leading to denial or justice being delayed to the individual who filed the complain also known as the plaintiff.

Generally a court registry office is where the recording and maintenance of all orders and decisions of the Court, pleadings and supporting documents in accordance with the rules stipulated in the records management manual is done. This office is mandated to receive pleadings from litigants for processing purposes and forwarding them to the Courts. Registries are headed by Executive Officers and managed by each Court’s respective Registrar with experience in the management of court records (Judiciary, 2012). These registries also have other functions such as the collection and the accountability for the fees received by the Court; ensuring there is court records security and responding to queries on filing of court documents, cause list, fees schedule and a schedule showing the judge on duty.

A case study carried out in Malaysia (Haider, 2012), indicates that there were several legal issues in the court records management. The issues were long delays of cases, the lack of written
rulings by judges often deny the incriminated party a right to appeal a sentence, or deny the public their rights to justice. Saman (2013) also states that as a matter of cause, in Malaysian Judiciary, civil and sharia, cases takes a long duration to decide and the backlog of cases were of huge concern to the society. It took a long period of time, sometimes up to years for a case to be settled due to varied reasons such as lack of adequate human resources such as the judges and court officials; huge volume of cases; poor infrastructure in place and lack of adequate financial resources. The main cause for the delay in adjourning the cases was availing incomplete information pertaining to a particular case as when required.

A study carried out at the Botswana High Court (Mnjama, 2009) revealed that the court was faced with various challenges such as retrieval, misplacement and or loss of records and also issues of inadequate storage. The delivery of justice to citizens in any country is harnessed by efficient and answerable court systems. The challenges of delays in filing documentation, registering cases and locating records all directly affect citizens and their legal rights.

The Kenyan Judiciary established under Cap 10 of the Kenyan Constitution 2010. Article 159 of the Kenyan Constitution identifies the Kenyan people as the source of Judicial Authority and broadly commits tribunals and courts to speedy justice administration, without bias to status and without undue regard to procedural technicalities; promote and protect the principles and purpose of the Constitution; and promote and seek arbitration (Judiciary, 2012). The High Court has authority to hear appeals from lower courts, civil and criminal cases. Under the new constitution,
the industrial court, land and environment court have also been established. These courts are on the same level of the courts hierarchy as the high court. There are 20 high court stations and 14 environment and land court stations. The Eldoret high Court serves the Uasin Gishu County (Judiciary, 2012).

Maseh (2015), states that issues such as case backlogs; locating records and filing documentation; delays in registering cases; the absence effective records management policies, lack of adequate staff capacity, limited use of ICT are the challenges that ail the Kenyan judiciary. These issues have resulted to judgments being made when judges have incomplete information about cases. The absence of appropriate systems in place for record keeping and controls, has led to collusion and corruption between court officials and lawyers which has resulted in the subversion of the course of justice (Maseh, 2015).

The former Attorney General of Kenya, Amos Wako, has also been on record saying that institutions such as his office, Law Society of Kenya, Judiciary, police and land registry have all performed dismally (Mnjama, 2007). Registry functions have been criticized as ancient, characterized by lagged response to public inquiries or at worst case scenario corruption. The system for managing records in courts is seen as inefficient and ineffective with common cases of missing files from court records management unit (Mnjama, 2007).

The sub-committee on Ethics and Governance (2005:94) appointed by the late Chief Justice Evans Gicheru, assessed issues in managing court records. The committee reported that there
were some registries that were faced with management issues which led to situations of missing files, maltreatment of litigants and creating a favorable environment for corruption. While no actual accusation of corruption and integrity issues of the registry personnel was made, it was concluded that there was lack of adequate supervision of the registry staff thus leading to poor service delivery to litigants. This was a common scenario in Murang’a and Bungoma registries. The sub-committee further received presentations on the difficulty faced by litigants whose files were misplaced or destroyed after judgments and who would like to appeal against judgments or orders. These complaints were particularly in respect of files of cases razed in fire accidents in records management units in, Nakuru, Kerugoya, Nyahururu and Sotik.

Musembi (2005) states that efficient court services are strong foundations of good governance. In turn, an efficient court system is of paramount importance and should be based on efficient record keeping services and systems. Majority of the Kenyan people will recall the frustrations and challenges they have faced due to poor record keeping systems in courts. Scenarios of lost and missing files have been reported regularly in the print media. This has undermined the administration of justice.

The purpose of this study was to assess records management practices in place at the Eldoret High Court registry in comparison to the records management practices based on Generally Accepted Recordkeeping Principles (GARP) from ARMA which stipulates the guidelines for
managing records internationally. Despite having records management practices in place, the issues of missing files is still prevalent.

1.3 Statement of the Problem

Court registries are of paramount importance in the quest of justice administration. They are charged with the mandate of documentation, storage and a retrieval centre for files and legal documents; registering and processing of cases at every stage till they are finalized, dispatch and handling correspondences. The preparation of documents like summons, remand warrants and bond prepared by the legal officers are also stored in the court registries.

While launching the Judiciary Transformation Framework in Kenya, the former Chief Justice Willy Mutunga (2012) noted that where there are weak systems in records storage, management and retrieval, the competency of the technical bench alone is not adequate to prevent delayed justice. Some of the exhibits stores and archives around the country had fallen into such neglect as to become the habitations for snakes and rodents. Thurston (2005) pointed out the importance of well managed records, and how they play a critical role in legal mechanisms. Judicial rulings that are readily accessible and accurate can reduce the instances for injustices that may occur as a result of corrupt dealings, delays and inaccuracies.

Despite implementation of the high court registry manual, that gives strict guidelines on management of records practices to be followed, the registry still experiences issues of missing files. The study sought to assess effectiveness of records management practices in place at the
court registries in relation to international standards GARP to gauge if the records management practices implemented are up to standard. GARP principles provide a baseline for how all organizations should carry out records management practices.

1.4 Purpose of the Study

The purpose of the study was to assess if the records management standards in place meet the needs of the registry personnel.

1.5 Objectives of the Study

The objectives of this study were:

1. To assess the policies and procedures in place in the management of Eldoret High Court records

2. To assess the organization of records at Eldoret High Court in reference to the Generally Accepted Records Principles (GARP) guidelines.

3. To assess the disposal procedures for the Eldoret High Court records in reference to GARP on disposition.

4. To establish compliance and accountability procedures implemented in managing court records in reference to the Generally Accepted Records Principles (GARP) guidelines.

1.6 Research Questions

1. How are the policies and procedures are in place in the management of Eldoret High Court records assessed?
2. How is the organization of the records at the Eldoret High Court in reference to GARP assessed?

3. How is the disposal procedures for the Eldoret High Court records reference to GARP on disposition assessed?

4. What are the compliance and accountability procedures implemented in the management of court records in reference to the GARP guidelines?

1.7 Assumptions
The first assumption of the study was the sample population was very knowledgeable of records management practices and would provide adequate data required for the research. Another assumption is that the respondents would cooperate and give information on the records management operations of the registries and management of their case files.

1.8 Limitations of the Study
One of the limitations of this study was uncooperative respondents. This was countered by having written consent from the chief registrar authorizing data collection at the Eldoret high court. The other limitation was whether the research instrument would collect the intended data, this was countered by conducting a pilot study before carrying out the research.

1.9 Delimitations of the Study
The study’s focus does not touch on electronic records since the bulk of the court records are in print form and the manual systems are mainly in use. This study does not cover all the facets of management of records since the field is too wide. It does not deal extensively with preservation
and conversation of the court records. Questionnaires are used to collect data. There are two separate questionnaires that sought to collect data on managerial aspects and technical processes in the registry.

1.10 Significance of the Study

Creswell (2009), states that the significance of this study is meant for a specific target audience, to clearly pass information of the impact of the problem under research for different groups that may benefit from reading and using this study. This study may be of benefit to: Judiciary staff such as archivists, executive assistants, judges, deputy registrars. It will help the staff understand their roles and responsibilities in handling records as stipulated in the records management policy. The study may help the executive assistants, archivists in organizing their court records. The study will aid the assistant registrar in the implementation of good record practices in managing case files at the high court registry.

1.11 The Theoretical Framework

A theoretical framework is a concept behind the logic of the relationships among the variables that are viewed as important to a problem (Sekaran, 2003). The study was based on the records management theory and records continuum (RC) model.

1.11.1 Records Continuum (RC) Model

The Australian Standard for records management defines record continuum model as clear guideline of management processes through the records life-cycle. This is from their creation, and continues to the preservation phase (Flynn, 2001). The records continuum (RC) model was first introduced to the public by Jay Atherton in 1985 during the annual conference of the
Association of Canadian Archivists. Atherton highlighted the shortcomings of the records life-cycle concept particularly on the concept of responsibilities of transfer of records by focusing on some key issues. These issues are whether management of records in the active phase was the initial stage in the setting up of archives, or the ongoing preservation of records with enduring value or the final process in records management. He further stated that the records life-cycle model is a related sequence of events that were divided based on the functions and person responsible for the records at different stages. For instance the creating records officer, the records manager at maintenance stage and the archivist at disposition stage could be deemed redundant, especially not putting into consideration the relationship between the records managers and archivists involved. Atherton further stated that the separation of archives administration and record management by the life-cycle model was inadequate (Flynn, 2001). Atherton then proposed that the records continuum model has four stages which were creating or receiving; classifying; establishing their disposal schedules and implementing and the maintaining records and use (in the records management unit, records centre or archives). Atherton then argued that all four are intertwined, to form a continuum in which the archivists and records management officers are part of the records management process, up to a particular level in the continuous management of records in an organization (Flynn, 2001).

Frank Upward, also offered his insight and analysis on the Atherton records continuum model in the 1990s and came up with the following three key principles:- a records concept which includes records enduring value, which places key emphasis on their value for evidence of a transaction and organization memory, and which provides standards for strategies to archiving regardless of duration of which records are kept; a focus on records from the perspective of
logic rather than physical entity, regardless of so much emphasis on format; institutionalization of record management profession’s role requires much emphasis on the need for integration of recordkeeping into societal and business systems (Upward, 2000). Upwards theory is based on archival science major themes which are transactionality, identity (context of Provenance), record keeping and evidentiality.

