

Immigration Detention in Panama

Global Detention Project

July 2015

The Global Detention Project (GDP) is a non-profit research centre based in Geneva, Switzerland, that investigates the use of detention in response to global migration. The GDP's aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) facilitating accountability and transparency in the treatment of detainees; and (3) encouraging scholarship in this field of immigration and refugee studies.

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Introduction

Economic growth and geography have helped transform Panama into one of Central America's most important immigration destination countries as well as a key transit state for people migrating north.¹ In 2013, the country's migrant population numbered 158,400, or 4.1 percent of the country's total population. This is four times the average ratio of foreign-born residents in the region.² In contrast to other receiving countries in Central America, including Costa Rica and Belize, Panama's foreign-born population is comprised of people from Latin America and Caribbean countries, as well as various countries in Asia.³

In 2008 the country adopted Law Decree No. 3 and Executive Decree No. 320, which overhauled existing migration policy. Law Decree No. 3 establishes the National Migration Service and regulates visas, border control, as well as deportation and detention. Executive Decree No. 320 details the provisions of Law Decree No. 3.

Articles 65 and 66 of Law Decree No. 3 provide that the National Migration Service is to order deportation of any non-citizen who enters the country irregularly; remains undocumented; engages in conduct contrary to good morals; threatens public security, national defence, or public safety; or has served a prison sentence. Before ordering deportation, the National Migration Service is required to issue a detention order. This provision appears to resemble mandatory detention measures observed in other parts of the globe, including [Malta](#). However, the GDP was not able to verify whether detention is systematically applied. Some reports indicate that immigration detention in the country is discretionary.⁴ The maximum period of detention is 18 months (Executive Decree No. 320, article 2).

Article 66 of the Law Decree provides that detention orders are to be presented to the person in question. However, according to information provided by the Jesuit Refugees Services-Panama, in practice this information is provided only in Spanish and linguistic assistance is not generally ensured.⁵ Immigration detainees have the right to communicate with legal counsel, families, and consulates (Law Decree article 94). The state does not provide legal aid and very few immigration detainees have their own legal counsel. The only legal advice is provided by NGOs (Jesuit Refugees Services and

¹ International Organization for Migration (IOM). Website. "Missions of the Region: Panama." http://costarica.iom.int/en/panama/mission_more_information/ (24 June 2015).

² UN Department of Economic and Social Affairs (UNDESA). *International Migration 2013 Wall Chart*. <http://www.un.org/en/development/desa/population/publications/migration/migration-wallchart-2013.shtml>.

³ O'Neil, Kevin, Kimberly Hamilton, and Demetrios Papademetriou (Migration Policy Institute). *Migration in the Americas*. September 2005. https://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gcim/rs/RS_1.pdf.

⁴ International Detention Coalition (IDC). 2014. *INFORME REGIONAL DETENCIÓN MIGRATORIA Y ALTERNATIVAS A LA DETENCIÓN EN LAS AMÉRICAS*. October 2014.

⁵ Appel, Carolina (Servicio Jesuita a Refugiados Panama). *Global Detention Project Questionnaire*. January 2014.

Centro de Asistencia Legal Popular) but due to their limited resources aid is not systematic or sufficient.⁶

There is no judicial review of detention. The Law Decree provides for the possibility for an appeal against deportation. It is an administrative appeal to be addressed to the General Director of the National Migration Service (articles 67 and 96). The only judicial avenue to challenge detention is habeas corpus under the constitution (article 23). However, there are very few appeals because of the lack of a proper information and legal service.⁷

Children are not placed in immigration detention. The Law Decree provides that persons below the age of 18 cannot be detained; they are placed under the responsibility of the Ministry of Social Development (article 93). In practice they are accommodated either with their relatives or in foster homes.⁸

Comprehensive statistics on the number of persons placed in immigration detention do not appear to be available. The only statistics that the GDP is aware of concern people from countries outside Latin America, so-called *extracontinentales*. According to official statistics, in 2009 317 non-citizens coming from other continents were detained; 503 in 2010; and 147 in 2011. The major countries of origin included China, Bangladesh, Eritrea, Somalia, Nepal, and India.⁹

Panama operates two immigration detention facilities, one for men (Albergue Masculino de Detencion) and another for women (Albergue Femenino de Detencion).¹⁰ Both facilities are run by the National Migration Service and are located in Panama City.

The centre for men is a dedicated immigration detention centre. It has an approximate capacity of 70 but confines on average 130 people at a time. Until 2013 detainees were forced to sleep on mattresses on the floor. The facility has a yard and telephone, which detainees are allowed to use upon request. Following his September 2013 visit, the country's Ombudsman noted positive changes such as increased visiting time up to one hour and installation of fans and TV. During his visit, 107 persons were detained at the centre.¹¹

⁶ Appel, Carolina (Servicio Jesuita a Refugiados Panama). Global Detention Project Questionnaire. January 2014.

