



JUSTICE WITHOUT BORDERS

*Because the right to just compensation shouldn't end
Even when a victim returns home*

A GUIDE TO EVIDENCE COLLECTION

INTRODUCTION

This guide to evidence collection focuses on supporting migrant worker litigation. It primarily focuses on the Indonesia-Singapore and Philippines-Singapore migration routes. It identifies the various documents that may serve as important evidence for a case, and recommends how the documents may be retrieved in situations where neither the client nor the referring non-governmental organisation has them. Note that this document does not include tips to collect less “formal” evidence, such as hand phone pictures, writings kept by the worker, or other such information that the client may have collected herself. Any such evidence that the client has that may provide support for her claims should of course be identified and preserved.

This guide is a work-in-progress. It will be updated as we acquire more knowledge and experience collecting evidence for migrant worker cases. We welcome your input.

Some of the suggested means of evidence collection depend on the Singapore Personal Data Protection Act (PDPA). For example, Section 21 of the Act obliges an organisation, on request of an individual, to “as soon as reasonably possible” provide the individual with “personal data about the individual that is in the possession or under the control of the organisation.”

Section 2 of the Act defines “personal data” as “data, whether true or not, about an individual who can be identified (a) from that data or (b) from that data and other information to which the organisation has or is likely to have access.” We believe that Section 21 can be relied upon to request for your client’s personal data from the Singapore organisations involved, although please see the disclaimer below.

Also of note is Indonesia’s Public Information Disclosure Act, No. 14 of 2008. Under this Act, an Indonesian citizen may submit a request to a public agency that includes the citizen’s name, address, the information requested, and the reason for the request. The public agency must thereafter respond within 10 days. The requester may be required to pay a fee.

DISCLAIMER

This guide is not meant to constitute legal advice. Professional legal advice should be sought before any course of action is pursued. While the contents of this paper are derived from sources believed to be reliable and accurate, JWB does not make any representation or warranty as to the accuracy of the information. JWB and its representatives also do not accept any responsibility for errors or omissions in the information provided.

TYPES OF EVIDENCE AND TIPS FOR COLLECTION

1. EMPLOYMENT CONTRACTS

Why Are Employment Contracts Important?

The employment contract is the foundational document for a breach of contract claim. The contract may specify the contracting parties, the salary, the number of rest days, how untaken rest days and holidays are compensated, the amount and duration of deductions for agency fees or other loans, and other terms of the contractual arrangement. If the client has signed multiple contracts, you will want to collect all of them if possible.

Where to Request Copies of Employment Contracts:

Employers and Employment Agencies. The client or the client's representative can request (generally, in writing) copies of the client's employment contract(s) from employers and employment agencies in writing. For agencies and for employers that are organizations as defined by the PDPA, the request can be made specifically under Section 21 of the Act.

Government Agencies. The client or client's representative can request (generally, in writing) copies of the client's employment contract(s) from the relevant government agencies in Singapore or the home countries.

Contact the Singapore Ministry of Manpower at:
Controls Compliance and Levy Department
Work Pass Division
Ministry of Manpower
18 Havelock Road #03-01
Singapore 059764.

If the client is from Indonesia, you may also request the contracts from the Director of Placement at BNP2TKI (an Indonesian government agency that assists migrant workers). Their address is Jalan MT Haryono Kav 52, Pancoran, Jakarta Selatan 12770, and their email address is perlindungan@bnp2tki.go.id. You can also approach the Indonesian Embassy in Singapore (7 Chatsworth Road, Singapore, 249761).

You may wish to consider submitting a formal request under Indonesia's Public Information Disclosure Act. Please feel free to contact JWB for referrals to Indonesian organizations that can facilitate this type of request.

2. IMMIGRATION DOCUMENTS (IPA, WORK PERMIT, ENTRANCE MEDICAL EXAMINATION)

Why Are Immigration Documents Important?

Immigration documents (particularly the In-Principle Approval, or IPA, document) may provide material terms of the employment (such as the starting date and the agreed salary) as well as identifying information of the employer. The entrance medical examination may provide a point of comparison between the medical condition of the client before and at the conclusion of employment.

Where to Request Copies of Immigration Documents:

See above, Employment Contracts

3. AGENCY FEE AGREEMENTS

Why Are Agency Fee Agreements Important?

Agency fee agreements, if written, may provide a clear record of the fee amount and the service(s) provided and can then be compared with the relevant law (in Singapore and/or the home country) to determine if the fee agreement is legal. Beyond that, because a written agreement evinces a contractual relationship, it may also provide a clear basis to sue an agency that has violated the law.

Where to Request Copies of Agency Fee Agreements:

See above, Employment Contracts

4. IDENTIFYING INFORMATION FOR KEY PARTIES

Why Is Identifying Information for Key Parties Important?

You will need the name, address, and identifying information (NRIC or ACRA number) of all parties in order to pursue civil litigation against them—without this information, you will not be able to serve a demand letter or a writ.

Where the target is an **individual**, you need his or her:

- Full Name;
- Address; and
- NRIC Number

Where the target is a **corporate entity**, you need its:

- Registered Name;
- Registered Address;

- Accounting and Corporate Regulatory Authority (ACRA) Registration Number; and
- Service information.