From Atherton and Upward analysis, some key characteristics of the RC model emerge: there is uniformity in the management of records independent of the format throughout their life-cycle; the record keeping systems are intertwined in that even before records have been created and there is collaboration and shared authority for records (including archives) and record keeping systems, between records managers and archivists.

The significance of this model to this study is to show how records are managed from their creation till their disposal and the personnel involved in the maintenance and record keeping practices. The stages in the continuum are measurable against the GARP. The archivist is therefore involved in managing the court records from the point of creation till they preserved permanently to serve as organization memory. The court records are created by litigants, executive assistants, judges and are maintained by the archivists in courts as long as they fulfill the regulatory and business requirements; as evidence of transactions and for preservation of memory.

1.12 The Conceptual Framework

The study’s independent variable is the records management practices. The extraneous variables in this study are staff competence; the organization structure; motivation and the support from
top management which affect the outcome of the research which is effective management of the records management process

Independent Variable

Records management practices:
- Proper procedures
- Organization of records: records creation, classification & maintenance
- Records disposal
- Records management:

Extraneous Variable

- Staff Competence
- Organization culture
- Motivation
- Staff morale
- Support from top management

Dependent Variable

Effective management of records
Figure 1.0: Conceptual Framework

(Source: Researcher, 2021)
1.13 Operational Definition of Terms

**Backlog:** this refers to an accumulation of undecided court cases and require verdict

**Evidentiality:** this refers to the concept that records in themselves are evidence of a process.

**Records pluralisation:** this is the placement of records in archives and society

**Transactionality:** this is the aspect that shows records are used to show evidence of a transaction.

**Records management:** the branch of management that gives guidelines on the creation, maintenance, use and disposal of records
CHAPTER TWO

REVIEW OF RELATED LITERATURE

2.1 Introduction

This chapter provides an in depth discussion of the review of related literature according to the objectives of the study.

According to Creswell (2009), review of related literature provides a platform for the results of previously researched related studies to the one being undertaken to be shared to the readers. It relates a study to a greater scope of a continuing research in the literature, extending prior studies and filing gaps in a field. It also provides a framework for comparison of results with other findings. The review of the related literature in this study is based on the objectives of the study.

2.2 Records management.

Records management according to the ISO 15489: 2001 standard is defined as a field of management that stipulates clear set guidelines on how to create, receive, maintain, use and dispose records, including the capturing of records and maintaining their evidential value on business transactions. Records management includes well laid out practices related to the life cycle of information such as the identification, classification, preservation, archiving and disposition of records (Smarter, 2014). In 2009, the Generally Accepted Recordkeeping Principles (GARP) was published by ARMA International. These principles are the threshold of good recordkeeping practices. These principles were later revised in 2017. These principles are used as the threshold, in this study, to measure effectiveness of the records management practices.
The GARP are applicable in all types of organizations both government institutions and private entities, to all sizes of organizations and can be used to establish the standards required in practices in assessing recordkeeping programs and practices. The principles form a framework for accountability that includes the processes, duties and responsibilities and standards that ensure records and information efficient use in support of an organizations’ mission (Smallwood, 2014: 30).

The GARP provide an international baseline for records management practices. It cuts across all sectors both the private and public, regardless of specialization of the organization. These principles are therefore a valuable tool to measure the RM practices in organizations.

2.3 Records Management Procedures and Policies for Court Records

In the effort of effectively managing records and information, government agencies should ensure the development, implementation and maintenance of a systemized set of records management policies and procedures. The high standard policies and procedures should include having records classification procedures; retention schedules; records storage procedures; disaster prevention; recovery procedures; back up procedures and disposal procedures (NECCC, 2004).

According to Judicial Council of California (2017), a records management manual for the court administrator and judicial council staff serves as a reference point of laws and rules governing the records management in court registries. Judicial Council of California (2017:3-4), states that a comprehensive records management program is all-inclusive to records management aspects from creating, maintaining, retention and disposal of court records. Each component may have
several elements and goals. When dealing with court records, the creation of the record involves providing two sets of information (evidence) by parties to aid in making its decision for example motions, pleadings, exhibits and so forth. The appellate courts, the litigants and the public must have full access to all the information the court considered in making its decision, the exception to this rule is in the case where confidentiality of the information needs to be maintained or is sealed. The second set of records is the hearings documentation and judgment. This includes issues relating to case management, court decisions and juries.

The maintenance aspect of the court record addresses the continued availability, accessibility and existence of the record. The record must be stored in accordance to guidelines that ensures it complete and available both during the active phase of the case and after it is closed. It may also be stored in a way that allows ease of access for parties wanting to see it (Judicial Council of California, 2017). Reproduction of documents should be convenient and inexpensive. A good records management program should ensure ease of access to those with access rights to information.

A records management program also addresses the retention and destruction of court records in relation to their mandatory duration of availability the public. Some are retained permanently while others are destroyed when their “shelf life” expires. When a record is no longer required, it should be destroyed upon the set guidelines.

The records policies and procedures effectiveness can measure against the principle of accountability. According to Smallwood (2014:30), the principle of accountability states that the obligation of records management (RM) should be at a top management level to ensure effective
governance with the appropriate level of authority. Smallwood (2014), further states that an individual at the high management level in the organizational structure should be in charge of implementing the RM program. The senior management officer’s key role is to take a proactive approach in designing and implementing RM procedures, policies and guidelines and to provide perspective and guidance on all recordkeeping issues. There should be governance structures, procedures, processes and related documentation developed by the senior level management officers. These policies should identify the roles of all individuals handling records at all levels of the organization.

The GARP on accountability is essential in the records management; it gives guidelines on the role of high ranking officers in the organization hierarchy of authority in the records management functions in the organization. The support from senior management is crucial, because the policies rolled out will be implemented within the organization.

2.4 Organization of Court Records

Organization of court records enhances efficient and effective systems for ease of accessing and retrieving records. The records maintenance process is a key component of records management. Records management aim is ensuring records remain intact, intelligible, secure and accessible for the extended period they are being referred to (Judiciary Council of California, 2017). The court records storage must ensure they are complete to ensure their authority and integrity; ease of access and retrieval both when the case is active and after the case is closed even in situations where the results are still have some relevance to parties and the public.
Ntombizandile (2014: 25) states that court records must be properly arranged and stored to allow ease of access and retrieval. The system of maintenance of court records minimizes various risks such as misfiling, loss, mutilation of records or any of its parts. It also puts much emphasis on the long term access.

In the studies conducted by the IRMT in the years (1999 and 2011: Ntozambizandile, 2014 ) revealed that one a global scale, in majority of countries, it is the responsibility of the registry personnel and court clerks to ensure that there are effective and efficient court record keeping systems to ensure records are accessible. IRMT (2002) stated that in South East Asia, it is the court records management unit responsibility to receive and maintain their records. The guidelines for creating, using and disposing of court records are entailed in respective government manuals and in cases like Kenya in the high court registry management manual.

Motsaathebe and Mnjama (2007:180) stated that that since there are different ways of documents and records classification, this process should ensure standardized storage for the ease of information retrieval, thus saving time and effort used by records professionals to access the record (Ntozambizandile, 2014: 25-26).

Organization of court records also deals with records storage and security. Files should be stored in filing shelves and cabinets to prevent damage from agents of destruction such as fluctuation of humidity, sunlight, water from leaking or damaged pipes, pests and air pollution. There should be restricted access to the registry. The GARP of integrity and availability can be used as a measure of how well the court records are organized. The principle of integrity emphasizes that a record, in this case the court records, should contain all the prerequisite elements that
characterize a record. This includes the structure, context and content. Records trustworthiness, integrity and reliability are validated by when record creation was done by a proficient authority according to set standards and laid out processes. In an effort to maintain the integrity of records, the records should be complete and safeguarded against alteration. The authenticity of a record is ascertained from internal and external evidence, from the records characteristics which are the context, content and structure of the records, to ascertain if they are authentic and free from alteration (Smallwood, 2014: 31).

The principle of availability puts emphasis on organizations evaluation of the efficiency and effectiveness of records and information storage and retrieval with the use of available media, software and networks. This evaluation should focus on identifying the current and future requirements, while recommending new systems where applicable. There are certain factors such cost of the system, practicality and effectiveness of new configurations that are considered before migrating or implementing new systems. (Smallwood, 2014:32).

The GARP on availability and integrity are used in this study to measure the ‘completeness’ of a record and the ease of retrieval of the record. Records are of value if they meet the characteristic of a complete record and are accessible when required for use. The principles provide guidelines on records integrity and access to the records.

2.5 Disposal Procedures for Court Records

According to ILAC & IBAHRI (2010:78), without effective case management in place, the proper and timely disposal of cases is not achievable by officers of the judiciary. In Kenya, however, it is quite common that lawyers and litigants to set the pace of court proceedings. ILAC & IBAHRI (2010) further notes that the Judiciary requires effective mechanisms to manage their
judgments and case files. Electronic case management systems help in facilitating the staff’s efficiency in managing the court’s cases from their creation which is electronic filing to the termination of the case while still keep track of all processes during the case trial. The ideal system should be capable of automatically tracking the court dates, cause lists and deadlines. In the ideal situation, it would create lists of actions needed with appropriate reminders being forwarded to judges where necessary such is the case with bring-up diaries. It would assist officers of the judiciary to identify inactive or ‘cold’ court cases, thus reducing duplication and redundancy and also enable such cases to be removed from backlog (ILAC & IBAHRI 2010).

Disposal of court records in Kenya guidelines are stipulated in the Records Disposal Act, Cap 14 and are summarized below as adapted from the High Court Registry Operation manual.

