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Operating Procedure OP013 v2.02	TSU Operational & Evidential Records
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1 Introduction

- 1.1 This Operating Procedure identifies the need to keep comprehensive and accurate records of operational activities in order to be able to present robust and credible evidence if required.

2 Key Points

- **Record Keeping:** Needs to be to evidential standards.
- **Accuracy:** The failure to keep accurate records could ultimately lead to the collapse of a Court case.
- **Timeliness:** Records must be made at the time or as soon after the event as practicable.
- **Relevance:** Any material produced may be deemed relevant to a criminal investigation.

3 General Conditions

- 3.1 Regardless of whether it is considered likely that a task will be part of a prosecution, procedure and record keeping needs to be of a standard that meets evidential requirements.
- 3.2 It is important to note that material produced before a criminal investigation begins, no matter how old, or for what original purpose, may later be deemed relevant in terms of the Criminal Proceedings and Investigations Act 1996 (CPIA) when a criminal investigation commences. There is, therefore, a particular emphasis on the need for consistent and high standards of record keeping and retention so that all legal obligations may be met.
- 3.3 This Operating Procedure is only a guide to that process and reference should be made to relevant local policy and operating procedures that set out issues in more detail, such as those for disclosure, pocket books, evidence labels and retention for example.

4 Detail

- 4.1 Important details to make a note of are:
- time and date of any action
 - note of any significant contact with customer, other staff or third parties in connection with the task
 - authorities and a note that they have been read and understood (requirement of R v Sutherland)
 - Risk Assessments

4.1. Continued>>

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- any H&S issues (Environmental hazards, firearms, weapons etc.)
- continuity of any evidential (or potential evidential) material
- compromise or potential for compromise
- policy decisions
- good practice
- feasibility reports
- equipment configuration details – battery life, settings, passwords etc.
- deployment details
- contingency plans
- details of all equipment and accessories deployed.

4.2 Failure to keep accurate records can have serious consequences:

- safety may be undermined
- increased risk of compromise if contingency and retrieval information is not recorded
- duplication of effort leading to inefficiency and increased risk
- integrity of a whole operation could be undermined by a failure to support evidence with credible procedure
- loss of a court case or a vital part of the evidence becoming inadmissible*
- reputation of the law enforcement agency could be undermined
- sensitive techniques could be at risk of compromise because robust and credible procedures were not put in place to protect them
- an officer could be subject to rigorous and uncomfortable cross-examination in the witness box. Any perceived loss of integrity could be exploited in future cases. An accurate and well-structured statement could avoid this and may even mean that an appearance in court is not required
- regardless of the quality of the evidence, a weakness in the procedure is an opportunity for the defence to challenge it.

** In the case of R v Sutherland a murder case collapsed because an authorisation for the installation of technical equipment had not been noted by TSU and the conditions of the authority were exceeded. There is now a requirement for TSU officers to read and understand the conditions of the authority before installing equipment.*

4.3 The need to protect sensitive equipment and techniques from exposure is not an excuse for not recording their use. Care needs to be taken with detail but applications for Public Interest Immunity (PII) will be difficult to achieve if it is not demonstrated that procedure has been followed and there is a valid reason to invoke it.

