



**Driving Modernisation in the Criminal Justice System: A Case Study**  
*of Technical and Specialised Skills.*

Research Project Draft

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of Technical and Specialised Skills.**

## EXECUTIVE SUMMARY

The South African Criminal Justice System (CJS) is an essential service which is available to all people within the Republic of South Africa. The CJS seeks to prevent, process and deter crime in an effective and efficient manner. South Africa has a relatively well developed CJS which draws its roots from a blend of Roman Dutch and English law and has, over the years, drawn and borrowed from a variety of respected international legal systems (Dyson, 2020). However, there is a need to modernise systems within the CJS through technology. This will assist render a CJS that is more efficient and effective.

Over the years, the application of technological solutions in the CJS has led to the modernisation of systems. The operationalisation of key priority within the component parts of the CJS that are part of impacting the new court system, especially measures to improve capacity, to correct shortcomings and remove constrains (SASSETA SSP, 2021/22:40). This increases the need for specialised and technical skills to improve information systems in the CJS.

This study investigated the effects modernisation has on the CJS. Furthermore, identify the technical and specialised skills that are a consequence of modernisation in the CJS. Therefore, qualitative research approach was appropriate for this study because it afforded stakeholders an opportunity to share their views and perceptions. Purposive sampling was considered an appropriate sampling method for this study since the study sought to gather insight from the participants.

The study made the following findings; the data indicated that the CJS ability to give better service delivery depends on the efficiency and effectiveness of its delivery system. The CJS ability to give better service delivery depends on the efficiency and effectiveness of its delivery system. The prevalence of technical and specialised skills in the CJS are inconsistent. Majority of the participants believe that technology is moving faster than the current systems of service delivery within the CJS. As technology is used to commit more sophisticated crimes, law enforcement officers and those in the legal system are increasingly using tech tools to combat crime.

The study made the following recommendations; the qualitative findings of this study suggest that modernisation contributes to the effectiveness and efficiency of the South African CJS. Modernisation is future of work therefore challenges are related to employee skills around what work is, how will employees work and organizes themselves. Technology can help uncover insights that are routinely overlooked in the current investigative and discovery process.

## LIST OF ACRONYMS

<b>Acronym</b>	<b>Description</b>
<b>CAD</b>	Computer Aided Dispatch
<b>CJS</b>	Criminal Justice System
<b>DNA</b>	Deoxyribonucleic Acid
<b>DoJ &amp; CD</b>	Department of Justice & Constitutional Development
<b>GPS</b>	Global Positioning System
<b>ICT</b>	Information Communication Technology
<b>ISS</b>	Institute for Security Studies
<b>IT</b>	Information Technology
<b>KII</b>	Key Informant Interview
<b>NPA</b>	National Prosecuting Authority
<b>OCJ</b>	Office of the Chief Justice
<b>SAPS</b>	South African Police Services
<b>SASSETA</b>	Safety and Security Sector Education and Training Authority
<b>SSP</b>	Sector Skills Plan

## Table of Contents

EXECUTIVE SUMMARY .....	iii
LIST OF ACRONYMS .....	iv
1. CHAPTER ONE:.....	1
GENERAL ORIENTATION AND PROBLEM FORMULATION.....	1
1.1. Introduction.....	1
1.2. Conceptual Framework .....	1
1.2.1. Modernisation .....	2
1.2.2. Criminal Justice System .....	2
1.2.3. Technical and Specialised Skills.....	2
1.3. Background .....	2
1.4. Problem Statement .....	3
1.5. Significance of the study .....	3
1.6. Research Aim .....	4
1.7. Research Objectives.....	4
1.8. Research Questions .....	4
1.9. Structural Summary .....	5
1.10. Summary .....	5
2. CHAPTER TWO:.....	7
LITERATURE REVIEW .....	7
2.1. Introduction.....	7
2.2. Understanding the South African Criminal Justice System: .....	7
2.2.1. The pillars of the South African Criminal Justice System .....	8
2.3. Legislative Framework: The South African Criminal Justice System .....	11
2.4. Driving modernisation in the Criminal Justice System.....	12
2.5. Modernisation as a tool to broaden access to the Criminal Justice System .....	13
2.6. Conclusion.....	14
3. CHAPTER THREE .....	15
RESEARCH METHODOLOGY .....	15
3.1. Introduction.....	15
3.2. Research Paradigm .....	16
3.3. Research Design.....	17
3.3.1. Exploratory Research .....	17

3.3.2.	Descriptive Research.....	18
3.4.	Discussion on Research Approach .....	18
3.5.	Study Population .....	19
3.6.	Sampling.....	19
3.6.1.	Sampling Procedure .....	19
3.6.2.	Sampling Technique .....	20
3.7.	Data Analysis.....	20
3.8.	Familiarisation and Immersion .....	21
3.9.	Elaboration .....	21
3.10.	Informed Consent.....	21
3.11.	Challenges and Limitations of Study.....	22
3.11.1.	Challenges Experienced .....	22
3.11.2.	Limitations .....	22
3.12.	Rigour in Qualitative Research Approach: Ensuring Trustworthiness .....	23
3.13.	Ethical Considerations.....	25
3.14.	Summary .....	25
4.	CHAPTER FOUR:.....	26
	DATA PRESENTATION, ANALYSIS AND INTERPRETATION.....	26
4.1.	Introduction.....	26
4.2.	Thematic Analysis .....	27
4.3.	Data Presentation.....	27
4.3.1.	The phenomenon of modernisation in the Criminal Justice System .....	27
4.3.2.	The changing nature of work.....	30
4.3.3.	Transformation and change management. ....	31
4.4.	Summary .....	32
5.	CHAPTER FIVE .....	33
	RECOMMENDATIONS AND CONCLUSION.....	33
5.1.	Introduction.....	33
5.2.	Findings of the Study.....	33
5.2.1.	Findings Pertaining to the Rationale of The Study.....	33
5.2.2.	Findings Pertaining the Objectives of The Study .....	34
5.2.3.	Findings Pertaining the Research Methodology.....	36
5.3.	Recommendations .....	36
5.4.	Conclusion.....	37
6.	REFERENCE LIST .....	39
	ANNEXURE A.....	43

## 1. CHAPTER ONE:

### GENERAL ORIENTATION AND PROBLEM FORMULATION

#### 1.1. Introduction

The South African Criminal Justice System (CJS) is an essential service which is available to all people within the Republic of South Africa. The CJS seeks to prevent, process and deter crime in an effective and efficient manner. The system consists of both proactive and reactive strategies that seek to deter crime (Shaw, 2016). The public can rightfully expect and demand proper service from a system designed to ensure “Justice for All” (Dyson, 2020). It consists of various role players and stake holders who share the mandate of preventing crime in South Africa.

South Africa has a relatively well developed CJS which draws its roots from a blend of Roman Dutch and English law and has, over the years, drawn and borrowed from a variety of respected international legal systems (Dyson, 2020). However, there is a need to modernise systems within the CJS through technology. This will assist render a CJS that is more efficient and effective.

This study investigated what drives modernisation in the CJS and also provide an understanding of how it affects the CJS. Furthermore, identify the technical and specialised skills that are a consequence of modernisation in the CJS. Chapter One presents the background of the study. It outlines the research problem and clearly states the main aim of the study. Thereafter the key questions are listed. Subsequently a discussion of what motivated the researcher to undertake this study as well as the significance of undertaking such a study is explained. Lastly, this chapter provided an outline of the structure of the research project.

#### 1.2. Conceptual Framework

A conceptualisation of key terms that were operationalised in this study was necessary to explain the researcher’s trail of thought as well as the facilitation of common understanding thereof. In this way a conceptual framework was developed. According to Regoniel (2015) a conceptual framework provides a guide towards generating the objectives of a study. It provides a synthesis of literature on the utilization of concepts within a study. Hence it can be defined as “a visual or written product that explains, either graphically or in narrative form, the key factors, concepts or variables and the presumed relationships among them” (Miles & Huberman, 2014: 39).

The term concept can be clarified as the words or phrases designated to happenings about which science tries to make sense of. The main purpose of concept clarification is mutual communication and comprehension (De Vos, 2015b). For this study, the following terms were conceptualised:

#### 1.2.1. Modernisation

According to Insider (2022) modernisation is the replacement and upgrading of existing facilities and policies which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernisation may result from the alteration and improvement of facilities and policies, structures, fixed machinery or equipment. In this study modernisation refers to technological developments and improvements within the South African Criminal Justice System.

#### 1.2.2. Criminal Justice System

The Criminal Justice System (CJS) refers to a set of government institutions and systems that aim to apprehend, prosecute, punish, and rehabilitate criminal offenders (Smart, 2019). It is also a set of legal and social institutions for enforcing the criminal law in accordance with a defined set of procedural rules and limitations. In this study the Criminal Justice System refers to the South African Criminal Justice System.