### Table 2.1: Disposal of Court Records

<table>
<thead>
<tr>
<th>No.</th>
<th>Description of Records</th>
<th>Period after which destruction occurs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Useless records which may be illegible due to destruction by weather, biological agents such as insects, water or fire.</td>
<td>Immediately</td>
</tr>
<tr>
<td>2.</td>
<td>Civil proceedings records, with the exception of those that relate to:</td>
<td>12 years from date of verdict</td>
</tr>
<tr>
<td></td>
<td>- title deeds;</td>
<td></td>
</tr>
</tbody>
</table>
| - Inheritance  
| - Human rights violation and the Kenyan Constitution  
| - Water, air, way, light or other easement rights  
| - Customary boundary issues (can either be tribal, community or based on locality)  

<table>
<thead>
<tr>
<th>3. Criminal proceedings records where judgments (acquittal, discharge or fines have been imposed) have been made, imprisonment sentences not exceeding one (1) year elapsed and appeals have been dismissed by a magistrate.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Years from date of verdict</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Police reports on death, railway accidents etc</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Years from creation date.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Judicial returns from magistrates Courts</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Years from creation date.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Records pertaining bankruptcy proceedings</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Years from date of discharge.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7. Miscellaneous correspondence on warrants, trial dates, attendance of witnesses’, transfer of proceedings, service of summons and related correspondence.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Years from date of correspondence.</td>
</tr>
</tbody>
</table>
8. Other financial documents, with the exception of records relating to deceased persons estates which have been distributed and accounts audited. | 3 Years from audit date.  

9. Books of account lodged in connection with bankruptcy proceedings | 12 Years from adjudication date.  

(Source: Records Disposal Act, Cap 14: High court Registry operation Manual)

Prior to the records disposal exercise, a physical case files audit is conducted after the cases are concluded. This process is carried out to verify which disposal decision to proceed with. It is either destruction or permanent preservation as stated in the guidelines provided for by the Records Disposal Act Cap 14.

According to Smallwood (2014), on the principle of disposition, when the retention guidelines as per disposal schedule have been met and the records no longer have value to business thus termed as ephemeral records, they may be destroyed. Records of enduring value should be preserved regardless of format. Retention scheduling should determine the when the transfer of records should be done. Additional methods, including but not limited migration or conversion to new platforms or systems to ensure long-term and or continued access, are a requirement to preserve electronic records. The destruction of records must be carried out in a secure manner while strictly adhering to the authorized disposal instructions. Proper documentation must be maintained as evidence of destruction according to an agreed-on program. Destruction must follow procedures in accordance with guidelines in the retention schedule and appropriate while safeguarding the confidentiality of the records. Where the destruction of records is carried out
by third parties, there must be accountability of the process. This is achieved by having evidence
to document the destruction of records exercise. There should be documentation obtained such as
certificates of destruction. In the event retention schedules are not available, authorization in
writing should be obtained before the destruction exercise. The procedures must be specific on
the destruction of records. The respective approved methods of destruction depending on the
format or media, must be specified to ensure that information cannot be reconstructed.
The disposal of records eliminates redundancy particularly on duplicated records. It also helps in
preservation of archives of both electronic and print cases. In support of GARP on disposal,
destruction of ephemeral records is ensures only the records required for current and semi-
current business are retained in the records storage facilities.

2.6 Compliance and Accountability Procedures for Managing Court Records.

Compliance and accountability procedures ensure records management undergoes audit and
ensures compliance to stipulated regulations. The principle of compliance states that
monitoring for compliance involves assessing of the various stages of the management of
records, thus ensuring the creation and capture of records according to the right standards,
formats and structures; implementation of user permissions and different levels of access to
ensure security; workflow processes through the sample selection to ensure adherence to
procedures and policies; ensuring records retention is based on their value to an organization,
and their disposal at an appropriate time following guidelines on the disposal schedule.
Monitoring for compliance can be carried out by RM personnel, internally by the organizations’
auditors or by an external organization and must conducted on a regularly (Smallwood,
Audit processes must be developed to objectively cover the scope of RM within the organization, to include verification that sufficient levels of accountability have been assigned and accountability issues and challenges are addressed. Audit processes should aim to include the compliance with the organization procedures and policies for all records, independent of media. The audit process must reinforce compliance and ensure accountability to parties handling records and answerable for actions taken. The results should be used to enhance the culture of continuous improvement, but not be used as a means of retribution. The audit intention should be to contribute to records program improvement in risk mitigation, control and governance issues and to ensure sustainability of the process (Smallwood, 2013: 30).

Staff expertise is a key component of compliance to ensure efficient court records management. A case study in Singapore IRMT (2003: 6), notes that with high education and ICT literacy levels, Singapore has been able to achieve what many government and private entities globally continuously work for: to adopt, implementation and use technology effectively and efficiently to streamline business process and with the objective of improving service delivery. In 1990, the Chief Justice Yong Pung How (IRMT, 2003) made a decree on a set of reforms that would help in transforming the Singapore legal system into a global leader of efficiency in adaptation of technology. The core reason for the reforms was the backlog of cases at all tiers of courts and lack of incentive to perform efficiently. The main reforms were to amend and simplify civil and criminal procedures, case management improvement, the introduction LAWNET to provide online legal information services, launch Electronic Filing System (EFS). The EFS is web-based and allows remote access to the court records, also stored all records electronically. The expertise to operate the system is sought from National Archives of Singapore. There is a Chief
Information Officer (CIO) who oversees an Information Systems Managers who in turn provides IT support, planning and way forward.

The principle of compliance provides a checklist on the records management operations in the records life cycle in any organization.

2.7 Summary and Gaps

The court records management practices are geared towards ensuring ease of access and retrieval of court records. The drawbacks of managing court records such as lack of adequate retrieval systems; lack of adequate storage and accommodation facilities hinder access to the court records, leading to loss of information, misfiling, backlogs of cases due to incomplete court records. This also undermines the integrity of the court records. The literature review of this study highlights various cases studies on court records, the challenges of handling manual and electronic records.
CHAPTER THREE

RESEARCH DESIGN AND METHODOLOGY

3.1 Introduction

This chapter discusses the research design and locale, sampling techniques, the research instruments, logistical and ethical considerations of the study. The validity and reliability of the instruments is discussed in detail and data analysis.

3.2 Research Design and Locale

According to Singh (2006) research design is a detailed and systematic strategy of how the research will be carried out, how data will be collected, analysed and reported. Creswell (2009:3) defines research design as the detailed plan or systematic laid out plan for research that will help decision making from inferences to elaborate methods of collecting and analyzing data. It provides answers to research questions and to control variance.

The study used the descriptive design approach. Descriptive design involves a process of identification and classification of an experience. This case study assessed in detail the situation of the records management practices at the Eldoret high court registry using various data collection methods over a given duration of time.

This study was based at the Eldoret High Court registry because it is an urban area unlike at the Headquarter in Nairobi where most changes are first implemented. The Eldoret High court registry handles similar records to those at the Milimani High Court which makes it suitable for research since they face similar challenges in handling court records.
3.3 Population

The population of this study was comprised of Judiciary’s technical and the administrative units. The technical unit comprised of 9 members who were the high court judges and deputy registrars. The technical bench provided information on ease of access of the records since they are end users of court records. The administrative unit constituted the records officers (who serve in the capacity of archivists), executive officers and registry assistants (whose job descriptions were those of executive assistants or clerks) in the Eldoret high court (Maseh, 2015). The administrative units comprised of 13 respondents. These respondents provided information on records management practices and how they affect accessibility of the records.

3.4 Sampling Techniques and Sample Size Determination

A census gathers information from every member in the population and its characteristics (Census and sampling, 2010). The respondents were the judiciary bench staff and the administrative staff.

According to Kodhari (2004) a sample is the number of items to be selected from the population and further states that an ideal sample is one which meets the requirements of being efficient, representative, flexible and reliable. Decisions on the sample size are based on the desired accuracy or an acceptable confidence level for the estimate must be determined by the researcher. The sample size of the study was drawn from the judiciary staff population who are the administrative and technical bench.
Table 3.1: Sample Size

<table>
<thead>
<tr>
<th>Staff category</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy registrars</td>
<td>1</td>
</tr>
<tr>
<td>Judges</td>
<td>11</td>
</tr>
<tr>
<td>Executive officers</td>
<td>3</td>
</tr>
<tr>
<td>Records officers (archivists)</td>
<td>1</td>
</tr>
<tr>
<td>Registry staff</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>26</strong></td>
</tr>
</tbody>
</table>

(Source: Research data 2020)

3.5 Research Instruments

Research instruments or tools help in the collection of data and to determine the type of data to be collected (Kodhari, 2004). This study used questionnaires for data collection. This study used two questionnaires which were distributed to the respondents and collected at a later date. The first questionnaire was distributed to the judicial staff in the technical unit, which included the judges, deputy registrar and the archivist. The deputy registrar is the head of court registry. This questionnaire aimed to collect information on senior management issues such the records management policies in place; the compliance and accountability procedures in place and disposal of records guidelines in place.
The second questionnaire was administered to the executive assistant and registry staff. The aim of this questionnaire was to collect data on daily operations of the registry such as organization of court records and disposal of records.

**Pilot study**

**3.5.1 Validity and Reliability Determination**

A pilot study was conducted at the Nakuru High Court population. The questionnaires were given to the registry staff at the Nakuru High Court. The registry staff included records officers, executive officers and deputy registrar. This was done to help eliminate measurement errors from rephrase the data collection tools, in this case the questionnaire such as including more space in the questionnaire for explanations for questions such as measures to deter unauthorized access and who has access to the court records (Appendix II question 9 & 10). According to Kodhari (2004) an error can arise due to a defect in the data collection instrument. The use of complex vocabularies that the respondent does not comprehend, general physical layout of the research instrument such poor quality of print, space for responses being inadequate, are some of things that make the measuring instrument defective resulting in measurement errors. The pilot study helped to identify ambiguous statements in the questionnaires.

**3.5.2 Validity**

Kodhari (2004) defines validity as the extent to which the research instrument measures what it is expected to measure. The instruments in this study tested both content validity and criterion-related validity. Content validity is when an instrument provides an adequate scope of the topic
under study which it intends to fulfill while criterion-related validity is the ability of the research tool to predict an outcome.

Validity of the questionnaires was established by administering the questionnaires to the Nakuru High court judiciary staff, deputy registrars, executive assistants, archivists and the registry staff. This helped assess the ambiguity, relevance of the questions in the questionnaires. The questionnaires were revised to ensure the questions would capture the desired responses based on the objectives.