Where to Obtain Identifying Information:

If you are able to obtain contracts, immigration documents or fee agreements, as above, you should be able to ascertain many of the identifying details. Note that contracts signed in Indonesia should also contain the employer's name. Once you have *some* identifying information, you can use various databases to search for additional information. For example, if you have the name of a corporate entity, you can locate their registered address, ACRA number, and service information from ACRA's website, <https://www.acra.gov.sg/home/>. You can obtain more details such as the share capital and names of officers and shareholders of the corporate entity if you purchase its business profile for a small fee on the ACRA website.

In cases involving domestic workers, where you may only have the individual employer's name, you may want to search for the name of the employer's spouse. SingPass users can search for marriage records up to two times free-of-charge at https://www.rom.gov.sg/emrs/rom_emrs_cpmt_start.asp. For non-SingPass users, the service is \$35 and can be accessed at https://www.rom.gov.sg/emrs/rom_emrs_paid_start.asp.

If you do not have the employer's name but know the address of his/her home, you can conduct a land title search at <http://www.sla.gov.sg/inlis/#1> to find out the names of the owner(s) of the property. The owner(s) of the property is/are likely, although not definitively, to be the employer(s).

5. POLICE REPORTS

Why Are Police Reports Important?

A police report may provide a summary of the facts, the names of witnesses, identifying details of the perpetrator, and statements made by the client.

Where to Request Copies of Police Reports:

SingPass users may request a police report at: <http://www.police.gov.sg/e-services/apply/certified-true-copy-of-police-report>. You will need: Applicant's particulars (title, full name, NRIC no), contact number, email address, incident details (e.g. nature of offence, date and time of incident), and Report/IP number (for Land Division's application).

6. MEDICAL REPORTS AND RECORDS

Why Are Medical Reports and Records Important?

Medical records are important for establishing injuries and harm suffered by your client, as well as out-of-pocket damages. They may also include statements made by the client immediately after the injury or harm.

Where to Request Copies of Medical Reports and Records:

Medical records may be retrieved at the serving hospital. The hospital's website will generally set out the process for making a request and will likely require that the client sign and submit a consent form. Medical records generally cost \$200-\$500.

For private hospitals, you may alternatively submit a request for all "personal information" of the client under Section 21 of the PDPA.

7. CLOSED CIRCUIT TELEVISION (CCTV) FOOTAGE

Why is CCTV Footage Important?

If some or all of the events underlying the client's case took place in the view of a CCTV camera, the CCTV evidence may be critical in supporting your client's version of the facts.

Where to Request CCTV Footage:

You can make a request to the manager of the property where the CCTV camera is located. Do not delay making the request, as many CCTV operators overwrite the footage on a regular (often, 30 days) basis.

8. RECORDS FROM ADMINISTRATIVE PROCEEDINGS (MOM)

Why Are Records of Administrative Proceedings Important?

If your client has appeared before MOM, these records may show the types of claims presented to MOM, statements of the client and the employer or agent, alleged salary amounts and payments, and the resolution. You may, for example, learn that the client signed a settlement release, which should be examined in advance of civil litigation.

Where to Request Copies of Administrative Proceedings:

You may request the records from:
Employment Standards Branch
Foreign Manpower Management (Well-Being)

Department Ministry of Manpower Services Centre
1500 Bendemeer Road
Singapore 339946.

9. BANK OR WIRE TRANSFER STATEMENTS

Why Are Bank or Wire Transfer Statements Important?

You may want to prove the transfer of funds (or lack thereof).

Where to Request Bank or Wire Transfer Statements:

Singapore Bank or Wire Transfer Company. The client or client's representative can request (generally, in writing) copies of financial statements under the PDPA, section 21, for all "personal data" about the client.

Indonesia Bank. The client or client's representative may go to the bank (with the client's ID and passbook) and request bank statements. There may be a small fee for copying.

10. INDONESIAN FOREIGN WORKER INSURANCE INFORMATION

Why Is Information about the Indonesian Foreign Worker Insurance Program Important?

Indonesian clients with insurance policies may be eligible for insurance payments to cover many types of injury and out-of-pocket expenses. The policy may specify the terms of the policy as well as the process for submitting a claim. Most migrant workers are not aware that they hold an insurance policy in Indonesia. For assistance on Indonesian insurance matters, please feel free to contact JWB for a referral to a local organization near the client's home community who can assist.

Where to Obtain Information about the Indonesian Foreign Worker Insurance Program:

- **Information on Whether the Client Participates in the Program**

The insurance status of migrant workers may be retrieved from <http://www.bnp2tki.go.id/searchtki> using the migrant worker's name or passport number. However, for migrant workers who have been out of the country for more than two years, the data might not be available. Two of the three insurance consortia have an online search: <http://astindo.co.id/?sec=peserta> and <http://www.mitra-tki.com/Mitra-TKI/pencariandata.html>. If the client's name appears, it is likely that she participated in the insurance scheme.

- **Standardised Insurance Policies**

Indonesia has a standardised insurance policy for migrant workers. The standardised policy can be accessed here: www.astindo.co.id.

JWB CONTACT INFORMATION

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