#### 1.2.3. Technical and Specialised Skills

Technical skills are the specialised knowledge and expertise required to perform specific tasks and use specific tools and programs in real world situations (Test, 2017). Technical skill is your expertise in a certain type of technology, software, or equipment that's usually associated with specific types of industries. Specialised skills refer to a range of factual, theoretical, and practical knowledge, as well as competencies and skills in a particular discipline or profession (Empire, 2022). In this study Technical and Specialised Skills refers to a skill set required to foster modernisation in the CJS.

### 1.3. Background

The Constitution of South Africa (Act No 108 of 1996), the foundation upon which our criminal justice system rests, was designed to provide a system of human rights either not previously available to all citizens or not entrenched in law. The CJS comprises of various organisations that fulfil the role of the system. However, the CJS has 6 major role players, namely, the Judiciary, the National Prosecuting Authority (NPA), the South African Police Services (SAPS), the Department of Justice, the Department of Correctional Services (DCS) and social development.



Over the years, the application of technological solutions in the CJS has led to the modernisation of systems. The operationalisation of key priority within the component parts of the CJS that are part of impacting the new court system, especially measures to improve capacity, to correct shortcomings and remove constraints (SASSETA SSP, 2021/22:40). This increases the need for specialised and technical skills to improve information systems in the CJS.

#### 1.4. Problem Statement

Within the constructs of a research population, there are several aspects that the researcher must identify. These aspects result in the formulation of a problem statement (Fouché & De Vos, 2015). It is also important to note that a research problem must be researchable and able to rest itself within the scientific study (Babbie & Mouton, 2020). A problem statement conveys the important elements of the study that will assist to unpack the purpose of the study. According to McGaghie, Bordage & Shea (2021) it is important that the researcher establishes the reason for undertaking, identifying a problem that will be investigated and assess what practical value the study will have.

There is a need to establish a single, integrated, and modernised CJS to address the critical issues of public trust and confidence. The CJS needs to be more effective by improving the processes involved in investigating, prosecuting and correcting offenders. Hence. the South African CJS is faced with challenges of efficiency and effectiveness in rendering its services.

- There is a need to improve the supply of Information Technology (IT) skilled personnel to drive modernisation in the Criminal Justice System.
- There is a need to review and implement skills intervention to drive the modernisation of the Criminal Justice System.

#### 1.5. Significance of the study

The significance of this study will be underpinned by the seven-point plan to strengthen the CJS and which was endorsed by the national development plan 2030. The seven-point plan advocates for:

*“The establishment of an integrated and seamless national Criminal Justice Information System containing all the information relevant to the CJS. It was envisaged that this initiative will facilitate informed strategies, plans and decision making, and the provision of a national template to gather information for each department or agency in the CJS value chain (SASSETA SSP, 2021/22: 40).”*

By heeding this call, this research project will contribute to existing literature in this field of study. In addition, make a real difference in bringing more attention to the skills planning implications of the seven-point plan to strengthen the CJS.

#### 1.6. Research Aim

The aim of this study is to understand the effects of modernisation on the Criminal Justice System. In addition, identify technical and specialised skills in the Criminal Justice System as a consequence of modernisation.

#### 1.7. Research Objectives

According to Shandu (2017: 9) study objectives refer to “declarative statements that focus on the identification and the description of concepts and sometimes on a determination of relationships of the said concepts”. In light of this statement, the key objectives of this research are designed as follows:

This study seeks address the following objectives:

- To understand how modernisation affects the Criminal Justice System.
- To discover the technical and specialised skills in the Criminal Justice System as a result of modernisation.
- To understand the challenges caused by modernisation within the Criminal Justice System.

#### 1.8. Research Questions

This study seeks to answer the following questions:

- How does modernisation affect the Criminal Justice System?
- How has modernisation of the Criminal Justice System affected technical and specialised skills?
- What are the challenges within the Criminal Justice System as result of modernisation?
- What are the responses to the challenges in the Criminal Justice System due to modernisation?

## 1.9. Structural Summary

### **Chapter 1: General Orientation and Problem Formulation**

In this chapter, the background to the topic and the outline of the study were clearly presented. The general study aims and key research questions were then set forth. Lastly, the researcher describes what the motivation to undertake the study in question was, and what contribution the study is going to make to the existing literature.

### **Chapter 2: Literature Review**

In this chapter, the concept of modernisation was explicitly defined within the constructs of the South African CJS and problematised with the view to exposing its multi-faceted nature. Emerging from this discussion, a working definition is spelt out to make it easier for the reader to have a common understanding in the context of this study. Thereafter, a review of the existing literature on the subject matter on modernisation of the CJS.

### **Chapter 3: Research Methodology**

The research methods used to collect data for the study were discussed in this chapter. The study was guided by an exploratory research design and employed qualitative methodology in the form of semi-structured interviews in order to obtain empirical data. The purposive sampling method used in the study is explained and justified in terms of the objectives of the study. Thereafter the data analysis method is described. Lastly the limitations and ethical considerations of the study are considered in this chapter.

### **Chapter 4: Data Presentation, Analysis and Interpretation**

The main purpose of Chapter four was to present and discuss the results of this study. This chapter presents the findings of the study, as they emerged from the participants. The discussion is drawn from empirical data collected during the fieldwork. The findings are presented according to the main themes that emerged during the interviews and the data is analysed with reference to the reviewed literature.

### **Chapter 5: Conclusions and Recommendations**

In the final chapter an appropriate evaluation of the implications of the findings for possible policy developments is presented. An evaluation of the limitations, strengths and weaknesses of the study are also discussed.

## 1.10. Summary

This chapter presented the broader context within which the present study should be understood. It introduced the background of the study in order to contextualize the issue

for the reader. The outline of the research problem and key questions guiding the study were also presented. It is in this chapter that the significance of the study was discussed. The next chapter focuses on a review of the existing literature related to the topic in an attempt to locate the study in the broader context of policy formulation, implementation and evaluation.

## 2. CHAPTER TWO:

### LITERATURE REVIEW

#### 2.1. Introduction

A literature review is essential to analyse, and critique literature previously written by scholars to understand what drives modernisation in the Criminal Justice System (CJS). The objectives of a literature review, according to Leedy (1989:12), “is the referral in an area, not specifically similar but collateral to, the area of study.” The literature review closely looks at the works of other scholars who conducted studies that were relevant to a current investigation.

It provides insight on a topic and a clear understanding of the phenomenon to be studied (Leedy, 1989). Hence, this literature review will explore the various strategies that drive modernisation in the CJS. It will further provide an overview of how modernisation of the CJS influences technical and Specialised skills. Therefore, this literature review is the starting point that will guide the formulation of the research questions and the analyses of the information that was gathered.

#### 2.2. Understanding the South African Criminal Justice System:

The South African CJS is an essential service which is available to all people within the Republic. The public can rightfully expect and demand proper service from a system designed to ensure “Justice for All” (Dyson 2020). It consists of various role players and stake holders who share the mandate of preventing crime in South Africa.

South Africa has a relatively well developed and modern CJS which draws its roots from a blend of Roman Dutch and English law and has, over the years, drawn and borrowed from a variety of respected international legal systems. The Constitution of South Africa (Act No 108 of 1996), the foundation upon which our criminal justice system rests, was designed to provide a system of human rights either not previously available to all citizens or not entrenched in law.

The Constitution of South Africa (Act No 108 of 1996), the foundation upon which our criminal justice system rests, was designed to provide a system of human rights either not previously available to all citizens or not entrenched in law. The CJS comprises of various organisations that fulfil the role of the system. However, the major role players are the Judiciary, the National Prosecuting Authority (NPA), the South African Police Services (SAPS) and various Legal Representatives.

Over the years, the application of technological solutions in the CJS has led to the modernisation of systems. The operationalisation of key priority within the component parts of

the CJS that are part of impacting the new court system, especially measures to improve capacity, to correct shortcomings and remove constraints (SASSETA SSP, 2021/22:40). This increases the need for specialised and technical skills to improve information systems in the CJS.

### 2.2.1. The pillars of the South African Criminal Justice System

The Criminal Justice System comprises of various organisations that fulfil the role of the system. However, the major role players are the Judiciary, the National Prosecuting Authority (NPA), the South African Police Services (SAPS), the Department of Justice, the Department of Correctional Services (DCS) and Social development, which are discussed below:

#### a) *Judiciary*

The Judiciary refers to judges and magistrates who are the independent and neutral parties who preside over criminal and civil trials. They have no prior knowledge of the facts or evidence of the cases and have no allegiance to the State or any other body (Caine & Dyson, 2010). Members of the community have no direct access to judges and magistrates in respect of a criminal case.

In South Africa the Judiciary is a system of courts that interprets and applies the law. It consists of two tiers: the National Court System and Regional Court Systems. The National Court System comprises of the Constitutional Court, the Supreme Court, and provincial courts. The Regional court system comprises of lower courts (districts, magistrates courts, family courts) and appeals courts (Manesis, 2022).

According to section 166 of the Constitution of the Republic of South Africa (Act 108 of 1998) the Judicial System establishes the following courts:

1. the Constitutional Court.
2. the Supreme Court of Appeal.
3. the High Courts, including any high court of appeal that may be established by an Act of Parliament to hear appeals from High Courts;
4. the Magistrates' Courts; and
5. any other court established or recognised in terms of an Act of Parliament, including any court of a status similar to either the High Courts or the Magistrates' Courts.