3.5.3 Reliability

The reliability of a measurement tool is referred to as consistency, if the tool was to be repeated over a period of time while introducing different conditions it would yield consistent results (Marczyk et al, 2005:103).

The questionnaires were distributed to the respondents at Nakuru High Court weeks before the actual data collection to identify gaps, ambiguous statements and errors in the questionnaires and also clarify if the questionnaire was collecting the required data for the study. Some questions were revised since they were ambiguous thus open to different interpretation even after a period of time.

3.6 Data Collection

Research tools are administered on the sample for collecting data (Singh, 2006). Data was collected by administering questionnaires to the population. The questionnaires were both close and opened ended. This method was chosen to ensure confidentiality of responses, to ensure the responses are unbiased and to give the respondents enough time to answer the questions.
Questionnaires also helped to collect data from respondents who are unreachable such as the judges.

3.6.1 Logistical and Ethical Considerations

Logistical Considerations

Prior to collecting data for the study, the researcher obtained an introduction letter from the Department of Library and Information Science, Kenyatta University giving details of the study and verifying the researchers’ identity. The researcher also sought a research permit from National Commission for Science, Technology and Innovation (NACOSTI). The researcher then sought a research permit from the Judiciary through another letter to the Chief Registrar.

Ethical Considerations

The following are ethical issues that were considered throughout the duration of the research project: consent; voluntary participation of the respondents; participants privacy in ensuring confidentiality of data provided by individuals is maintained or anonymity of participating individuals; the effect on the participants in regards to the way in which the data is used, analyzed and reported and how unbiased the researcher is.

The researcher ensured informed consent from the relevant institutions and safeguarded confidentiality and anonymity of the responses given in the questionnaires. The researcher also ensured that only the willing participants were part of the study.
3.6.2 Research Protocol and Itinerary

The researcher submitted the research permits to the Deputy registrar Eldoret High court from NACOSTI and email from the Chief Registrar’s office for authorization to collect data at the Judiciary. Data was collected using questionnaires. There were two questionnaires which were administered. The first questionnaire was for the deputy registrar and judges and the other one was administered to the executive assistants and the archivists.

3.7 Data Analysis

The data was first classified into similar groups based on the objectives of the study. The data was also edited to ensure there were no omissions.

This study used descriptive statistics to analyze and interpret the data. Graphical presentations such as bar graphs, pie charts and tables were used to display the data. They were used to describe either a sample or population; quantitative or qualitative data sets. Qualitative responses were grouped where responses were similar. The data collected was analyzed using statistical software for analysis (SPSS version 17).
CHAPTER FOUR

PRESENTATION OF FINDINGS, INTERPRETATION AND DISCUSSION

4.1 Introduction

This chapter presents the findings, interpretation and discussions according to the objectives of the study.

4.2 General and Demographic Information

4.2.1 Response Rate

This refers to the number of duly filed questionnaires from the total number of questionnaires distributed. Neuman, (2014) states that a response rate of less than 50% is poor, and that greater than 90% is excellent. The response rate for this study is as illustrated in table 4.1.

Table 4.1: Response Rate

<table>
<thead>
<tr>
<th>Response rate</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administered</td>
<td>27</td>
<td>100 %</td>
</tr>
<tr>
<td>Response</td>
<td>22</td>
<td>81%</td>
</tr>
</tbody>
</table>

(Source: Research data 2020)

A total of 27 questionnaires were distributed, 22 were returned duly filed. This translates to 81% response rate. The initial sample size was 26 respondents as per table 3.0, however at the time of collecting data, there was an increase in number of the registry staff who are stationed in the registry and who participated in the study.
4.2.2 Demographic Data

Demographic data was obtained from the registry personnel who directly deal with records from the registries. The demographic data was collected to establish various characteristics of their profiles. The characteristics sought in the study are the respondents’ age bracket, years of working experience and the highest level of education.

4.2.2.1: Years of Experience.

The study sought to establish the years of experience of the judges and deputy registrar and the executive officers, records officer and registry staff. The years of experience are important to show how long they have been at the judiciary and whether they were in office during the rolling out and implementation of the high court registry and operation manual for the management of court records. The findings are as presented in table 4.2
Table 4.2: Years of Experience for the technical and administrative bench

<table>
<thead>
<tr>
<th>Years of experience</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 5</td>
<td>2</td>
<td>9%</td>
</tr>
<tr>
<td>5-9</td>
<td>6</td>
<td>27%</td>
</tr>
<tr>
<td>10-14</td>
<td>8</td>
<td>36%</td>
</tr>
<tr>
<td>15-20</td>
<td>4</td>
<td>18%</td>
</tr>
<tr>
<td>20 and above</td>
<td>2</td>
<td>9%</td>
</tr>
<tr>
<td>Total</td>
<td>22</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

From a total of 22 questionnaires, 8 (36%) of the respondents, who are the majority, have over 10 years of experience. There are 2 (9%) respondents who have the least years of experience which is below 5 years. This indicates that the staff at the Eldoret high court registry, were present during the execution of the new records management policies and guidelines. They are therefore conversant with the records management procedures and policies that were implemented in 2013 and use those guidelines in daily registry operations to date.

4.2.3: Age

The study sought to find out the age distribution among the respondents. The findings are as illustrated in table 4.3
Table 4.3: Age Bracket for the technical and administrative bench

<table>
<thead>
<tr>
<th>Age bracket</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>20-30</td>
<td>2</td>
<td>9%</td>
</tr>
<tr>
<td>31-40</td>
<td>2</td>
<td>9%</td>
</tr>
<tr>
<td>41-50</td>
<td>3</td>
<td>14%</td>
</tr>
<tr>
<td>51-60</td>
<td>6</td>
<td>27%</td>
</tr>
<tr>
<td>60 and above</td>
<td>9</td>
<td>41%</td>
</tr>
<tr>
<td>Total</td>
<td>22</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

According to the findings, 9 (41%) respondents in the over 60 year age bracket are the majority, while the respondents 2(9%) in the 20-30 and 31-40 age bracket are the minority. The age of the respondents is of significance because the age of an individual influences some of the responses.

4.2.4: Level of Education

The study sought to find out the level of education for the registry personnel, executive assistance and records officer/archivist and the findings are as illustrated in table 4.4.
Table 4.4: Level of Education for the Records Officers, Registry Officers and Executive Assistants

<table>
<thead>
<tr>
<th>Highest education level</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diploma</td>
<td>8</td>
<td>62%</td>
</tr>
<tr>
<td>Degree</td>
<td>3</td>
<td>23%</td>
</tr>
<tr>
<td>Post-graduate</td>
<td>2</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: Research data 2020)

According to the findings, most 8 (62%) of the registry personnel, who deal with court records have diploma level qualifications. These basic qualifications are an indicator; that they have knowledge and training on handling records from creating, organizing, maintaining and use to disposing of the court records as outlined in the Records Disposal Act, Cap 14. The basic knowledge and skills in handling RM practices is a mandatory requirement to work in a records management unit. They therefore comprehend registry operations in terms of creation, maintenance and use of current records and disposition of non-current records.

4.3 Policies and Procedures in Records Management

The first objective of the study was to assess the policies and procedures in place to assist in managing the Eldoret high court records. This includes records management practices, records management programs, case backlogs and missing files.
4.3.1 Records Management Practices

The study sought to find out if there were changes in records management practices with the adoption of the high court registry manual and the findings are shown in the figure 4.1. The respondents here were the judges and the assistant registrar who are part of the technical bench.

![High court manual use](image)

**Figure 4.1: Improvement of Records Management Practices Using High Court Registry Operation Manual**

(Source: research data 2020)

67% of the respondents stated that the high court registry operation manual improved records management practices while (33%) were of the contrary opinion. This indicates that the high court registry operation manual meets the objectives which it was intended to fulfill upon implementation at the judiciary registries. The objectives of the high court registry and operation
manual were to provide standardized procedures in the courts countrywide; ensure there is uniformity in serving customers in all registries; while achieving greater efficacy in registry duties; achieving clear definition of roles of registry staff and enhancing accountability; inducting of new employees on procedures and processes at the registries (Judiciary, 2013: 8).

4.3.2 Records Management Program

The study further sought to establish if there is a records management program in place at the Eldoret high court registry and to what extent does the records management program meet the organizations objectives and the benefits of the records management program to the judiciary. The results are as shown in figure 4.2, table 4.7 and table 4.8.

![Records Management Program Chart]

**Figure 4.2: Records Management Program**

(Source: research data 2020)

From the findings of the study, 6 (67%) of the respondents indicated that they have a records management program in place, while a 3 (33%) of the respondents stated that a RM program is
not in place. A records management program in the Eldoret high court registry gives guidelines for the staff in the organization on how records should be managed. OSU, (2020) further supports this by stating that a records management program is an extensive set of policies and procedures to manage the records in organization. It includes six fundamental elements which are records classification and inventory; retention scheduling based on their value; storage of records and their conversion; vital records; disaster prevention and recovery and disposition.

The study also sought to establish if the RM program helps to achieve the Judiciary’s mission, vision and core values and the results are as presented in table 4.5.

Table 4.5: Records Management Program in the Attainment of the Judiciary’s Vision, Mission and Core Values

<table>
<thead>
<tr>
<th>Attain vision, mission</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>6</td>
<td>67%</td>
</tr>
<tr>
<td>No</td>
<td>3</td>
<td>33%</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

According to the findings, 6 (67%) of the respondents agreed with the statement that RM program facilitates the attainment of vision, mission and core values, while 3 (33%) disagreed with the statement. A records management program fosters accountability and accessibility, through the guidelines provided on records management practices such as access to records and
handling of records. This is in accordance with the mission of the judiciary which is to uphold the rule of law in a timely, fair, accessible and accountable manner.

The study also sought to establish how a records management program is of benefit to the judges and deputy registrar. The findings are as illustrated in table 4.6.