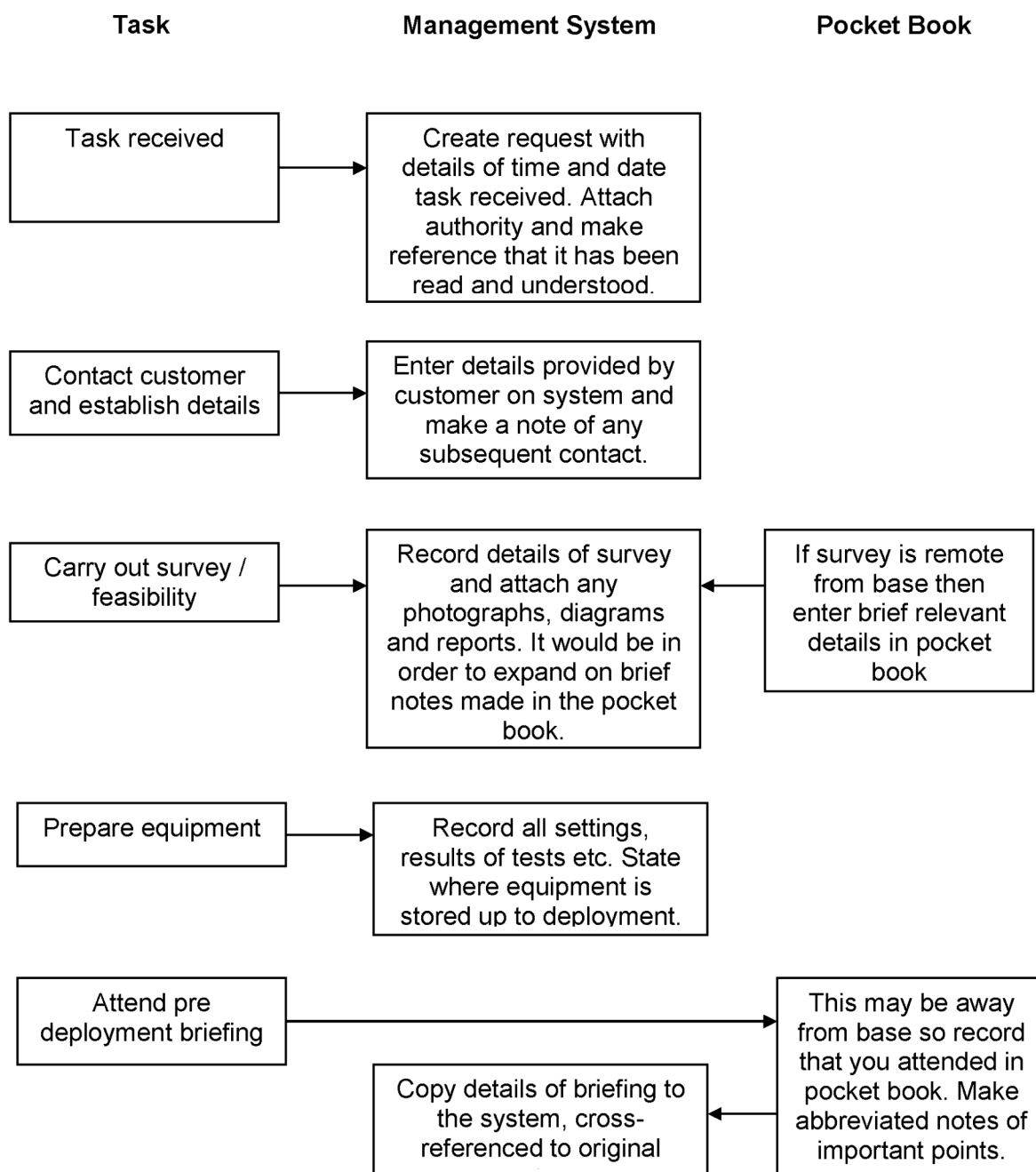
4.4 All records must be made at the time or as soon after the event as practical. (*Contemporaneous = happening at the same time*) In many cases, an entry on the task management system is satisfactory. Otherwise, it may be necessary to make an entry in an official pocket book if entries in the task management system cannot be made within a reasonable period. Avoid making notes on scraps of paper, as these are subject to disclosure and so must be retained.