#### b) *National Prosecuting Authority (NPA)*

The NPA is guided by section 179 of the Constitution and the National Prosecuting Authority Act 32 of 1998 (Mathews, 2020). These provide the NPA with the power to institute criminal

proceedings on behalf of the State and to perform the necessary tasks in support of this function (Caine & Dyson, 2010). The NPA falls under the Department of Justice but also has its own independence. It is headed by the National Director of Public Prosecutions and each province has its own Director of Public Prosecutions who is responsible for the management of prosecutions in their own particular province.

The National Prosecuting Authority (NPA) is central to the rule of law, and should stand for justice for everyone in South Africa. In the criminal justice system, the police investigate crimes and make arrests, the NPA prepares and conducts prosecutions, and the courts evaluate cases and pass judgments (ISS, 2020).

The work of the National Prosecuting Authority (NPA) in the criminal justice system (CJS) is often not seen or understood. Yet the NPA is central to the maintenance of the rule of law, ensuring justice for victims of crime in a criminal justice system which serves its intended purpose. It is the link between the SA Police Service (SAPS) and the courts, and it makes the case for justice on behalf of everyone living in South Africa (ISS, 2020).

#### *c) The South African Police Services (SAPS)*

Functions Of South African Police Service, Law-enforcement services in South Africa fall under the Department of Police, which is responsible for policy determination, direction and overall execution of the department's mandate in relation to relevant legislation (Caine & Dyson, 2010).

The SAPS derives its powers and functions from section 205 of the Constitution of the Republic of South Africa of 1996 and from the SAPS Act of 1995. This legislation regulates the police service in terms of its core function, which is to prevent, investigate and combat crime.

The SAPS's policing objectives, in accordance with the provisions of Section 205 of the Constitution, are to:

- a) Prevent, combat and investigate crime.
- b) Maintain public order.
- c) Protect and secure the inhabitants of South Africa and their property;
- d) Uphold and enforce the law.

The vision of the SAPS is to create a safe and secure environment for all people in South Africa.

Whilst there are a number of law enforcement agencies, it is the SAPS that is largely responsible for the prevention, detection and investigation of crime. They have a number of

different units, but the public will generally encounter either the uniform branch or the detective branch (Caine & Dyson, 2010).

#### *d) Legal Representatives*

Legal Representatives are comprised of advocates and attorneys. Advocates are specialist attorneys who litigate in the High Court and are briefed by attorneys where the case is more difficult or serious. They are bound by their professional rules and are accountable to their local Bar Council. Advocates can appear in any court, while attorneys may be heard in all of the country's lower courts and can also acquire the right of appearance in the superior courts. Attorneys are the legal representatives who appear on behalf of accused persons. They are bound by the rules of their profession and are accountable to their local Law Society. Attorneys often specialise in different fields of law and, like other professions, will have different fee structures. The cost of engaging an attorney's services should be investigated carefully before making any commitment to retaining their services.

There are, however, certain criteria in determining who qualifies for their free service. Every court should have a legal aid office where enquiries can be made and their website is ([www.legal-aid.co.za](http://www.legal-aid.co.za)) Other role players encountered in Court will be the Clerk of Court who is responsible for the administrative side of running the court, the Interpreter who provides translation services to those who do not speak either English or Afrikaans as their mother tongue and the Court Orderly who is a police officer assigned to keep good order and security in the courtroom

#### *e) The Department of Correctional Services*

The Department of Correctional Services (DCS) derives its mandate from the following legislation and policies:

- ✓ Criminal Procedure Act of 1977;
- ✓ Correctional Services Act of 1998, as amended;
- ✓ 2005 White Paper on Corrections; and
- ✓ 2014 White Paper on Remand Detention Management in South Africa.

This legislation allows the department to contribute to the preservation and promotion of a just, peaceful and safe society by ensuring that the corrections environment is secure, safe and humane, and that offenders are optimally rehabilitated to reduce their likelihood of reoffending (Official Guide to South Africa, 2021/22).

The department's overarching objectives are to detain inmates in safe, secure and humane conditions in correctional centres and remand detention facilities; provide sentenced offenders



with needs-based rehabilitation programmes and interventions; and reintegrate offenders into communities as law-abiding citizens by effectively managing non-custodial sentences and parole (Official Guide to South Africa, 2021/22).

To achieve these objectives, over the period ahead, the department will focus on implementing its self-sufficiency and strategic framework, providing adequate security at correctional facilities, and facilitating restorative justice (Official Guide to South Africa, 2021/22).

### 2.3. Legislative Framework: The South African Criminal Justice System

The Department of Justice and Constitutional Development (DoJ & CD) within its broad constitutional mandate which is twofold, namely, to provide a framework for the effective and efficient administration of justice, and to promote constitutional development through the development of legislation and the implementation of programmes that seek to sustain the delivery of justice, and the department provides administrative and financial support to the court system and the judiciary (which are constitutionally independent of the executive), oversees the National Prosecuting Authority, and provides legal advice and representation to organs of state, and facilitates law reform.

The Constitution Seventeenth Amendment Act, 2012 affirms the Chief Justice as Head of the Judiciary and assigns to him/her the responsibility to oversee the development and monitoring of norms and standards for the performance of all courts. Performance of courts is therefore the responsibility of the Office of Chief Justice. The following are legislation providing for the establishment and functioning of Superior Courts and Lower Courts as well as other courts designated to deal with specialised cases which are both at the level of the High Court and Magistrates Courts.

#### a) *Superior Courts Act, 2013 Act 10 of 2013.*

The Act rationalised, consolidated and amended the laws relating to the Constitutional Court, the Supreme Court of Appeal, and the High Court of South Africa. The Act also makes provision for the administration of the judicial functions of all courts and those administrative and budgetary matters relating to the Superior Courts. The Act provides for assignment of certain functions to the Office of the Chief Justice (OCJ) which, among others, includes support to the Heads of Courts, Judicial Service Commission, and the Judicial Education Institute.

#### b) *The Magistrates Courts Act 32 of 1944*

The Act empowers the Minister to create various magistrates' court districts, regional divisions and subdistricts, and to define their local limits, appoint magistrates, additional magistrates and regional court magistrates as well as persons to act in those offices when necessary and

to determine various amounts and fees related to the monetary jurisdiction of the courts, witness fees and others.

*c) Small Claims Courts Act 61. of 1984*

The Act empowers the Minister to establish small claims courts, determine their seats and areas of jurisdiction, appoint commissioners, and determine various amounts related to the jurisdiction of the courts.

*d) The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007*

Aims to review and amend all aspects of the laws and the implementation of the laws relating to sexual offences, and to deal with all legal aspects of or relating to sexual offences in a single statute comprehensively and extensively. This Act provides for the designation of courts to sit as sexual offences courts.

#### 2.4. Driving modernisation in the Criminal Justice System

The evolution of technology directly affects the way the criminal justice system operates at fundamental levels. A wide range of technologies are employed in support of the justice system, including telephonic, database management software, computers, automobiles, and weapons (Holt, 2014). The adoption and implementation of technology also directly shapes the policies and practices of the justice system.

Computers and cellular technologies have increased the capacity of data processing, information sharing, and communications within and across the CJS. The increasing societal dependence on the Internet and computer-mediated communications have led law enforcement to develop tools to investigate offenses online (Holt, 2014). Thus, technology plays a pivotal role in the justice system, giving rise to a greater need for technical and specialised skills in the CJS.

Criminal Justice System is a system of law enforcement, the bar, the judiciary, corrections and probation that is directly involved in the apprehension, prosecution; defence, sentencing, incarceration, and supervision of those suspected of or charged with criminal offences (<http://www.answers.com>).

According to Chamelin, Fox and Whisenand (2019:1), “the criminal justice system is, in reality if not in appearance, a system. A system is a series of component parts that possess common interrelationships. You are most likely to accept the criminal justice system as a system if you recognize that society is in a process of imposing the system concept on an existing criminal justice apparatus that for years has been loosely tied together. This definition is in line with the notion that statutes are enforced by various government agencies including the police, prosecution, court and post adjudication process (which refers to imprisonment). This means

that the state has a legal obligation to prevent criminal behaviour, reduce crime, apprehend and arrest offenders, protect life and property and regulate criminal conduct.”

These are functions of the law enforcement agencies. In South Africa these functions are almost similar to those that are listed in section 205 (3) of the Constitution, namely, “to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law”. Cilliers et al. (2020:3) indicate that in addition to the law enforcement agencies, the components of the criminal justice system include the courts and the correctional services.

They add that the functions of the courts are to protect the rights of the accused, to determine by all available legal means whether a person is guilty of a crime, to dispose properly of those convicted of crimes, to protect society and to prevent and reduce criminal behaviour. In addition to this, the functions of the correctional services are to maintain institutions, to protect law abiding members of society, to reform offenders and to deter crimes (Cilliers et al., 2020:5).