Table 4.6: Benefits of the Records Management Program

<table>
<thead>
<tr>
<th>Benefits</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enhances management of records</td>
<td>6</td>
<td>67%</td>
</tr>
<tr>
<td>Facilitates disposal of records</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>Provides the necessary guidelines</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Enhances accountability</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

The findings indicates that 6 (67%) of the respondents stated that the benefits of a records management program are enhancing management of records, 2 (22%) of the respondents stated that facilitating the disposal of records and while 1(11%) respondent stated enhancing accountability as a benefit of the records management program. This is in line with Smith
(2007), stating that a records management program should have goals and roles that are clearly defined, and have organizational support to ensure its’ effectiveness.

4.3.3 Backlog of Cases

The study also sought to find out if the judges and deputy registrars have experienced backlog of cases at the Eldoret high court and the causes of the backlogs. The findings are illustrated in table 4.7 and table 4.8.

**Table 4.7: Backlog of Cases**

<table>
<thead>
<tr>
<th>Backlogs</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>9</td>
<td>100%</td>
</tr>
<tr>
<td>No</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

The findings indicate that, all the 9 (100%) respondents stated they have experienced backlogs of cases.

The study sought to establish the factors attributed to case backlogs, the results are as shown in table 4.8.
Table 4.8: Factors Responsible for Case Backlogs

<table>
<thead>
<tr>
<th>Case backlogs causes</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inadequate expertise of the records staff</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Inadequate records staff</td>
<td>4</td>
<td>44%</td>
</tr>
<tr>
<td>Poor management of records</td>
<td>4</td>
<td>44%</td>
</tr>
<tr>
<td>Inadequate tools and equipment</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020).

The findings of the study indicate 4 (44%) stated that inadequate staff, 1 (11%) inadequate expertise of the records staff, 4 (44%) poor management of records as the reasons that contributes to backlog of cases. This is in line with Maseh (2015), that stated that backlogs are attributed to inadequate judicial staff, inadequate use of ICT and poor records management. This indicates that poor records management and inadequate staff are major causes of case backlogs.
4.3.4 Missing Files

The study sought to find out if the challenge of missing files is prevalent in the judiciary, the frequency of the occurrence and the causes of missing files. The findings are as presented in table 4.9, table 4.10 and table 4.11.

Table 4.9: Missing Files

<table>
<thead>
<tr>
<th>Missing files</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>8</td>
<td>89%</td>
</tr>
<tr>
<td>No</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

From the findings, majority 8 (89%) of the 9 respondents stated that they have encountered the issue of missing files while 1 (11%) respondent said they have not. Missing files hinder delivery of justice, since for justice to be delivered the records pertaining to a case must be accurate and complete. This therefore leads to backlogs of cases.
Table 4.10: Frequency of Missing Files

<table>
<thead>
<tr>
<th>Frequency of missing files</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very often</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>Often</td>
<td>5</td>
<td>56%</td>
</tr>
<tr>
<td>Rarely</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Once in a while</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

To provide more insight on the issue of missing files, the study sought to establish the frequency of missing files. According to the findings, 5 (56%) of the respondents stated that the frequency of missing files is often, 2 (22%) of the respondents stated very often, 1 (11%) respondent stated they rarely have an occurrence of missing files, another respondent 1 (11%) stated it occurs once in a while. This is attributed to poor records management practices that do not foster accountability and transparency in records management.

The study also sought to establish the causes of missing files; the responses are illustrated in table 4.11

47
Table 4.11: Causes of Missing Files

<table>
<thead>
<tr>
<th>Causes of missing files</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor records management</td>
<td>4</td>
<td>45%</td>
</tr>
<tr>
<td>Inadequate records management personnel</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Poorly trained records management personnel</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Absence of records management policies and guidelines</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>Lack of proper storage equipment</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Reliance on manual records management strategies</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

According to the findings of the study, 4 (44%) of the respondents attributed poor records management as the major cause for missing files. Other respondents 2 (22%), stated indicate that absence records management policies and guidelines; 1 (11%) respondent stated that inadequate
records personnel; poorly trained records management personnel was another reason cited by 1 (11%) respondent and lack of proper storage equipment by another respondent 1(11%). The absence of records management procedures and policies (22%), leads to a situation where, there is absence clearly defined roles and responsibilities of the records personnel in handling of the court records.

4.3.5 Management of Records at the Judiciary

The respondents were asked to state the management of records ratings in the judiciary and the factors contributing to the current state of records at the judiciary. The results are presented in the table 4.12 and in table 4.13.

Table 4.12: Records Management Ratings in the Judiciary

<table>
<thead>
<tr>
<th>Ratings</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very good</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Good</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>Fair</td>
<td>3</td>
<td>33%</td>
</tr>
<tr>
<td>Poor</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>Very poor</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)
Based on the findings, from the 9 respondents, 3 (33%) of the respondents stated that the records management processes were fair, 2 (22%) of the responses indicated records management processes were good. The other 4 responses were poor 2 (22%), very good 1 (11%) and very poor 1(11%). This indicates that the records management practices in place, are not satisfactory to the users of the records in the dispensation of justice.

The respondents were requested to give the contributing factors to the current state of records management in the judiciary, and the results are presented in table 4.13.

**Table 4.13: Factors Contributing to the Present State of Court Records**

<table>
<thead>
<tr>
<th>Present state of the court records management</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of records management policy</td>
<td>5</td>
<td>56%</td>
</tr>
<tr>
<td>Inadequate funding</td>
<td>2</td>
<td>22%</td>
</tr>
<tr>
<td>Inadequate trained records staff</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Inappropriate supplies and equipment</td>
<td>1</td>
<td>11%</td>
</tr>
<tr>
<td>Total</td>
<td>9</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)
Based on the findings of the study, the factors that contribute to the present state of records from the 9 respondents are the lack of a records management policy 5(56%); inadequate funding 2(22%); inadequately trained records staff 1(11%); lack of adequate supplies and equipment 1(11%).

Despite the introduction of the high court registry and operation manual, the administrative unit personnel stated that there was lack of a records management policy. The high court registry operation manual gives guidelines on the management and standardization of records management policies. This indicates that the guidelines outlined in the high court registry operation manual were not strictly adhered to. Inadequate funding was another factor that was attributed to the current state of records in the judiciary. Funding facilitates the adoption of ICT which enhances service delivery. The use of ICT ensures records captured electronically from the creation phase, through to the use and maintenance phase to their disposition. This ensures transparency and accountability. The records are complete and eliminate human error, which in turn ensures the integrity of records. Access to adequate funding will facilitate hiring of more trained personnel, to manage the records management processes.

4.4 Organization of Court Records

The second objective of the study sought to assess the organization of court records at the Eldoret high court. Organizing records enhances business efficiency, accountability and adherence to required legislation.
4.4.1 Classification Scheme

The study sought to establish if the registry has a classification scheme for the court records; the classification scheme in use; training on use of the classification scheme and the ease of retrieval. The findings are presented in figure 4.3, figure 4.4, table 4.13 and table 4.14. This question was asked to the executive assistants, registry staff and archivist.

The findings indicate that 12 (92%) of them stated that a classification scheme is in place, while 1 (8%) respondent stated that a scheme is not in place. A classification scheme at the Eldoret high court registry of paramount importance since it facilitates the retrieval of court files at the registry. This enhances the ease of access to the files.

Figure 4.3: Classification Scheme

(Source: research data 2020)

The respondents were asked to state which classification scheme was in use. The findings are as presented in figure 4.4.
According to the findings of this study, 9 (69%) of the respondents indicate that that numeric classification scheme is the mostly adopted, while the 4 (31%) of the respondents stated the alphanumeric scheme is in use. A classification scheme plays the vital role in storage and retrieval of the court files at the registry. According to the Judiciary (2013: 23) files are classified systematically according to the types of cases in court. They should filed in alphanumerical order eg. HCCC 310/2020, the numerical portion denoting the case number and year filed. This shows that an alphanumeric classification scheme is the system of coding files that is set out in the guidelines. This contradicts with the findings of this study that state the numeric scheme is the scheme most adopted.

Figure 4.4: Classification Scheme in Use
(Source: research data 2020)
Open responses from 4 of the respondents (appendix II, part B, question 2) were grouped and coded as alphanumeric, subject and chronologically. The findings are as illustrated in table 4.14

**Table 4.14: Open responses on classification scheme in use**

<table>
<thead>
<tr>
<th>Response code</th>
<th>Answer</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Alphanumeric</td>
<td>2</td>
<td>15%</td>
</tr>
<tr>
<td>2</td>
<td>Subject</td>
<td>1</td>
<td>8%</td>
</tr>
<tr>
<td>3</td>
<td>Chronologically</td>
<td>1</td>
<td>8%</td>
</tr>
<tr>
<td>4</td>
<td>Did not answer</td>
<td>9</td>
<td>69%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

From the 4 respondents, 2(15%) of the respondents stated “**alphanumeric classification scheme was used**” 1(8%) of the respondents stated that “**colour coding per subject case, was the method used for retrieval of their files**.” the other 1(8%) respondent stated that “**files were filed according to dates.**” This indicates that there is a system in place for storage and retrieval of the court records.

The study also sought to establish training offered by the judiciary on the use of the classification and the findings are presented in table 4.14.
Table 4.14: Training on Use of the Classification Scheme

<table>
<thead>
<tr>
<th>Classification scheme training</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>9</td>
<td>69%</td>
</tr>
<tr>
<td>No</td>
<td>4</td>
<td>31%</td>
</tr>
<tr>
<td>Total</td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

The findings showed that 9 (69%) of the respondents had training on the use of the classification and coding system in use, while 4 (31%) stated they did not receive training. It is good practice to train records management personnel on the classification scheme in use. This gives the personnel an understanding of the filing system in place, and why it is relevant to that particular organization. Training helps the staff create new records at ease since they understand the hierarchy of the records coding system.

