

Performing Background Checks in Brazil

Brazil has one of the world's fastest growing and dynamic countries. The country will host the 2014 Soccer World Cup and in 2016 the Summer Olympics will be held in Rio de Janeiro. By 2016 Brazil is projected to have overtaken France to become the fifth largest economy in the world (Source Brazilian National Bank for Economic Development (BNDES)). The country was largely unaffected by the recent global financial crisis and continues to increase its influence on the world stage.

It is therefore understandable that in recent years there has been a significant increase in requests for background checks with a Brazilian component and the good news is that it is usually possible to perform screening inquiries with reasonable efficiency and efficacy.

Identifying Particulars

Let's first look at how to establish unique identifying particulars:

1. A date of birth is a key identifier in Brazil. Dates are expressed as day/month/year.
2. Brazil is at times a confusing bureaucracy. For example, each citizen is required to have a *Registro Geral* (general registry) number, known as a RG number. Although this number appears on an official Brazilian ID card, The RG number is issued at the state level and also by a number of other bodies (such as the armed forces). Therefore, it is not only possible, but also legal, for an individual to have multiple RG numbers. Legal residents of Brazil, who are not citizens, are issued with a *Registro Nacional de Estrangeiros* (national register of foreigners) number, known as a RNE number. Because the federal police manage this registry at the federal level it is an unique identifier. However, for screening purposes, like the RG, it does not have much value.
3. Anyone that wishes to open a Brazilian bank account, purchase property, buy or lease a car or a cell phone, work for a company or otherwise participate in the local economy must apply for and receive a *Cadastro de Pessoa Fisica* (Individual Taxpayer's number), known as a CPF number. It is worth noting that there is no residency or citizenship requirement for the issuance of a CPF number. This number is, for practical purposes, the only unique government issued document that can be relied upon during the identification process.
4. Brazilians speak Portuguese and a significant percentage of the population is of Portuguese heritage. Women normally adopt part of their husband's last name upon marriage and children usually take the last

name of both father and mother. Thus the child of Maria Silva and José Santos could be Lucas Silva Santos. However, the child of Lucas Silva Santos would most likely take the grandfather's name (Santos) and drop the grandmother's name (Silva). That said, there is not definitive formula, which makes it important to have the mother's name as well as an individual's full name as a step in the identification process.

Identity theft is not unheard of in Brazil, but with a full name, mother's name, CPF and date of birth, identification can be considered definitive.

Types of Records

Let's now look at how important records are kept in Brazil.

1. **Criminal records:** Criminal records are kept in separate registries by the federal authorities and by the state authorities. Most "ordinary" crimes are recorded in state registries and federal violations e.g. money laundering and terrorism, recorded in a federal database. It is possible for an individual to request from the federal police, either online or in person, a certificate (*Certidão de Antecedentes Criminais*) which will attest to the fact that the individual has no federal criminal record. A similar opportunity to request a clearance certificate exists at the state level and some states also offer this service online. It should not be assumed under any circumstances that a federal certificate indicates that an individual does not have a criminal record at the state level and vice versa. In addition a state certificate covers only the single state from which the certificate was obtained.
2. **Credit checks:** The Brazilian credit reference agency SERASA has been in operation since 1969. In 2007 it was sold to the international credit reference agency Experian. In practice, SERASA is the only reliable source of credit related information in Brazil. A significant percentage of the data in the system pertains to corporations and not consumers. However, it is possible to perform a consumer credit check using the system for anyone with a CPF number (see above). Brazil has experienced periods of hyper-inflation and until recently, it was difficult for many Brazilians to obtain consumer credit. In addition, the late payment of a cell phone bill or a missed car payment may result in all other credit accounts being frozen until the situation is remedied. Therefore, most Brazilians have unblemished credit records and negative findings are normally of significance.
3. **Civil litigation searches:** The Brazilian legal system derives from Portuguese civil law. It is possible to perform online searches of many court records. However, records should not be considered comprehensive and searches are usually only possible using the name of an individual or

- corporation. Therefore, a search on a common name such as José Silva would produce many hundreds of results, each of which must be examined separately to determine its potential relevance. In addition, the court system is complex. Each state is divided into judicial districts. Decisions made at the trial court in each state district may be reviewed by the *Tribunal de Justiça* (Court of Justice) at the state level. Decisions made at the state level may be reviewed and/or overturned by a *Tribunal Regional Federal* regional federal court, of which there are five. There are also two national superior courts the *Superior Tribunal de Justiça* (Superior Court of Justice) and the *Supremo Tribunal Federal* (Supreme Federal Court). If that isn't complicated enough a separate court structure exists to adjudicate labor and family issues. It is practically impossible to state that an individual has no relevant civil litigation using normal search methods. However, where civil litigation involves financial matters, for example a dispute over a tax assessment, some information concerning this litigation may be available by performing a credit search (see above).
4. **Professional Certification:** It is normally possible to perform professional certification verification as long as the name, address and telephone number of the professional body is provided. Note though that many professions are organized at the state level and not at the federal level.
 5. **Education Verification:** It is also normally possible to perform higher education verification as long as the name, address and telephone number of the university faculty is provided. State and federal universities do not normally have a searchable centralized registry of former students and such records are maintained only at the faculty level. Private universities are for the most part a little better organized, but it is worth noting that a small minority of private universities are little more than degree mills. It's therefore also worth checking that the educational institution itself is legitimate.
 6. **Employment Verification:** With the name, address and phone number of a former employer, employment verification may be possible. In many cases, the records of former employees are not kept in a searchable form and also, because of Brazilian labor law, employees are almost never fired for cause. Therefore, not much inference should be assumed when it is not possible to confirm prior employment, nor should a "positive" reference be considered in the same way as a similar record might be in the US.

Other points to consider

Any and all records reviewed as part of a background search in Brazil will be in Portuguese. In addition, requests for employment, education or professional verification made in English either in writing or by telephone will likely be ignored or misunderstood. The interpretation of any results should be performed by a

fluent Portuguese speaker familiar with the short-form and abbreviations used in the records obtained. At least for now, Google translator is of little assistance! It's also worth noting that turnaround times vary from season to season and from location to location. For example in the Brazilian summer (December-March) and most definitely before and during Carnival and the Christmas and New Year period, searches may take several additional weeks to complete. In addition, the north and west of the country normally moves at a slower pace than the south-east, so more time and patience should be allotted.

Final notes

Brazil is developing at great pace. It enjoyed the largest growth in Internet use of any country in the world from 2004-2009, a staggering 270%. The number of Internet users in the country tops 60 million and, 98% of businesses are online. (Source Brazilian Agency for Industrial Development (ABD)). Brazil has also woken up to the need to simplify and streamline the bureaucracy of business and is actively working to address this issue. It is expected that many of the data retrieval and analysis issues referenced above will change for the better in the near future. On the other side of the equation, Brazilian workers enjoy a much higher level of legal protection than their counterparts in the US. For example, the state oil company *Petróbras* is challenging in federal court, a lower court ruling that it cannot use the results of a criminal record check to determine whether a candidate may be hired. Also, legislators continue to ponder the merits of EU style personal data protection laws, which have already been adopted in a number of other Latin American countries.

Without doubt the challenges facing screening companies operating in Brazil are significant and dynamic. Nevertheless, with local knowledge and determination, those challenges can be overcome and the needs of employers both domestically and internationally can be met.

Robert W Jones
Operations Director
Socrates Ltd
January 20, 2011