## 2.5. Modernisation as a tool to broaden access to the Criminal Justice System

The department also planned to implement programmes to modernise and digitise its services. This is expected to broaden access to justice even further by introducing interventions such as enabling deceased estates and trusts to be registered remotely.

The Trusts Online Services solution enables the online registration and submission of documents in respect of new trusts applications. This solution was piloted at the Masters’ Office in Pretoria with identified, trusted agents that used the online portal.

Deceased Estates Online Services, which enables the online registration and submission of documents in respect of new Deceased Estates, at the Masters’ Office: Pretoria. Phase 1 of this solution will be rolled out nationally during this financial year by the Office of the Master.

Over the period ahead, the department planned to focus on strengthening access to justice and superior court services, and ensuring measures are adopted to mitigate against Coronavirus Disease 2019 (COVID-19).

To strengthen access to its services, the department planned to employ additional researchers and registrars to enable it to increase the percentage of default judgments finalised within 14 days and ensure that all warrants of release are delivered within one day of being issued.

In its efforts to improve the efficiency and effectiveness of the South African criminal justice process, the department planned four key initiatives over the 2022/23 period:

- Criminal Justice System e-Documents and Forms (Justice Forms): This initiative focuses on reviewing processes to eliminate forms that are made redundant by the electronic exchange of information between Criminal Justice System departments as well as the digitisation of all documents and certificates that remain necessary.
- Court Audio Visual Solution for case participants – Phase 2: This will be a video conferencing and video-ID verification facility that will be used for witnesses/victims' interviews and testimony in cases where direct contact is not feasible or very expensive, as well as in cases where expert witnesses are required in court. In cases where the public cannot afford the cost of data or does not have the smart devices needed to connect to the Court Dial-in facility, these services will be made available at local government offices for use based on the arrangement.
- E-Scheduling and Messaging for Courts: This is a court information management and sharing system that allows for the tracking of court dates, court process start times, arrival and checking-in of witnesses, victims, the accused, defence lawyers and prosecutors. This system will facilitate the scheduling and communication of court decisions such as postponements and new dates. The solution was developed and tested, and subsequently rolled into production. The pilot commenced at the Bronkhorstspuit and Cullinan magistrates' courts.
- Integrated Bail Payment Processing and Release Management (Pay-Bail-Anywhere): The Integrated Bail Payment Processing and Release Management solution will, once it is fully developed and operational, enable lawyers/family members of the accused to "pay bail anywhere".

## 2.6. Conclusion

Overall, Chapter two highlighted the context of the general body of scientific knowledge that was elicited by this study. The literature review thus conveyed related information that formed the foundation on which the study was based in terms of the scope of the problem under investigation, the research questions, the study objectives and the justification for this study. The following chapter provides an extensive research methodology, in terms of the scope of the problem under investigation.

### 3. CHAPTER THREE

#### RESEARCH METHODOLOGY

##### 3.1. Introduction

According to Kuhn (1977: 291) “crucial to any research is the research methods that inform the development of knowledge within research”. This knowledge can be used to conduct and evaluate the research to ensure the validity of the research. Considering the above it is evident that research methods are central to any research study as they provide the researcher with strategies that make fieldwork possible. This allows for the researcher to fulfil the aims and the objectives of the study. It is imperative to provide authentic descriptions of the procedures that are used to conduct the study, to allow other scholars the ability to replicate the study to assess the reliability of the study (Mphatheni, 2016).

This chapter discusses the research design and methodology that underpin this study. The chapter further provides a clear description of the strategies and instruments used for data

collection, referring to the various stages and processes involved in the study. It will also discuss the ethical considerations that informed the participation of the participants.

### 3.2. Research Paradigm

Paradigm is a term that originated from the Greek word *paradeigma* meaning pattern, the term first used by Thomas Kuhn in 1962. He used the term to “denote a conceptual framework shared by a community of scientist which provided them with a convenient model for examining problems and finding solutions” (Kuhn, 1977: 292). Schwandt (2001: 183) states that “a paradigm is shared world view that outlines the values and beliefs in a discipline and provides a guide to problem solving”. Therefore, a paradigm is a worldview that implies a pattern, structure and framework or system of scientific and academic ideas, values and assumptions. Research paradigms reflect our beliefs of the world that we live in and provide projection on the world we want to live in.

The transformative/ emancipatory paradigm was developed because of criticism of the positivistic and constructivist paradigms. These paradigms are criticized for not being able to include development and social change. The Transformative/ Emancipatory paradigm is informed by critical social science research, participatory action research and research that has an aim to emancipate people (Mertens, 2010). Mertens (2010) highlights that this paradigm denotes various research designs, philosophies and theories aimed at transforming and emancipating communities through group action. Modernisation in the CJS occurs due to techno-social change. There is a need to understand modernisation in the CJS as it increased the need for technical and specialised skills.

The ontology of this paradigm takes on the notion that social reality is historically bound but is constantly changing, based on social, political, cultural and technological advancements in society. Epistemology for this paradigm is that researchers within this paradigm maintain that knowledge is power and can be turned into a tool that will empower and transforms people's life. “True knowledge in this context lie in the collective meaning-making by people, which can inform individual and group action that improves the life of people” (Neumann, 1997).It is evident that knowledge is constructed from the participant's frame of reference, making it important that the relationship between the participant and the researcher is not based on a power hierarchy. It should be one that involves the transformation and emancipation of both the researcher and the participant.

The axiology of this paradigm is that researchers who adopt this paradigm view research as a moral or political activity that requires one to commit to a value position. Then lastly, the methodology of this paradigm is based on the premise that research employs this paradigm should be used to destroy myths, illusions and false knowledge it must empower people to

transform society (Neumann, 1997). Both quantitative and qualitative methods can be used in the research process. Techniques of collecting data and sampling procedures used in quantitative or qualitative studies are employed. Participants are involved in identifying the problem, defining the problem, collecting the data, disseminating the findings and using the findings to inform practice.

Hence the research paradigm that was used in this research is the Transformative/Emancipatory paradigm. This paradigm allowed the researcher to look at modernisation of the CJS as a tool that will develop and improve effectiveness and efficiency in the CJS. It also allowed the researcher to use a research approach that prompts in-depth discussions that will emancipate both the researcher and the participants.

### 3.3. Research Design

A research design is a master plan that the researcher employs to illuminate how the study was conducted. According to Yin (2003) the research design is used to plan the structure of the research and how it will be executed. It is also used to maximize the validity of the findings. Central to this study is the modernisation of the CJS. To gain insight on the modernisation of the CJS, the researcher explored the current extent of modern technologies in the CJS hence this study employed a phenomenological design that is both explorative and descriptive in nature.

#### 3.3.1. Exploratory Research

An explorative research design seeks to explore the research questions at hand and helps to give a better understanding of the problem. Bryman (2004) cited in Dlamini (2017) states that “explorative research is conducted to determine the nature of the problem, and is not intended to provide conclusive evidence, but helps to have a better understanding of the problem”.

Exploratory research, as the name states, intends merely to explore the research questions and does not intend to offer final and conclusive solutions to existing problems. Bryman (2004) holds the view that it is conducted to determine the nature of the problem, and is not intended to provide conclusive evidence, but helps to have a better understanding of the problem. Explanatory research indicates a progression in the investigative process as it attempts to explain certain phenomenon in terms of the presence or absence and nature of certain relationships between key variables.

Considering the above, when conducting this study, the researcher was willing to change her direction because of revelation of new data and new insights. Therefore, the study ensured the participants` acquaintance with the subject, to increase their understanding of modernisation within the CJS.

### 3.3.2. Descriptive Research

The study also employs elements of the descriptive research design, as stakeholders who are employed within the CJS are involved. Their knowledge on the phenomenon will inform their perceptions and viewpoints on modernisation, this is described extensively in this research. Descriptive research is an attempt to describe a phenomenon, using a more extensive examination of the phenomenon and its meaning, to illicit a more comprehensive description (Bayens and Roberson, 2011:28).

Descriptive research can be explained as a statement of affairs as they are at present with the researcher having no control over variable. Moreover, “descriptive research may be characterised as simply the attempt to determine, describe or identify what is, rather than establishing why it is that way or how it came to be” (Bayens & Roberson, 2011).

This means that in qualitative studies, descriptions are more likely to refer to a more intensive examination of phenomena and their deeper meanings, thus leading to a more comprehensive description. Bayens and Roberson (2011:28) define descriptive research as “the search for information related to a relatively unknown population or phenomenon for the sake of providing a representative description”. The information is often represented in terms of means and frequencies that are used to describe the population or phenomenon for the sake of generalised qualitative comparison across contexts.

This study included relevant stakeholders who understand the phenomenon under investigation. Their understanding was probed by means of an intensive interview schedule guide aimed at ascertaining their viewpoints on the subject, and to provide them with more detailed information on the modernisation of the CJS.

### 3.4. Discussion on Research Approach

A research approach is a strategy of enquiry that informs the research design and data collection (Myers, 2009: 301). There are three most common research approaches; Quantitative, Qualitative and Mixed Methods, these approaches determine how the data is collected and analysed, and the types of generalizations and representations that will be derived from the data.