The respondents were asked on the effectiveness of the classification scheme for court records retrieval and the findings are presented in the table 4.15.
Table 4.15: Ease of Retrieval with Classification Scheme

<table>
<thead>
<tr>
<th>Ease retrieval</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>8</td>
<td>62%</td>
</tr>
<tr>
<td>No</td>
<td>4</td>
<td>30%</td>
</tr>
<tr>
<td>No response</td>
<td>1</td>
<td>8%</td>
</tr>
<tr>
<td>Total</td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

Based on the findings from the study, 8 (62%) of the respondents stated that there was ease of retrieval of records with a classification scheme, while 3 (30%) of them disagreed with the statement. A classification scheme provided the registry staff with a system for naming files, arranging and storing them. This makes the retrieval of requested files easy, in that files are located in using a system that is not time consuming. These findings agree with the study by Motsaathebe and Mnjama (2007) which stated that since there are different ways of documents and records classification, it should be done to facilitate standardization of storage and ease of retrieval of information at the records management unit.

4.4.2 Requisition of Court Records

The study sought to establish the process of requisition of court records and the measures put in place to trace and reconstruct missing files. The findings from open responses are coded and presented in the table 4.16 and table 4.17 (Appendix II, part B, question 11 & 12).
Table 4.1: Requisition of Court Records

<table>
<thead>
<tr>
<th>Response code</th>
<th>Answer</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Filling of a requisition form</td>
<td>7</td>
<td>54%</td>
</tr>
<tr>
<td>2</td>
<td>Through a letter</td>
<td>4</td>
<td>31%</td>
</tr>
<tr>
<td>3</td>
<td>No response</td>
<td>2</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

The findings show that 7 (54%) of the respondents stated that the process of borrowing files from the registry starts with filling a requisition form, while the other 4 (31%) respondents stated they requisitioned files through a letter. This indicates there is accountability of the files that are removed from the registry, and the person responsible. It also shows that regardless of the method selected in the requisition of files, permission must be granted by an authority. This is a measure to ensure security of the records at the Eldoret High court registry.

The study further sought to establish the steps taken in tracing and reconstruction of the missing files (Appendix II, part B question 12) at the Eldoret high court registry and the findings are presented in table 4.16. The findings were open responses and were grouped as presented in table 4.17.
Table 4.17: Tracing and Reconstruction of Missing Files

<table>
<thead>
<tr>
<th>Response code</th>
<th>Answer</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Certificate of loss: A certificate of loss is issued to the parties, and application for reconstruction is filed by the advocate/parties</td>
<td>4</td>
<td>31%</td>
</tr>
<tr>
<td>2</td>
<td>Reporting the lost file: Notification that the file is missing and an application for reconstruction is made</td>
<td>2</td>
<td>15%</td>
</tr>
<tr>
<td>3</td>
<td>Temporary file: A skeleton is opened once it has been reported to the judge missing</td>
<td>3</td>
<td>23%</td>
</tr>
<tr>
<td>4</td>
<td>Authorization: The person in charge gives direction on what to do</td>
<td>2</td>
<td>15%</td>
</tr>
<tr>
<td>5</td>
<td>No response</td>
<td>2</td>
<td>15%</td>
</tr>
</tbody>
</table>
The findings show that, “a certificate of loss is issued when tracing and reconstructing missing files,” this was the response from 4 (31%) of the respondents. The other 2 (15%) respondents stated they reported a file was lost. The 3 (23%) also stated they take steps necessary and open a skeleton file once it has been reported to the judge as missing. A skeleton file is opened for use to ensure normalcy of business processes returns immediately. The other 2 (15%) of the respondents stated that a notification that the file is missing and application for reconstruction is made. Another measure in the reconstruction of missing files is that the person in charge gives direction on what to do (15%). The issue of missing files is a challenge for the court registries. The reconstruction of missing files provides an alternative and a working file in the event of loss or the file is misplaced at the Eldoret high court registry.

This is not in line with the steps outlined in the high court registry operation manual in tracing missing files. The steps outlined state that when a file is reported as missing, the registry supervisor should first consult the file movement register and identify the person in possession a file as recorded in the register. The individual in possession of the missing file, is instructed to trace the file prior to opening a skeleton file and being issued with a certificate of loss (Judiciary 2013:25)
4.4.3 Movement of Files and File Tracking Systems

The study sought establish if the registry had a file tracking system for tracking borrowed files which are not in the registry and which tracking system was adopted. The findings are presented in table 4.18, table 4.19 and table 4.20.

Table 4.18: Registry Tracking System

<table>
<thead>
<tr>
<th>Tracking system</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>9</td>
<td>69%</td>
</tr>
<tr>
<td>No</td>
<td>4</td>
<td>31%</td>
</tr>
<tr>
<td>Total</td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

The findings indicate that, 9 (69%) of the respondents stated that there is a file tracking system, while 4 (31%) respondents stated a tracking system is not in use. This means that the registry has a system of monitoring the physical location of the files which are in use and have not been returned to the registry. In support of this IRMT (1999), states that tracking systems are of much importance in registries. This is because they facilitate the physical monitoring of the use of records, controls the issuance of documents and records their transfer between persons and storage.
Table 4.19: Availability of File Movement Register

<table>
<thead>
<tr>
<th>File movement register</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>12</td>
<td>92%</td>
</tr>
<tr>
<td>No</td>
<td>1</td>
<td>8%</td>
</tr>
<tr>
<td>Total</td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

According to the findings of this study, 12 (92%) of the 13 respondents stated that there was file movement register while 1 (8%) respondent stated none was in place. The file movement register enables the registry personnel to know the location of files requested at all times. It ensures there is control and accountability in the circulation of the records. The details of who is in possession or has requisitioned specific files are recorded before a file leaves the records management unit.
Table 4.20: Responses on How Often the File Movement Register is Updated

<table>
<thead>
<tr>
<th>Response code</th>
<th>Answer</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Daily</td>
<td>6</td>
<td>46%</td>
</tr>
<tr>
<td>2</td>
<td>Everytime the file is moved from the registry</td>
<td>6</td>
<td>46%</td>
</tr>
<tr>
<td>3</td>
<td>Often</td>
<td>1</td>
<td>8%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>13</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

(Source: research data 2020).

The findings indicate that, 6(46%) stated the frequency in which a file register is updated is daily , 6(46%) respondents stated that every time the file is moved from the registry and 1(8%) respondent stated the is updated often. A file movement register should always be updated when a file is requisitioned from the registry. This ensures accountability since the file can be traced at all times.

**4.4.4 Access and Security of Records**

The study sought to find out the various security measures in place to safeguard the safety of the court records. The findings are as presented in table 4.21, table 4.22 and table 4.23, data is derived from Appendix II, part B, question 9 & 10.
The respondents were queried on the different personnel and their levels of access to the court records at the registry and the open responses are coded and captured in table 4.21. The responses are coded into authorized personnel and unauthorized personnel.

**Table 4.21: Access to Court records**

<table>
<thead>
<tr>
<th>Response code</th>
<th>Answer</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Authorized personnel: <em>All Registry staff/ registry staff only</em></td>
<td>8</td>
<td>63%</td>
</tr>
<tr>
<td>2</td>
<td>Unauthorised personnel: <em>Parties who are in the matter/their advocates and registry staff</em></td>
<td>5</td>
<td>37%</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>13</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

(Source: research data 2020)

The findings of this study on access to the court records indicate that, access is granted to authorized personnel, this is as per the responses from 8(63%) of the respondents. The open responses stated “*all the registry staff*”. The other 5(37%) respondents stated unauthorized personnel with permission can access the court records. The open responses stated “*parties who*
are in the matter/their advocates and registry staff.” This indicates that there is restricted access to the registry, which is a measure to ensure security of records from loss or mutilation.

Table 4.22: Measures to Deter Unauthorized Access

<table>
<thead>
<tr>
<th>Response code</th>
<th>Answer</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Physical security</td>
<td>11</td>
<td>85%</td>
</tr>
<tr>
<td>2</td>
<td>Intellectual security</td>
<td>2</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

The open responses from the questionnaire asking on the measures taken to deter unauthorized access, are coded into either as physical security or intellectual security. The responses that were coded under physical security, 8 responses from the registry personnel stated “ensuring safe custody of documents under lock and key.” Two respondents stated “they served the users with documents over the counter”. Another respondent stated “there was a notice on the door restricting entry to unauthorized personnel.”

On intellectual security the responses were two and stated as follows “one has to seek authorization” and the other response was “there is limited or restricted access to the registry.”

In support of these findings, National Archives (2016), states that records storage areas must be lockable with restricted access. Information security should be ensured by protecting the registries from unauthorized access. Physical and information security are ensured by having
lockable storage and locked when not in use; control and monitoring to access and storage areas; items should only be removed with permission of those responsible of care of registries; records tracking tools when items are removed from the registry; a register of records borrowed and returned should be kept; separate space for use and viewing archives the archives where possible.

The respondents were further queried on the strategies implemented in ensuring the safety of files at the Eldoret high court registry. The findings are coded as shown in the figure 4.23.
Table 4.23: Ensuring Safety of Files at the Registry

<table>
<thead>
<tr>
<th>Response code</th>
<th>Responses</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Physical security: <em>locking of doors</em></td>
<td>5</td>
<td>39%</td>
</tr>
<tr>
<td>2</td>
<td>Restricted access: <em>only staff allowed entry</em></td>
<td>2</td>
<td>15%</td>
</tr>
<tr>
<td>3</td>
<td>Information security: <em>serve clients at the counter, perusal of files by advocates under supervision, have a file movement register.</em></td>
<td>1</td>
<td>8%</td>
</tr>
<tr>
<td>4</td>
<td>Installation of CCTV cameras outside storage area, ensuring files are stored in shelves</td>
<td>5</td>
<td>39%</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

The findings of the study indicate that, 5(39%) of the respondents stated that keeping registries locked and the installations of surveillance cameras from other 5(39%) respondents are the key measures taken to ensure files stored at the registry are safe. The other measures used to ensure
safety of files stored in the registry are restricting access by 2 (15%) and use of the records in the registry under supervision by 1 (8%). The Eldoret high court registry has therefore put measures in place to ensure the records accommodated at the registry are secure. This is in line with Smallwood (2014:26), that states that information security should ensure measures are implemented to protect information from damage, theft and mutilation from disgruntled insiders and outsiders.