⁷ Appel, Carolina (Servicio Jesuita a Refugiados Panama). Global Detention Project Questionnaire. January 2014.

⁸ Appel, Carolina (Servicio Jesuita a Refugiados Panama). Global Detention Project Questionnaire. January 2014.

⁹ Servicio Nacional de Migración. Flujo Migratorio de Extracontinentales tránsito por las Américas. 2012. scm.oas.org/pdfs/2012/CP28856T.ppt

¹⁰ Appel, Carolina (Servicio Jesuita a Refugiados Panama). Global Detention Project Questionnaire. January 2014. International Detention Coalition (IDC). 2014. *INFORME REGIONAL DETENCIÓN MIGRATORIA Y ALTERNATIVAS A LA DETENCIÓN EN LAS AMÉRICAS*. October 2014.

¹¹ Federacion Iberoamericana del Ombudsman. PANAMÁ: Defensoría del Pueblo inspecciona albergue masculino del Servicio Nacional de Migración. 2013. <http://www.portalfio.org/inicio/noticias/item/13082-panam%C3%A1-defensor%C3%ADa-del-pueblo-inspecciona-albergue-masculino-del-servicio-nacional-de-migraci%C3%B3n.html>.

The centre for women is located inside a police station. It has a capacity of 20 and consists of a single room. The room does not have a window but has air conditioning and a TV. Detainees do not have an access to a yard and no recreational activities are provided.¹²

In 2013, the Inter-American Court on Human Rights issued a resolution on Panama's compliance with the court's 2010 judgement in the case of *Vélez Loor*. In that landmark case Panama was found to have violated several rights of the petitioner, an undocumented migrant from Ecuador. In its 2013 resolution the court found that the country failed to explain what happens to people detained outside of Panama City.¹³ In fact, persons apprehended in the border areas (such as province of Darién) are detained in provisional facilities during some days before being transferred to centres in Panama City.¹⁴

One of the aspects of the Panama's migration policy addressed in the *Velez Loor* was criminalisation of migration related offences. Panama's previous migration law (article 678 of the 1960 Law Decree No. 16) provided for prison sentences of up to 2 years for irregular re-entry. The Court ruled that criminalization of irregular entry went beyond the states' legitimate interest in controlling irregular migration and that detention for non-compliance with migration laws should never involve punitive purposes. According to the Court, a punitive measure applied to a migrant who has re-entered the country in an irregular manner subsequent to a deportation order was not compatible with the American Convention on Human Rights. In particular, the Court ruled that article 67 did not pursue a legitimate purpose and was disproportionate, given that it established a punitive penalty for foreigners who evade previous orders for deportation and, therefore, resulted in arbitrary detentions.¹⁵

With the new 2008 law, which was adopted before the ruling in *Velez Loor* was rendered, Panama decriminalized unauthorized entry and re-entry. A similar legal trend can be observed in other countries in various regions, such as [Hungary](#), Malta and [Mexico](#).

¹² Appel, Carolina (Servicio Jesuita a Refugiados Panama). Global Detention Project Questionnaire. January 2014.

¹³ Inter-American Court on Human Rights. *RESOLUCIÓN DE LA CORTE INTERAMERICANA DE DERECHOS HUMANOS DE 13 DE FEBRERO DE 2013; CASO VÉLEZ LOOR VS. PANAMÁ SUPERVISIÓN DE CUMPLIMIENTO DE SENTENCIA*. 2013. http://www.corteidh.or.cr/docs/supervisiones/Velez_13_02_13.pdf.

¹⁴ Appel, Carolina (Servicio Jesuita a Refugiados Panama). Global Detention Project Questionnaire. January 2014.

¹⁵ INTER-AMERICAN COURT OF HUMAN RIGHTS. *VÉLEZ LOOR v. PANAMA*. 23 NOVEMBER 2010. http://www.corteidh.or.cr/docs/casos/articulos/seriec_218_ing.pdf. Para. 167, 169, 171, and 172.

List of Detention Sites

Name	Status (Year)	Location	GDP Facility Type	Detention Timeframe	Security	Authority	Management	Capacity	Reported Population	Demographics & Segregation
Albergue Femenino de Detención	In use (2015)	Panama City	Police station	Long-term	Secure	Servicio Nacional de Migración	Servicio Nacional de Migración	20 (2014)		Adult females (2014); Legal segregation (2014)
Albergue Masculino de Detención	In use (2015)	Panama City	Migrant detention centre	Long-term	Secure	Servicio Nacional de Migración	Servicio Nacional de Migración	70 (2014)	107 (13 Sept 2013)	Adult males (2014)

Map of Detention Sites



Country View

1. Albergue Femenino de Detención
2. Albergue Masculino de Detención