Qualitative research approach was developed to allow researchers to study social and cultural phenomena within social science (Myers, 2009: 301). According to Domegan and Fleming (2007: 24), “Qualitative research aims to explore and to discover issues about the problem on hand, because very little is known about the problem. There is usually uncertainty about dimensions and characteristics of problem. It uses ‘soft’ data and gets ‘rich’ data”. Data sources for this approach includes participant observation, interviews and questionnaires,



documents and texts, and the researcher's impressions and reactions (Creswell, 2003). Trustworthiness is important to this approach as research of this nature is based on generalizations that are detailed and context based.

The advantages of the qualitative research approach are that it allows for the rich understanding of the meaning that the participants give to the study, by looking into their lived experiences. It allows for the generation of knowledge that is not anticipated by the researcher to create new grounded theories and develop causal explanations (Maxwell, 1998: 66). The disadvantages of this approach are that researcher bias can easily enter the data collection. Some participants may not be all be equally credible, and it takes time to build trust with participants that will lead to honest and self-representation of the participants, this disadvantage is greater when the study involves short term observation periods (Lincoln and Guba, 2005: 290).

In this study the qualitative research approach was adopted. The key purpose of this study was to understand modernisation in the CJS using the participants' viewpoints. The qualitative research approach assisted the researcher focus on exploring the different contributions these participants have towards the modernisation of the CJS using their attitudes, perceptions, views and opinions.

Qualitative methods yield more in-depth understanding of factors that is difficult to achieve with quantitative methods (Dlamini, 2017). The aim of this study is to understand the effects of modernisation on the Criminal Justice System. In addition, identify technical and specialised skills in the Criminal Justice System as a consequence of modernisation the explorations of these opinions were best addressed using the qualitative research approach.

### 3.5. Study Population

The study was conducted using a sample size of ten participants. Participants were all residents of Gauteng. The sample consisted of individuals from the SASSETA justice chamber who represent various stakeholders of the South African Criminal Justice System.

### 3.6. Sampling

#### 3.6.1. Sampling Procedure

Research that is conducted among people focuses on a sample as it is difficult to conduct research using an entire population. Hence a sample that is representative of the population is required to make research possible and feasible. Strydom and Venter (2002) define sampling as "a process of selecting units from a population of interest so that, by studying the results, [the findings] may be fairly generalized back to the population from which the 10 participants who had been selected for the study were interviewed individually.

The interviews were conducted during the period of January 2023 and February 2023. The researcher with the assistance of the research manager were able to distribute the interview schedule amongst members of the SASSETA justice chamber. Each participant was presented with an informed consent letter and the rationale and process of the interview was explained to each participant. Participants were requested to sign both the consent letter and the declaration form as evidence that they understood the content and the purpose of the study, that they had no objection to participating in the study, and that they agreed to be interviewed.

Sampling is a selection of a group that is representative of the studies population to gain data that can be used as research information. This study had a sample size of two participants. The sample was chosen using the probability sampling technique, this will be further discussed below.

### 3.6.2. Sampling Technique

There are two most common sampling techniques that are used in research, the probability and non-probability sampling. According to Dlamini (2017) probability sampling allows us “to specify the probability that any given element in a population will be included in the sample, while non-probability sampling does not permit one to determine the likelihood that an element in the population will be selected”. Probability sampling allows for greater generalizations that can be applied across an entire population, unlike non-probability sampling where generalizations of the study cannot be made to the whole population.

The selection of participants of this study was conducted using the purposive sampling method. Purposive sampling is based on the researcher’s judgement. It involves hand picking the participants from the target population (Huysamen, 2001). Purposive sampling allowed for maximum variation, which is looking for participants who have different ideas about the topic and have a broad range of experience from each other. This was used to hand pick participants from the SASSETA Justice chamber.

### 3.7. Data Analysis

Qualitative research has various approaches that are used to analyse data namely thematic analysis and content analysis. This is not an exhaustive list of approaches; other approaches can be utilized depending on the aims and objectives of a study. Thematic analysis is “an independent qualitative descriptive approach that is mainly described as a method for identifying, analysing and reporting patterns (themes) that are found within data” (Braun and Clarke, 2006 cited in Vaismorodi, Turunen and Bondas, 2013: 400). Content analysis is used to describe several ways that are used to analyse text Content analysis aims to describe

characteristics of document through descriptions of what was said, how it was said and what effect does this have.

A thematic analysis was used to analyse narrative data by breaking down text into small units of themes to analyse the data. According to Ayres (2007b) thematic analysis is suitable for responding to questions such as: "What concerns you about an event? Or the reason why they use a certain procedure. Thematic analysis is more flexible and provides a rich and detailed account of data.

This study employed thematic analysis. Each participants questionnaire was thoroughly read to ensure the researchers familiarisation with the content. Common ideas and shared information was examined. To gather rich and detailed information a thematic analysis was conducted. Similar ideas and patterns were codified, contradictory themes were also marked and examined according to the objectives of the study. Themes were compared considering the information gathered in the literature review, irrelevant themes were then discarded. Each theme was analysed accordingly, and the findings were recorded.

### 3.8. Familiarisation and Immersion

Familiarisation ensures that the findings of the researcher are accurate. After all the questionnaires were received, the researcher went through the questions and the answers. The reading of the transcribed data made it easy for the researcher to identify similar content within the text and find the various themes that are present in the data. This method ensured that all important information was analysed with no omission. To gain a preliminary understanding of the data it was necessary for the researcher to use this method of familiarization. Accuracy was ensured through the use of questionnaire were the participants were able to record their actual answers this would result into findings that are valid.

### 3.9. Elaboration

The researcher correlated the data; data that was contradictory was integrated and presented as such in the analysis. To further ensure no information was left out follow up calls were made to the participants to insure no information was omitted.

### 3.10. Informed Consent

According to Bless (2006) "informed consent provides participants with sufficiently detailed information on the study so that they can make an informed, voluntary and rational decision to participate in the research". Informed consent should include the following:

- A detailed explanation for the study.
- The expected duration of the study.

- Procedures to be followed by the researcher.
- The right of the participants to withdraw at any time.
- Whom to contact for further information.

This study made use of an informed consent form that included the aim of the study, data collection instrument, duration of data collection, risks/benefits of the stud. Attached to the informed consent form is a declaration of consent form, this allowed the participants to declare their understanding of the research and to participate freely. This made sure that the participants understood that they could withdraw at any time without being reprimanded or negative consequences. It also included a request to audio record the participants.

Confidentiality and anonymity of participants was assured by informing the participants that information that they had provided during the interviews could not be traced back to the. This was insured using Pseudonyms instead of their original names in the presentation and discussion of data report. Participants were assured that audio recording would be stored safely for a period of five years then destroyed.

### 3.11. Challenges and Limitations of Study

#### 3.11.1. Challenges Experienced

When conducting research challenges and limitations are said to arise. The way the researcher mediates these challenges and limitations needs to be accurate and concise without compromising the validity or reliability of the study. The objectives of the study also need to be achieved concurrently. Some of the challenges experienced by the researcher were during the data collection process.

The interview schedule was shared with all members of the SASSETA justice chamber. However, some of the potential participants showed no interest and did not participate in the research project.

Some of the participants had a limited understanding of what modernisation within the CJS meant. The researcher had to debrief and clearly explain what modernisation meant in the light of this study. Then once their awareness was heightened, this probed adequate answers regarding this phenomenon.

#### 3.11.2. Limitations

##### a) *Location Confinement*

This study field was confined to members of the SASSETA justice chamber and was limited to the Office of the Chief Justice and the Department of Justice and Constitutional

Development. This means that the voices of other significant populations who might have contributed valuable information were excluded because of time.

Limitations are that the sample size was small it included 10 participants who represented these departments respectively. This means that the findings from this research cannot be regarded as a representative of the entire South African Criminal Justice System. Different trends and amounts of understanding are different in various communities. This means that the same topic could yield results that are dissimilar if another group of participants were sampled in a different setting.

#### *b) The accessibility of participants*

The purposively selected participants of the justice chamber were not easily accessible due to their long working hours and the nature of their work. However, to address validity and reliability issues, the cooperation of all the potential participants was encouraged.

### 3.12. Rigour in Qualitative Research Approach: Ensuring Trustworthiness

Trustworthiness is used to ensure that the research has true value, applicability, neutrality and consistency of qualitative research. The concepts of validity and reliability can be addressed using trustworthiness in qualitative research. This study ensured trustworthiness by following the following elements that ensure trustworthiness. Methodological and data collection methods were adhered to make sure that the study follows trustworthiness. The following aspects needed to be adhered to:

- Credibility

Credibility is a concept that is equivalent to internal validity, internal validity is when the researcher seeks to ensure, that the study measures or tests what intends to test (Shenton, 2004: 64). Lincoln and Guba (1985) cited in Dlamini (2017) argue that credibility is the most important element when ensuring the trustworthiness of a study. To meet the criteria of credibility this, study the researcher used the following correct operational measurements for the concepts being studied.