4.5 Disposal of Court Records

The third objective of the study was to assess the disposal procedures for the Eldoret high court records. The disposal of court records guidelines are outlined in Cap 14, of the Kenyan constitution 2010. The study sought to establish how conversant the respondents are with the Records disposal act, cap 14. The findings are presented in table 4.24.

<table>
<thead>
<tr>
<th>Conversant with records disposal</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>7</td>
<td>54%</td>
</tr>
<tr>
<td>No</td>
<td>6</td>
<td>46%</td>
</tr>
<tr>
<td>Total</td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)
Based on the findings, 7(54%) of the respondents stated that they are conversant with the Records Disposal Act while 6(46%) of the respondents are not conversant with the records disposal act. The records disposal act provides the legislation on how court records should be disposed. It also outlines, the retention period for records prior to their disposition either by preservation or destruction. This is an indication that registry staffs at the Eldoret high court registry have knowledge of the disposition of records. This includes the criteria to use in retention of the court records and guidelines to follow in the disposition of court records.

The responses from the open ended questions indicate that, 15% of the respondents stated that the records are transferred to the archives, they then arrange for disposal. This exercise is done by the archivist.

4.5.1 Records Survey

The respondents were asked how often records survey was conducted, and the findings are as presented in figure 4.5.
Based on the findings of the study, records surveys are rarely carried out as stated by 6(46%) of the respondents; or it is carried out upon request to dispose records as from 2(15%) responses; records survey is also based on cap 14 guidelines was stated by 2(15%) of the respondents while 3(23%) of the respondents stated they did not know how often the exercise was carried out. Records survey is rarely carried out at the Eldoret high court registry. This differs from the findings (Millar, 2012) which states that the records survey exercise involves the gathering of basic information regarding the quantity, rate of accumulation, physical form and type, physical condition, location, accommodation facilities, uses and similar data about the records of an organization. The data collected from the records survey assists the court to make plans on accommodation of records, retention periods necessary for records in the Eldoret high court registry.

4.6 Accountability Procedures of Court Records

The fourth objective of this study was to establish compliance and accountability procedures implemented in managing court records. The high court registry operation manual gives guidelines on various records management practices for all courts in Kenya. The accountability procedures studied at the Eldoret High Court are file audits stored in various areas.

The study sought to establish how often audit on the files was conducted and the areas assessed during the audit of files exercise. The findings are as illustrated in table 4.24 and table 4.25.
Table 4.24: File Audits

<table>
<thead>
<tr>
<th>File audit conducted</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rarely</td>
<td>10</td>
<td>77%</td>
</tr>
<tr>
<td>Weekly</td>
<td>1</td>
<td>8%</td>
</tr>
<tr>
<td>Once in a while</td>
<td>2</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td>13</td>
<td>100%</td>
</tr>
</tbody>
</table>

(Source: research data 2020)

According to the findings of the study, 10(77%) of the respondents stated that file audits are rarely conducted, 1(8%) of the respondents stated that they are conducted weekly while 2(15%) of the respondents stated that the exercise is conducted once in a while. Records audit are conducted to assess and ensure records management activities correspond with the organization’s records management program and compliance to legislation and standards in RM. The findings of the study do not correspond with the guidelines stated in (Judiciary 2013:25), which states that file audits should be conducted regularly to ensure the framework set out in case management timelines are met. This exercise should be carried out at the registries monthly. According to Smallwood (2014), monitoring for compliance can be carried out by RM personnel, organization internal auditors or external auditing firms and must conducted on a regularly. This statement is also in contrast to the findings of the study.

The respondents were asked which areas were reviewed during the file audit process and the findings are as presented in table 4.25.
According to the findings, 7(54%) of the respondents stated that file audit exercise is carried out to assess the location of the files not in the registry, 4(31%) to trace missing files in the registry, and 2(15%) to reveal the physical state of the files. The Eldoret high court registry, through the file audit exercise should be able to assess the current state of the records it holds. The parameters used to assess where the files are located during the file audits are tracing the location of the files that are not in the registry and the physical condition of the files (whether they are in good condition or require repairs). Smallwood (2013:30), states that audit processes must be developed to objectively cover the scope of RM within the organization. And to ensure accountability issues and challenges are identified and remedied. He further states that audit should contribute to records program mitigation of risks and governance issues. This statement contradicts the findings since audit is mainly carried out only to assess the location of missing files.
CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter presents a summary of the research findings, conclusions and recommendations. The study sought to assess the effectiveness of the records management practices at the Eldoret High Court. The objectives of the study were to assess the policies and procedures in the management of Eldoret High Court records; to assess the policies and procedures in place in the management of Eldoret High Court records; to assess the organization of records at Eldoret High Court in according to the Generally Accepted Records Principles (GARP) guidelines; to assess the disposal procedures for the Eldoret High Court records according to GARP on disposition; to establish compliance and accountability procedures implemented in managing court records against the Generally Accepted Records Principles (GARP) guidelines.

5.2 Summary

5.2.1 Policies and procedures in records management

The adoption of the high court registry and operation manual improved the records management practices at the Eldoret high court registries by providing standard guidelines to serve users in court registries.

The Eldoret high court registry has records management program in place. The records management program helped attain the Judiciary mission, vision and core values. The records
management program has majorly enhanced the how the records are managed, facilitated the disposal of records and enhanced accountability.

The issue of backlog of cases has been experienced by all the judges. There are various factors that were attributed to the backlogs of cases and these were lack of skilled staff, lack of sufficient records staff and poor records management practices.

The Eldoret high court faced the challenge of missing files. The major cause of this was poor records management. Other factors attributed to the cause of missing files were inadequate records personnel; inadequate training of the records personnel; the absence of records management guidelines and policies and also the lack of good storage equipment.

The current state of records at the Eldoret high court is attributed to the absence of records management policy, insufficient funding, lack of competence in the records staff, inappropriate supplies and equipment.

5.2.2 Organization of court records

The Eldoret high court registry has a records classification scheme in place. The court registry adopted numeric, alphanumeric, chronological and subject filing coding systems. This contradicts the guidelines given by the high court registry operation manual that the alphanumeric classification scheme should be in use. The staff was offered training on the classification system in use to enable them in the managing records in the organization such as creation of records, adding new correspondences to files and guidelines on storage and retrieval of court files. The availability of a classification scheme also facilitated ease of retrieval of court records for the registry staff.
The court records are requisitioned through various ways such as filling of a requisition form or through a letter. In the event that a file is reported missing, various set guidelines are followed to trace and reconstruct a missing file at the Eldoret high court. The guidelines stated are to issue a certificate of loss to the parties which involved in filing an application by advocates and parties; notification (to an authority) that the file is missing and application for reconstruction is made; a skeleton is opened once it has been reported to the judge missing; the person in charge of the registry gives direction on what to do.

There are records tracking tools in place at the Eldoret high court registry, particularly the file movement register. It is updated either daily or every time the file is removed from the registry.

The security of records is ensured through physical security such as ensuring the locking of doors where the files are kept and the installation of CCTV cameras outside storage area; restricting access to the registries; ensuring there is information security through monitoring the perusal of files by advocates under supervision and closed access to the files. There are various measures taken to deter unauthorized access at the high court registry they include are restricting access to court records in that only the registry staff and parties involved in a specific case, keeping the registry locked at all times.

5.2.3 Disposal of court records

From the findings, most of the registry personnel are conversant with Records Disposal Act, Cap 14 which gives guidelines on records retention and disposal. The records survey exercise are rarely carried out and done by the archivist.
5.2.4 Accountability procedures of court records

Audit on the files is rarely conducted at the Eldoret high court registry. The issues under review are the location of files not in the registry, the physical state of files and tracing the missing files.

5.3 Conclusions

The study sought to assess the effectiveness of the records management practices in place at the Eldoret High Court. The Judiciary had launched a High Court registry operation manual to facilitate smooth running of the records management practices to alleviate issues of missing and incomplete files, backlogs of cases and speed up the justice delivery. Effective and efficient records management practices aid the judiciary to achieve its core values, vision and mission.

The Eldoret High Court follows some of the guidelines laid out in the high court registry operation manual. The GARP on transparency provides the measure on RM policies and procedures. There should well be documented record keeping processes and must be readily accessible to employees. The employees must understand their specific roles and responsibilities in the handling of records. The policies and procedures in place, have met the basic requirements in line with the GARP of transparency.

The findings of the study indicate that, the organization of records does not fully meet the requirements of records management based on the GARP of integrity and availability. The GARP principles of integrity and availability have put emphasis on the completeness of a record and effective retrieval and storage of records respectively. Despite, having a records classification scheme, security measures to deter unauthorized access and registry tracking
systems for accountability purposes, the issues of missing, misplaced and incomplete files at the Eldoret high court registry are still prevalent.

The GARP on retention and disposition provides guidelines on how long records should be kept and the metrics for determining the value of records respectively. The disposal of records at the Eldoret high court registry is left entirely to the archivist. The other records management staff are not conversant with the guidelines laid out in Cap 14 (Records Disposal Act) and therefore do not carry out the records survey exercise. This has led to the records survey exercise, which is carried out prior to disposal of records, being omitted thus leading to unnecessary retention of records, some of which their value has elapsed. The records management practices in place meets the basic principles of retention and disposition.

From the findings, file audits are rarely conducted, but when they are they are carried out to assess missing files from the registry, where the records not are the registry are located and the physical state of the files. The principle of accountability provides guidelines on inclusion of senior management in the records management processes to ensure they are implemented across the whole organization. The principle of compliance gives guidelines on monitoring for compliance various branches of records management such as records audits, proper creation of records, implementation of user permissions and procedures and authorization for disposition. The Eldoret high court registry meets the requirements of compliance.