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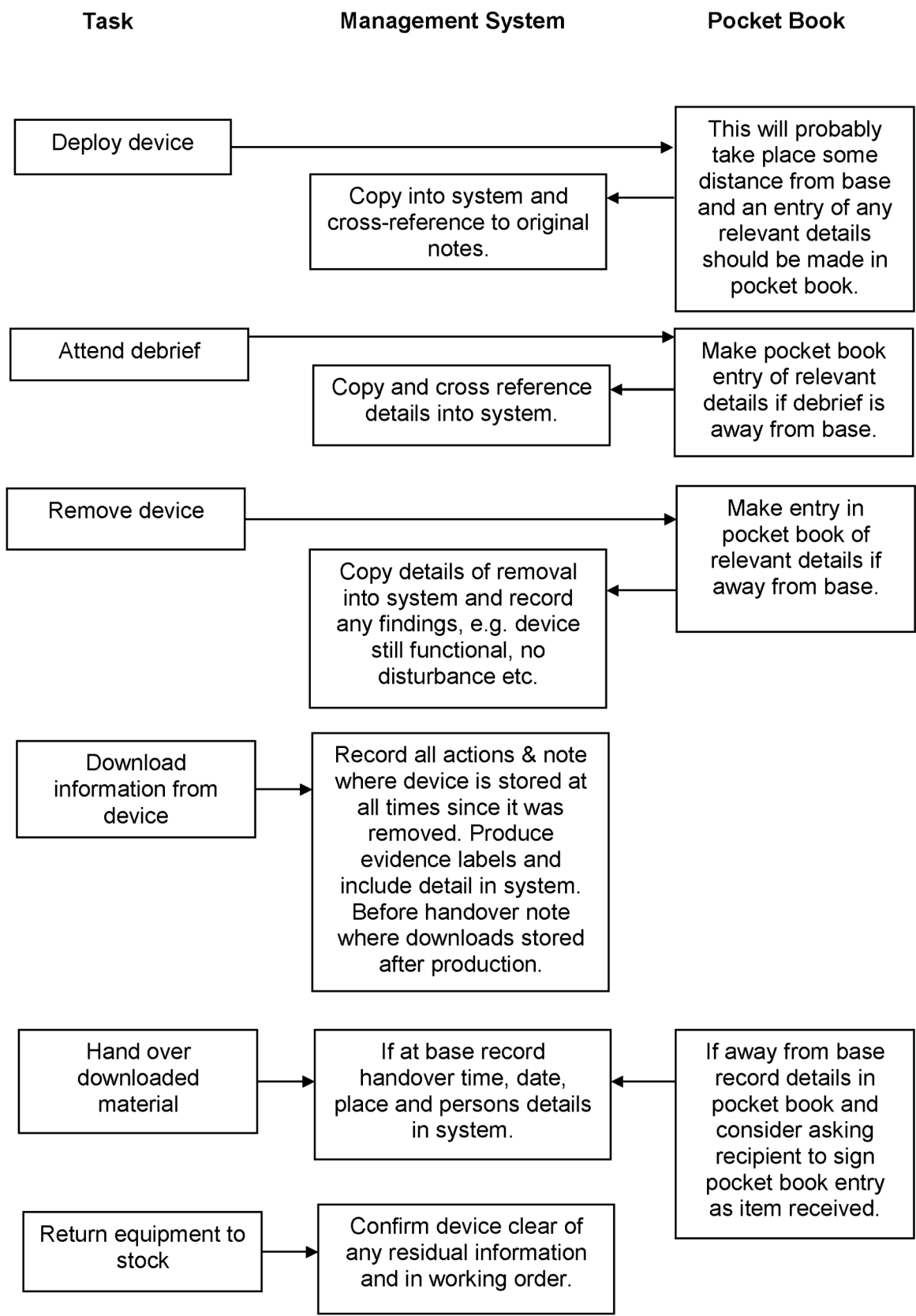
4.5 Many law enforcement agencies appoint a Disclosure Officer and an Exhibits Officer for all investigations. This is an indication of how important these issues are. The TSU should engage with them at the earliest stages of their involvement with an operation.

5 Example Deployment

5.1 The following example is for the deployment of a logging device that needs to be deployed and downloaded by TSU but the same principles apply to all operational involvement.



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6 Visual Imagery

6.1 Evidential

6.1.1 When visual imagery is used with the intention of providing or supporting potential evidence local policy based on national procedures for digital imaging (e.g. Home Office Digital Imaging Procedure) will be followed in full.

6.2 Non-Evidential

6.2.1 If photographs are taken to illustrate an operational report, such as a feasibility survey, the following practice should be followed:

- Use a 'clean' formatted memory card that has no images or data on it for each operation.
- As soon as practical, download the selected images into the report and/or database set up for the purpose and format the card.
- If there is any delay between taking the images and downloading or the camera is to be used for another purpose, remove the card, place it in a bag clearly marked with the operation name and date and keep it secure until it can be downloaded and formatted.
- Keep a separate card for images not connected with operational activity or TSU technical equipment.

6.2.2 Make sure the images have provenance by referencing them in the document and/or in the tasking record narrative.

6.2.3 Do not keep images that are not needed and avoid keeping several copies of an image in different locations.

6.2.4 Remember that the images and the report they go into may be classified and need to be handled accordingly.

6.2.5 Remember that the images and the document they illustrate may be subject to CPIA disclosure.

7 Exhibit Handling

7.1 If an exhibit is seized or generated by TSU it should be packaged, labelled, handled and stored appropriately in accordance with force policy.

7.2 A note should be made of the continuity of all exhibits in the task management system or a pocket book.

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Document History		
Version	Date	Details
V1.0	16/04/09	First Draft
V2.0	23/04/09	Section 6 – national procedure added.
V2.0	07/10/10	Reviewed - No Change
V2.01	01/06/11	Minor formatting and wording changes made
V2.02	22/10/18	Amended for GSC and 'Home Office'.