- Transferability

“External validity is concerned with the extent to which the findings of one study can be applied to other situations” (Dlamini, 2017). Hence when ensuring validity, it is important to show that the results of a study can be applied to the greater population. This is difficult regarding qualitative research as it makes use of smaller populations. To ensure external validity in

qualitative research transferability is used. This occurs when researchers can find similarities in their studies and the findings may be used to relate to their own position.

According to Shenton (2004: 70) researchers cannot make transferability inferences but this will only be evident if the researcher provides accurate contextual information regarding their fieldwork. In this study the researcher made a clear contextual analysis of her fieldwork. Detailed discussions were provided about the participants and the fieldwork site. This ensures that other investigators can transfer the results accurately to their positions on the study.

- Dependability

Dependability is used to ensure reliability in a qualitative study. If the same method and techniques were used, with the same participants the results that would be obtained should be the same. Dependability may be achieved using overlapping methods (Lincoln and Guba, 1985). Also, through the process of the study should be set out in detail for other researcher to repeat the work to gain similar or the same results.

This will allow future readers to gain a full understanding of the methods used in the study and their effectiveness. In this study the researcher included a detailed research design and how it was implemented, discussing the strategies that were used and their execution in detail. Also, the researcher provided an extensive discussion on the details of data gathering explaining what the researcher did during her fieldwork, the process that was used in the research were evaluated by the researcher to assess the effectiveness of the process used in this study.

- Confirmability

According to Dlamini (2017) "The concept of confirmability is the qualitative investigator's comparable concern to objectivity". It is difficult to ensure objectivity in qualitative research as tests, interviews and questionnaires are designed by humans therefore the intrusion of researcher bias cannot be eliminated (Shenton, 2004: 72). To regulate this the researcher needs to ensure that the findings are informed by the views and opinions of the participants and not the preferences of the researcher. Hence triangulation is important in promoting confirmability.

To achieve this the researcher made clear investigations of the predispositions of the study. The researcher made clear discussion on the use of the qualitative approach, stating its strengths and weaknesses and why this approach was preferred over the other various research approaches. This will allow readers to follow a step-by-step trail of the decisions and processes made by the researcher. This study employed a data orientated approach, it

showed how the data led to the formation of the recommendations that were gathered from the study.

### 3.13. Ethical Considerations

Central to any research project is the ethical considerations that surround the research. These considerations ensure that the researcher follows the correct protocol without causing harm to anyone or anything. Mphatheni (2016: 67) states that “when studies are conducted using animals or human’s subjects, ethical principles must be adhered to, and research may not be conducted if those ethical processes are not followed”.

Research ethics are a diverse set of values, norms and institutional regulations, that constitute and regulate scientific activity, these ethics can be used to conduct good research practices (Dlamini, 2017). Hence, it is important for any research project to undergo ethical evaluation. This is to ensure that the research meets good ethical standards, these standards are mediated to ensure that the researcher is able to balance “supporting freedom of scientific enquiry” or the “protection of welfare of participants” (Bless, 2006: 140).

The voluntary participation and the confidentiality of each participant was guaranteed, each participant was provided with an informed consent letter to sign. The letter clearly stated what was required of the participant and highlighted the anticipated outcomes of the research. Confidentiality was assured, and participants were told that they could withdraw at any time, also that the information provided from the participants will only be used for research purposes. The study was clearly explained and discussed with the participants.

### 3.14. Summary

An overview of the methodology that was employed in this study was provided in this chapter. The research approach, design and paradigm were extensively discussed by the chapter. It further provided a detailed overview of the study settings, ethical considerations and the limitations of the study. Despite the relatively small sample size in this research, the study still serves as a beacon of hope in understanding modernisation in the South African CJS. The study cannot be generalized onto the larger population of South Africa, but it could serve as a point of departure in addressing the need for an improved effective and efficient CJS. The next chapter will provide the data presentation, analysis and interpretation.

## 4. CHAPTER FOUR:

### DATA PRESENTATION, ANALYSIS AND INTERPRETATION

#### 4.1. Introduction

This chapter presents a discussion on and analyses of the findings of the research that was conducted in the period January 2023 – February 2023. The researcher conducted this study on Driving Modernisation in the Criminal Justice System: A case study of technical and specialised skills. The data that had been obtained were analysed and are presented and discussed in this section. The information that was obtained by means of semi-structured interviews formed the basis from which the findings of this study were derived. Patterns that emerged from the common ideas were formulated into themes and will be discussed as such.



Ten participant responses were analysed to explore their attitudes, experiences, views, opinions and perceptions on the modernisation of the CJS. This was done in consideration of the problem statement, research questions and the aims and objectives of the study.

The participant responses are numerically presented in the following manner; Two participants are referred to as KI 1-10.

#### 4.2. Thematic Analysis

Thematic analysis is the identification of themes that form part of categories used for the analysis of data (Creswell, 2007). Thematic analysis occurs through six coding phases used to identify meaningful patterns within data. The findings and discussion presented below are presented because of the questions provided in the interview schedule(s) (See Annexure A).

The below discussion is presented and clustered in terms of the aims and objectives of the study, as outlined in chapter one (see section 1.7 of chapter one of this study). Responses provided by participants may overlap in some instance. Hence, data presentation will be presented and clustered with reference to the themes that have been identified in this study.

Therefore, there are three themes that have been identified in this study as guided by the interview schedule, namely:

- ✓ The phenomenon of modernisation in the Criminal Justice System,
- ✓ The changing nature of work,
- ✓ Transformation and change management.

#### 4.3. Data Presentation

The questions (in italics in this section) presented below formed part of the questions circulated amongst members of the SASSETA justice chamber. The responses (italics and inverted commas in this section) and are presented as for example 'KIIP-1' (Key Informant Interview Participant), as stated previously. The selected participant responses were provided by the participants.

##### 4.3.1. The phenomenon of modernisation in the Criminal Justice System

In this specific section of data presentation, analysis and interpretation the following questions (in italics) were asked by the researcher:

- *Does modernisation affect the Criminal Justice System?*

<b>Response</b>	<b>No.</b>
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Yes	10
No	0

Table 1 Affects of modernisation on the CJS.

- *What do you think should be done to address issues regarding modernisation of the Criminal Justice System?*

The participants made a clear indication that modernisation has affected the South African Criminal Justice System. They further indicated what should be done to enforce Modernisation in the CJS The following are the responses quoted:

*“Is to ensure easy access to judiciary, such as Court online Initiatives” (KIIP-1)*

*“The world is moving into artificial intelligence sphere and most parts of Africa are highly behind. Therefore CJS would need digitalization and automation where legal representatives and community can interact with Judges and Magistrates online via MS Teams for example and documents can be screened when discussing matters. There will be no need to travel to Courts. Another is SAPS will have to have advanced systems in line with Department of Home Affairs to beef up citizen identification when it comes to crime.*

*Education is the prime instrument in the creation of modernization, creating skills essentials for technological innovation. Technology that offers the potential to re-enact direct forms of democratic engagement amongst citizens. Procedural documents must wherever possible be made available in digital form to lawyers and the public. Build transparency, accountability and effective reliance on data into the Criminal Justice System at all levels” (KIIP-3)*

*“Governments have long been working to transform justice systems by implementing procedural reforms, integrating technology and realigning financing models—with the goal of improving efficiency, quality and independence. The COVID-19 pandemic accelerated these plans while also underscoring the need for greater progress, especially to meet the requirements of marginalised segments of society. Now, in the next wave of reform, justice systems need to become more citizen-centric, ensuring access for all in a quickly evolving world of pervasive inequality and declining trust in institutions. Leaders must apply the lessons learned during the pandemic to set a new baseline expectation and build momentum. Reverting to traditional ways of working is not an option.” (KIIP-5)*

- *What has the organisation done to modernise their service delivery?*

The participants then indicated that their organisation has done the following to modernise service delivery.