5.4 Recommendations

The recommendations are touching on various records management issues.
5.4.1 Policy recommendations

i. There should be use of ICT in the records management and should be adopted in the phases of the records continuum, at the court, to enhance availability and access long-term. This is through the implementation of electronic-case management where the records will be filed electronically. This will help curb the issue of missing files since records from creation will be captured in a court management information system (CIMS). Electronic case management will also help in identifying and streamlining the issue of backlog of cases. This is because the system identifies pending cases and schedules them for hearing.

ii. The management should provide a standardized procedure for the tracing and reconstruction of missing files, to avoid having duplicate ‘skeleton’ files for a single case.

iii. Records survey should be scheduled regularly to plan for accommodation and retention periods for all court records. This will ensure that only the necessary records are retained thus creating the necessary space for the files in current use.

iv. File audits should be conducted regularly not only when the location of a file cannot be traced. File audits should be carried out to ensure case management timelines are met. This will aid to reduce the issue of backlog of cases.

5.4.2 Recommendations for further research

The study’s scope was mainly on manual records management practices at court registry; it is recommended that further research should be done on adoption of ICT in records management at
the judiciary from the creation of records to the disposition. This will help curb the issue of missing files and backlogs of cases.
REFERENCES


Ntombizandile, V. M. (2014). The Management of Court Records in a Magistrate Court: a Case of MiddleRift Magistrate Court, Eastern Cape. Fort Hare: UFH.


APPENDIX I: QUESTIONNAIRE FOR THE JUDGES AND DEPUTY REGISTRAR.

INSTRUCTIONS: PLEASE TICK WHERE APPROPRIATE

A. BACKGROUND INFORMATION

1. Years of experience at the High Court (Please tick)

| 5-10 | 11-15 | 16-20 | 20 and above |

2. Age (Please indicate your age bracket)

| 25-35 | 36-45 | 46-55 | 56 and above |

B. POLICIES AND PROCEDURES IN RECORDS MANAGEMENT

1. Do you think the High Court Registry Operation Manual initiated in 2012, by the former Chief Justice improved the records management practices in the Judiciary?

[ ] Yes
[ ] No

Please explain the option you have selected for each of the above answer

........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

2. Does the Judiciary have a Records Management Program for the management of court records?

Yes [ ] No [ ]

3. In your assessment, does the Records Management Program contribute to the attainment of the Judiciary’s mission, vision and core values?

Yes [ ] No [ ]

For each of the above, please explain....................................................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

4. How do you think the Records Management Program contributes to the Judiciary attaining its mission, vision and core values (choose as many as they apply)

[ ] Enhancing management of records
Facilitating the disposal of records

Providing the necessary

Enhancing accountability

Others, please explain

5. In your current situation, do you think the Judiciary experiences case backlogs?

[ ] Yes   [ ] No

If you selected the option yes, for the above question, please explain,

6. Which factors do you think are responsible for the case backlogs? [choose as many as may apply]

[ ] Inadequate expertise of the records staff
[ ] Inadequate records staff

[ ] Poor records management

[ ] Inadequate tools and equipment

[ ] Others (please explain)

.................................................................
.................................................................
.................................................................
.................................................................

7. Is missing files a common occurrence as you deliver your judicial services?

[ ] Yes

[ ] No

If yes how often do you experience this?

[ ] Very Often

[ ] Often

[ ] Rarely

[ ] Once in a while
8. What do you think are the contributing factors to the challenge of missing files to? (Please tick appropriately)

[ ] Poor management of records

[ ] Inadequate records management personnel

[ ] Poorly trained records management personnel

[ ] Absence of records management policies and guidelines

[ ] Lack of proper storage equipment

[ ] Reliance on manual records management strategies

9. Which rating do you give the management of records in the Judiciary?

[ ] Very good

[ ] Good

[ ] Fair

[ ] Poor

[ ] Very poor

10. What factors do you think contribute to the present state of the court records management in the Judiciary?

[ ] Lack of records management policy
[ ] Inadequate funding

[ ] Inadequate trained records staff

[ ] Inappropriate supplies and equipment

[ ] Others (please explain)

……………………………………………………………………………………………………
……………………………………………………………………………………………………
……………………………………………………………………………………………………
……………………………………………………………………………………………………

11. How do the current records management practices affect judicial service delivery in the judiciary…………………………………………………………………………………………
……………………………………………………………………………………………………
……………………………………………………………………………………………………
……………………………………………………………………………………………………

Thank you for your cooperation and time
APPENDIX II: QUESTIONNAIRE FOR THE EXECUTIVE ASSISTANTS; ARCHIVISTS AND REGISTRY STAFF

INSTRUCTIONS: PLEASE TICK WHERE APPROPRIATE

A. BACKGROUND INFORMATION

1. Current position

2. Years of experience in the current position (Please tick)

<table>
<thead>
<tr>
<th>5-9</th>
<th>10-14</th>
<th>15-20</th>
<th>20 and above</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. Age (Please indicate your age bracket)

<table>
<thead>
<tr>
<th>25-34</th>
<th>35-44</th>
<th>45-54</th>
<th>55 and above</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. Highest education level

Diploma [ ] Degree [ ] Post graduate [ ]

Others, (please explain)........................................................................................................................................
B. ORGANIZATION OF COURT RECORDS

1. Does the registry have a classification scheme for the court records?

Yes [ ]     No [ ]     Not Known [ ]

2. If yes which one is in use?

Alphabetic [ ]   Alphanumeric [ ]   Numeric [ ]

Other, (please explain)........................................................................................................

3. If no classification scheme is in place, state the reason and classification scheme is used in the registry

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........................................................................................................................................

........................................................................................................................................

........................................................................................................................................
4. Does the Judiciary offer training on use of the classification scheme

Yes [ ]  
No [ ]

5. Is the classification scheme effective for court records retrieval?

Yes [ ]  
No [ ]

If no, please explain…………………………………………………………………………………………………………………………...
…………………………………………………………………………………………………………………………...
…………………………………………………………………………………………………………………………...
…………………………………………………………………………………………………………………………...
…………………………………………………………………………………………………………………………...
…………………………………………………………………………………………………………………………...

6. Does the registry have a file movement register for the court records?

Yes [ ]  
No [ ]

7. If yes, how often is the file movement register updated?………………………………………………………….

…………………………………………………………………………………………………………………………..
…………………………………………………………………………………………………………………………..
…………………………………………………………………………………………………………………………..

8. If No, what systems are in place to trace the borrowed files?………………………………………………

92
9. Who has right of access to the court records at the registry?

10. What measures are put in place to deter unauthorized access to the registry?

11. What are the procedures to requisition court records by the court users?

12. What are the steps taken in tracing and reconstruction of the missing files?
13. Does the registry have a file tracking system for tracking the borrowed files?

Yes [ ]  
No [ ]

14. What measures are put in place to ensure the safety of files at the registry?

C. DISPOSAL OF COURT RECORDS

15. Are you conversant with the Records Disposal Act, Cap14?

Yes [ ]  
No [ ]

If No, what guidelines do you follow in the Disposal of records?………………………………..

16. How often is records survey carried out?
D. ACCOUNTABILITY PROCEDURES OF COURT RECORDS

17. How often are file audits conducted?

Rarely [ ]

Weekly [ ]

Once in a while [ ]

Others, please explain………………………………………………………………………………………………………

………………………………………………………………………………………………………

………………………………………………………………………………………………………

………………………………………………………………………………………………………

………………………………………………………………………………………………………

18. Who is in charge of conducting file audit?
19. Which are the areas reviewed during File audits process

Location of files not in the registry [ ]

The physical state of the files [ ]

Tracing missing files [ ]

For other areas reviewed during file audit, please explain......................................................

Thank you for your cooperation and time
APPENDIX III: APPROVAL OF RESEARCH PROPOSAL

KENYATTA UNIVERSITY
GRADUATE SCHOOL

E-mail: dean-graduate@ku.ac.ke
Website: www.ku.ac.ke

FROM: Dean, Graduate School

TO: Mwangi June Wanjiru
C/o Library & Information Science Dept.

SUBJECT: APPROVAL OF RESEARCH PROPOSAL

DATE: 23rd September, 2019

REF: E107/OL/25796/2013

We acknowledge receipt of your revised Research Proposal as per our recommendations raised by the Graduate School Board of 7th August, 2019 entitled “The Effectiveness of the Records Management Practices at the Judiciary: Case of Eldoret High Court Kenya”.

You may now proceed with your Data Collection, Subject to Clearance with Director General, National Commission for Science, Technology and Innovation.

As you embark on your data collection, please note that you will be required to submit to Graduate School completed Supervision Tracking Forms per semester. The form has been developed to replace the Progress Report Forms. The Supervision Tracking Forms are available at the University’s Website under Graduate School webpage downloads.

Thank you.

ANNABEL MWANIKI
FOR: DEAN, GRADUATE SCHOOL

C.c. Chairman, Department of Library & Information Science
Supervisors:

1. Dr. Grace Kimani
C/o Department of Library & Information Science
Kenyatta University
THE SCIENCE, TECHNOLOGY AND INNOVATION ACT, 2013

The Grant of Research Licenses is Guided by the Science, Technology and Innovation (Research Licensing) Regulations, 2014

CONDITIONS

1. The License is valid for the proposed research, location and specified period
2. The License any rights thereunder are non-transferable
3. The Licensee shall inform the relevant County Director of Education, County Commissioner and County Governor before commencement of the research
4. Excavation, filming and collection of specimens are subject to further necessary clearence from relevant Government Agencies
5. The License does not give authority to tranfer research materials
6. NACOSTI may monitor and evaluate the licensed research project
7. The Licensee shall submit one hard copy and upload a soft copy of their final report (thesis) within one of completion of the research
8. NACOSTI reserves the right to modify the conditions of the License including cancellation without prior notice

National Commission for Science, Technology and Innovation
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Website: www.nacosti.go.ke
APPENDIX V: RESEARCH PERMIT FROM THE JUDICIARY

RESEARCH PERMIT FROM THE JUDICIARY

Approval to collect data at the Eldoret High Court.

Chief Registrar

To me, grace1ati
10 Feb View details

Dear June

Greetings from the office of the Chief Registrar of the Judiciary.

The Chief Registrar has approved your request to collect data at the Eldoret High Court.

Kindly report to the Deputy Registrar, copied herein for necessary facilitation.

With kind regards

Jentrix Nafula

Draft to chief registrar
24 Feb View details