*“Court online initiatives is underway” (KIIP-1)*

*“The department has introduced the Information Technology (IT) related innovations, designed to impact positively on service delivery. Estate online Apply for letter of authority via the system. The Department has identified modernization as one of its strategic objectives. The goal is to ensure that we are able to deliver justice service simpler, better, faster and in a cost-effective manner. Critical to modernisation programmes are Human resource Development programmes and various projects designed to improve financial management. Guardian fund online is in place.” (KIIP-2)*

*“Justice leaders have a pressing obligation to maintain and strengthen trust by instituting systemic reforms to make their organisations and processes more transparent, accountable, ethical, fair, accessible, affordable and equitable to all, regardless of a participant’s geography, socioeconomic status or language. Bringing justice services closer to the public, particularly those most impacted, in more innovative and responsive ways is a critical priority.” (KIIP-3)*

*“Case integration achievements were outlined which included CAS/ICDMS and ICMS Integrations for the electronic transmission of docket information which had now been deployed to all 1153 police stations (including military police stations) across the country and 509 of 627 Department of Justice and Constitutional Development (DOJCD) courts. Legal Aid SA notifications were enabled at 848 police stations and associated Justice Centres in order to send electronic messages for arrested persons that qualify for legal aid assistance to be assigned legal representation. With CAS/ICDMS, ECMS and ICMS Integrations, there was a further enhancement of the case integration which now include the National Prosecuting Authority (NPA) Electronic Case Management System (ECMS), NPA Electronic Charge Sheet (Electronic J15) and Case Outcome Integration was now deployed to 22 Courts in Gauteng, Western Cape and KZN by 31 March 2015 while post implementation support and change management interventions were currently underway to gradually operationalise the system and optimise utilisation. Legal Aid SA electronic Legal Aid Application (eLAA) user testing was in progress - production was planned for quarter three of 2015/16. With Correctional Services, the Integrated Inmate Management System (IIMS) pilot rollout at JHB Correctional Centre was concluded as planned on the 31st March 2015. Further functional enhancement was planned for implementation in the current financial year. With Social Development, there were preparations for integration with SAPS to deal with cases related to children in conflict with the law. This would allow for the assignment of a probation officer electronically.” (KIIP-5)*

*“Docket Scanning Solution: The purpose of the Document Scanning Solution system was to store records in the Electronic Content Document Management System (ECDMS). Automated Vehicle Location System (AVL): Tracking devices were installed into the SAPS vehicles to track and trace the vehicle movement. This was done by a 3rd party supplier through an*

*agreement between SAPS and the supplier. This contract expired and SAPS requested SITA to publish a tender for support of AVL. National Network Upgrade Programme: The objective of the program focused on the upgrading of the SAPS absolute Technology Infrastructure. This included renewal of data and voice cabling, network equipment, consolidation of servers, data carriers and voice over IP". (KIIP-7)*

*"Networks Video Conferencing (VC): SAPS directly, prior to 2010, acquired VC equipment through SITA Transversal Contract 431 which did not include maintenance and support. SAPS therefore required maintenance on existing equipment and a procurement contract to replace and expand. IJS SITA transversal development capability: SITA developed the integration endpoints and interfaces as per the specifications compiled and approved by the IJS transversal team. A team had been established in SITA to focus on integrations required across systems and departments." (KIIP-9)*

*"National Forensic DNA Database (NFDD): SITA appointed a team to assist the SAPS in the implementation of the NFDD (CODIS) solution. The team had started the preparation of the environment from where the system will operate. LABWARE: A software solution procured by SAPS directly, which managed workflow of all specimen in the forensic LAB. Forensic Science Laboratory Admin System: Administration system behind the forensic science laboratory." (KIIP-10)*

#### 4.3.2. The changing nature of work

- How do you think modernisation of the Criminal Justice System affected technical and specialised skills?

*"Affects case flow (delay on finalization of cases on time due to manual processes)". (KIIP-2)*

*"Human Resource skills has to shift from traditional model of doing work to avoid having resistance to modernization. Employees will have to develop new skills as the Department might be managed by computer, smartphone to support fast, data-driven web based technology to enhance Departmental performance." (KIIP-4)*

*"The justice sector has over recent years been at the centre of the public sector's workforce modernisation agenda. This has led, most visibly, to the creation of new para-professional staff categories such as Police Community Support Officers. In conjunction with this trend, there is a widespread feeling among sector employers and stakeholders that justice sector organisations (many of which have hierarchical cultures) are increasingly devolving*

responsibilities to the lowest possible levels, largely driven by economic considerations.” (KIIP-6)

#### 4.3.3. Transformation and change management.

- The government is calling for an efficient and effective Criminal Justice System. Are there challenges within the Criminal Justice System as result of modernisation?

<b>Response</b>	<b>No.</b>
Yes	10
No	0

Table 2 Challenges within the CJS

- What are the responses to the challenges in the Criminal Justice System due to modernisation?

*“Transformation and Change management to adapt to the needs of the people.” (KIIP-1)*

*“For me now it is a perception problem.*

*Modernisation is future of work therefore challenges are related to employee skills around what work is, how will employees work and organizes themselves. Are employees going to innovate around opportunities in an unpredictable world? Secondly, the Department needs to re-think on how to prepare future roles.*

*The need to respond to new forms of criminality as well as enhancing responses to criminal behaviors that have long involved societies including corruption and violence against women and children. Strengthening the Criminal Justice System, creating a professional police services and build community participation in community safety.” (KIIP-2)*

*“The nub of the issue was the challenge of transversal communication with other departments. He asked how the enhanced accountability measures, mentioned earlier in the presentation, showed impact and progress in unblocking bottlenecks and enabling things to move in a much more streamlined manner. The theory looked great and he acknowledged progress but where the presentation stated “achieved” or “completed” there were still long standing challenges and questions with certain systems. In short, what did enhanced accountability mean? Was it working? Was it showing progress?” (KIIP-4)*

*“Some projects had been running for ten years but was there value for money spent in terms of what had been delivered to date coupled with what still had to be done or completed. SAPS were delayed by other stakeholders while money was spent and technology became outdated. Was this not simply just burning money or would the taxpayer just pay again in the coming*

*financial year? Would it be best to sub-contract projects to the private sector? Would this deliver results? This was the core question to answer. The Home Affairs presentation was better than the IJS Board one because it focused on details and he grasped certain matters more tangibly than with the presentation by the IJS Board.” (KIIP-6)*

*“Gradually the system would be rolled out further in terms of the deployment plan. With the priorities vs. work packages, he explained which package was linked to which priority as was clearly outlined in the presentation. Members of the IJS Board were appointed by name by each accounting officer of the departments involved. The IJS specified the calibre of incumbent it was looking for – someone who was the ultimate leader/decision-maker of IT in the department. A representative of operations was also sought. The list of all members appointed to the Board could be provided to the Committee. The IJS vehicle was working, in his view, to transform the CJS for the citizens of SA. The vehicle enabled integrated planning, ensured the prioritisation in the cluster and that there were common focus areas for the ultimate modernisation of the CJS in the end. It was not all smooth sailing and there were challenges being dealt with. It is encouraging with cooperation over the last couple of years in terms of the current leadership of the Board – there was vast improvement around cooperation and increased involvement of the accounting officers. The IJS was not producing all expected results at the same time but it was producing expected results as seen in the key performance indicators which showed the visible and tangible results produced to enable the cluster to plan the building of capacity, pinpoint where the problems were in the CJS and identify training needs. With the transversal hub, some departments had completed the fundamental building blocks to allow for integration but overall, proper integration was a journey and there were individual and collective responsibilities”. (KIIP-8)*

*“Each department would have to ensure the basics were in place for transformation of applications to run the business whether by virtue of introducing new systems or modifying and enhancing existing systems to ensure there was integration. In a nutshell, there was gradual movement to transform the CJS going forward. On a scale from one to five, he put the IJS Board on a three in terms of the integration journey as there was still a long way to go and challenges to overcome by the Board had what it took to make it work.” (KIIP-10)*

#### 4.4. Summary

The collected data was analysed, and the findings were categorised in relation to the objectives of this study. Rich data was elicited through the open-ended KIIs, guided by the posed questions to the selected participants, drawn from the designed Interview Schedule Guide. The next chapter will present the conclusion to, and the recommendations based on this study.

## 5. CHAPTER FIVE

### RECOMMENDATIONS AND CONCLUSION

#### 5.1. Introduction

This chapter presents the conclusion and recommendations based on this study by focusing on the categorisation and verification of the study the objectives. The founding objectives that guided the findings of this study are briefly revisited below in re. Recommendations pertaining to the study objectives are offered, followed by suggestions for future research. These suggestions stemmed from the findings of this study. It is suggested that cognisance be taken of these findings by SASSETA, the Justice sub- sector and other relevant stakeholders.

#### 5.2. Findings of the Study

Presented below are the findings of the study:

##### 5.2.1. Findings Pertaining to the Rationale of The Study

The rationale of this study was to contribute to existing literature in this field of study and bring more attention to the modernisation of the CJS. Furthermore, instigate a clear understanding of the challenges faced by stakeholders in the CJS in reaching modernisation. As well as bring attention to the technical and specialised skills that arise as a result of modernisation in the CJS.

Evidently, the following findings confirm the above rationale. The CJS ability to give better service delivery depends on the efficiency and effectiveness of its delivery system. The modernisation or 4<sup>th</sup> Industrial Revolution is upon us and all organisations big or small are being challenged to board on their connectivity and digital revolution journey. Therefore, the CJS must be mindful that it need best employees in order to flourish in a multipart global environment.

It is important for people to use the concept of modernisation in a constructive manner. Instead of focusing on uneven development, a holistic approach should be carried out to get the desired results.

### 5.2.2. Findings Pertaining the Objectives of The Study

Findings made during the research as they relate to the objective of the research were to:

- **To understand how modernisation affects the Criminal Justice System.**

This objective was comprehensively addressed to understand what modernisation means within the constructs of the South African CJS. Technology is present in every aspect of our lives, and it has become an integral part of the legal industry and the CJS cannot be left out. Legal technology for the CJS system involves GPS systems, robots, and advanced cameras. High-performance computer systems and Internet technologies are also involved. All these technologies improve surveillance and investigation while making analysis procedures easier.

The key element of modernisation is creating the right structure and mechanisms for effective collaboration among prosecutors, judges, lawyers, police and litigants. Collaboration was important before COVID-19, but the pandemic made it even more of a priority. Simply accessing and adjusting to virtual services and proceedings, with participants in multiple remote locations, has required coordination (and patience).

More consequentially, successful collaboration will be essential to guarantee proceedings are fair, accessible, transparent and trustworthy. One of the participants stated *'Maintaining the collaborative relationship across the different parts of the sector was one of the best results of the pandemic, and now we need to keep that in place.'*

Computer programs have incorporated themselves into almost every facet of law enforcement. They are associated with different jobs, ranging from robotic cameras to DNA testing. The number of electronics and new technologies in criminal justice is rapidly growing. And they all have the same goal to make the jobs more effective.

But this is a two-edged sword, as criminals also make use of these technologies. They abuse technology for illicit usage. There are more and more tech-savvy criminals these days. That's



why experts in criminal justice have to keep a step further in this “technology combat.” Despite all these advanced technologies, It happens that someone is unjustly accused. This is where a defence criminal lawyer comes in. A lawyer has to advocate vigorously when protecting the rights of accused persons.

**To discover the technical and specialised skills in the Criminal Justice System as a result of modernisation.**

The objective was inconsistently addressed, as the prevalence of technical and specialised skills in the CJS are inconsistent. Majority of the participants believe that technology is moving faster than the current systems of service delivery within the CJS. As technology is used to commit more sophisticated crimes, law enforcement officers and those in the legal system are increasingly using tech tools to combat crime. To keep the public safe and protect human life, it's important that the criminal justice industry use cutting-edge software, tracking systems.

The participants indicated that the increased digitisation of the CJS results in the use of paperless report writing and record keeping systems. The use of paperless report writing can help improve data collection accuracy and save money for police forces. Computers, as well as mobile devices with apps that enable report writing on tablets, smartphones, and other handheld computers.

**To understand the challenges caused by modernisation within the Criminal Justice System**

This study objective received insufficient coverage. It was revealed that the challenges caused modernisation in the South African CJS were more severe than had been anticipated by the researcher. Modernisation in the CJS poses a problem from an equality standpoint. If a system is fed with human biases (conscious or unconscious) the result will inevitably be biased, thus reinforcing discrimination and prejudices under the guise of objectivity. If it is true that technology, and in particular artificial intelligence, can help identify criminals and strengthen public safety, it is also clear that it can reproduce the racial and other discriminatory biases that human beings have.

It has been demonstrated that stop and search procedures are more likely to be used vis-à-vis minority groups and foreigners, and that racial and ethnic profiling leads to harsher criminal sentences for certain groups.

Privacy is a fundamental human right, essential in order to live in dignity and security. But in the digital environment large amounts of personal data are collected with or without our knowledge and can be used to profile us. We constantly provide data on our whereabouts,

our health, political ideas and family life without knowing who is going to use this data, how and why.

In the past information about them could be obtained, but with difficulty. Today, the internet and the automatising of case-law have made it much easier to access this information. Unfettered access to such information has the potential to erode the trust people have in the whole system, as well as to destroy the lives of individual human beings.

Technology can be used to undermine judicial independence too. Great care should be taken when designing policies to improve the performance of the justice system, because in linking the achievement of ill-conceived targets to the promotion of judges, there is the risk that judges come under government monitoring with the introduction of software that ultimately distorts the initial aim of improving effectiveness and efficiency.

### 5.2.3. Findings Pertaining the Research Methodology

The study adopted qualitative research approach, which consists of literature review, and semi-structured interviews to obtain data from various members of the South African Criminal Justice System. The participants were drawn from the SASSETA justice chamber. The researcher obtained comprehensive information from the participants on the related subject matter which made the research a unique one.

### 5.3. Recommendations

Although a quantitative investigation was not conducted, the qualitative findings of this study suggest that modernisation contributes to the effectiveness and efficiency of the South African CJS.

#### **a) Improve the use of cloud storage to improve information storage in the Criminal Justice System**

The biggest reason industries move to cloud computing is because it increases the availability of data that can be accessed from anywhere. Using a hybrid cloud could help reduce some of the fears and anxiety about security and encryption while also offering 24-hour access to those who need it. Not only would they be able to securely access data from anywhere at any time, but using the cloud means that the chain of court files can be safely stored and accessed.

#### **b) Implement basic digital skills to analyse and store data in the South African Criminal Justice System**

While not necessary in every court case, legal teams could use advanced machine learning systems to analyse data and discover patterns in specific cases. For example, models could quickly review location information from cell phone records obtained by investigators and

identify patterns or repetitions. Even transcription and natural language processing algorithms could be used to add information to records and case files and make the content within them easily searchable. This would significantly reduce the time legal teams spend on these tasks and open them up for tasks that require more strategy and review.

Existing forensic science such as fingerprint analysis and blood spatter identification are still done by the human eye, making bias and misidentification far more likely. If we could analyse that with data to make more informed decisions not influenced by an investigator's knowledge of the case.

These types of technologies can help uncover insights that are routinely overlooked in the current investigative and discovery process. They can transform how those in the legal community work handle complex cases more effectively. Arguably, this shift to integrating digital technology could reduce administrative time and costs, help close cases more quickly and potentially decrease wrongful convictions or other mistakes that negatively influence people's lives.

#### **c) Improve digital literacy.**

The shift to e-courts, digital hearings and more accessible online services gives organisations significant flexibility. Online hearings can really increase access to justice,' he says, 'but they're not appropriate for all cases.' Clear criteria need to be in place to determine which cases are suitable for the virtual realm.

Additionally, virtual proceedings have highlighted the need for internet access and digital literacy to guarantee that citizens, including those in remote and rural areas, can fully participate. In fact, technology access and digital literacy often have a direct correlation on trust in the rule of law.

#### **5.4. Conclusion**

Modernisation is future of work therefore challenges are related to employee skills around what work is, how will employees work and organizes themselves. There is a need to respond to new forms of criminality as well as enhancing responses to criminal behaviors that have long involved societies including corruption and violence against women and children. Strengthening the Criminal Justice System, creating a professional police service and build community participation in community safety.

The introduction of the Information Technology (IT) related innovations, designed to impact positively on service delivery. Estate online Apply for letter of authority via the system. The Department has identified modernization as one of its strategic objectives. The goal is to

ensure that we are able to deliver justice service simpler, better, faster and in a cost effective manner. Critical to modernisation programmes are Human resource Development programmes and various projects designed to improve financial management. Guardian fund online is in place.

Two main themes run through these aspects of modernisation. The first is trust. Justice systems around the world are currently struggling to maintain their citizens' trust, yet trust in the rule of law is a cornerstone of free societies. For any modernisation initiative under consideration, leaders must ask themselves whether it will fundamentally improve citizens' trust and confidence in the system. Citizens should believe that if and when they participate in the justice system, it will be understandable, accessible, responsive and respectful of needs, and affordable. They should feel that the system is supporting them through a fair and transparent process, and not serving its own requirements. The second related theme is the need to put citizens at the centre. Citizens are the group most impacted by judicial processes, yet often the least involved once the justice system gets rolling.

The needs of citizens should be at the heart of the justice system, with modernisation efforts focused on outcomes rather than ticking off items on a checklist. Few initiatives, no matter how well thought out, will succeed without citizens' full participation and buy-in. Modernisation entails more than simply conducting court proceedings in a new way; it is a means to rethink long-standing traditions of how and where justice is administered, to and for whom; and to improve transparency, access and perceptions of fairness. In other words, these measures are about more than justice. They're about creating stronger societies overall.

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## ANNEXURE A

### Introduction:

SASSETA is currently conducting a research study: *Driving Modernisation in the Criminal Justice System: A case study of technical and specialised skills*. The study seeks to:

1. To understand how modernisation affects the Criminal Justice System.
2. To discover the technical and specialised skills in the Criminal Justice System as a result of modernisation.
3. To understand the challenges caused by modernisation within the Criminal Justice System.

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### Respondent undertaking

I confirm that I am voluntarily participating in this study and have not been coerced in any way to do so. I also understand there are no rewards of any form accruing from my participation in this study.

SIGNED: \_\_\_\_\_  
*Signature of Respondent*

DATE: \_\_\_\_\_

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### PART A: Geographical Information:

Name of institution	
Name of Department	
Province	
Position of person interviewed	

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### PART B: Questions

1. What is the role of your organisation in the Criminal Justice System?


1. Does modernisation affect the Criminal Justice System? *(Please tick)*

YES	
NO	

2. What do you think should be done to address issues regarding modernisation of the Criminal Justice System?


3. How do you think modernisation of the Criminal Justice System affected technical and specialised skills?


4. The government is calling for an efficient and effective Criminal Justice System. Are there challenges within the Criminal Justice System as result of modernisation?

YES	
NO	

5. What are the responses to the challenges in the Criminal Justice System due to modernisation?


1. What are the responses to the challenges in the Criminal Justice System due to modernisation?


2. What has the organisation done to modernise their service delivery?


3. In addition to all the things that we have been mentioned above, is there anything that you would like to add?


**THANK YOU**