



## **DILI DISTRICT COURT – WEEKLY SUMMARY** **1 November to 8 November**

*The following information is based on trial monitoring conducted by JSMP at the Dili District Court. At the end of November a more complete report will be released compiling all data gathered for the month of November. It will also contain analysis and commentary about the issues which have arisen throughout the course of the month in the Dili District Court.*

- **CASE LOAD**

Criminal Hearings which proceeded	13
Civil Hearings which proceeded	6
Adjourned Hearings -	19
Total Number of Hearings Scheduled	38

- Some cases came before the Court more than once during the week and are therefore counted twice.
- Some adjournments were agreed in chambers – in other cases the Court convened but the proceedings had to be adjourned for a variety of reasons.

- **REASONS FOR ADJOURNMENT**

Prosecution unavailable/unprepared -	4
Defence unavailable/unprepared	3
Judge(s) unavailable	1
Accused failed to appear -	5
Witness failed to appear	1
Civil defendant unavailable/unprepared	3
Miscellaneous	2
<b>TOTAL</b>	<b>19</b>

- On three of these occasions the adjournment occurred because the prosecutor handling the case was Mr Alcino Baris and because he was appointed as Vice Minister for the interior during the week and the Court decided that he could not appear as a Prosecutor.

-- In two cases the accused person had escaped from jail. In a third case the accused person, who is a foreign national, has fled the jurisdiction.

- NUMBER OF ACCUSED PERSONS WHO CAME BEFORE THE COURT WHO ARE IN DETENTION: 10 of 32 accused

- TYPES OF CRIMINAL OFFENCES BEFORE THE COURT

Negligence resulting in death (car accidents)	5
Assault	5
Murder/attempted murder	3
Rape/sexual offences	6
Theft/Property damage	3
Fraud	1
Traffic offences	1
TOTAL	24

- NUMBER OF PROCEEDINGS BEFORE THE INVESTIGATING JUDGE

Initial review hearings (within 72hrs of arrest)	8 (some with multiple suspects)
Detention review hearings	0
Requests for arrest warrants	0
Requests for search & seizure	0
TOTAL	8

- Some requests for arrest warrants were made but those requests were made post-arrest as part of the initial review hearing.

- OUTCOME OF PROCEEDINGS BEFORE THE INVESTIGATING JUDGE

Detention order	0
Conditional Release Order	14
Release Order	1
Miscellaneous	1-
TOTAL	16 suspects

- One suspect brought before the Court was a sixteen year old minor. The Court ordered that the police find suitable accommodation for him in a facility better able to cater for the needs of minors than Becora.

## **Summary of all proceedings in the Dili District Court 1 to 8 November 2002**

### **1 to 3 November**

- **Hearings**

These dates coincided with the long weekend therefore there were no hearings over this period.

- **Proceedings before the investigating judge**

JSMP approached the investigating judges to inquire whether there were any proceedings before the investigating judges (such as requests for search and seizure warrants, arrest warrants or detention review hearings). According to the written log kept by the judges and according to the judges themselves, there were no proceedings before them over that period.

### **4 November 2002**

- **Hearings**

#### **Criminal Case 13 of 2002 (Public Prosecutor v A Minor [the accused name does not actually appear to be suppressed])**

The case commenced at 10.55am. The Judge sitting on the matter was Judge Aderito Tilman. The case involves a minor (who is now 17 but was 16 at the time of the alleged offence) who is charged under s359 of the Indonesian Criminal Code with negligence causing death. The charges arise out of a car accident in which a small child was killed. The accused has been in detention already for more than one year. Representatives of Social Services and the UN Human Rights Unit were present. The accused's family, including his parents, were not present. (A representative from Social Services explained that originally they had attended listed hearing but had become too frustrated by delays. He said that after arriving at the Court at 9am on several occasions for a hearing only to be told some hours later that the matter was adjourned (sometimes to an indefinite date), the minor's mother who is reasonable old was no longer inclined to attend but rather said that the family would just wait to be told the outcome of the case.)

The Court was closed to the public

A new defence lawyer has just taken over the case. He was not in a position to present a full defence today, having not had an opportunity to properly talk to his client. Therefore, the only matter he raised in defence was that the accused was a minor. The matter was adjourned until Friday 8 November 2002 at 10.00am.

### **Criminal Case 29 of 2002 – (Public Prosecutor v John Da Cruz and 2 others)**

This case commenced at 11.06. The panel of judges consisted of Judge Rui Pereira dos Santos (presiding), Judge Cirilo JJV Cristovao and Judge Edite Palmira Dos Reis. The accused are charged with a murder. The murder was alleged to have been committed on 8 May 2001. The accused are all on conditional release. The matter was adjourned because the witness that was scheduled to appear did not attend. It was the second time the witness has been called but failed to attend. The prosecutor is to call the witness one more time. If the witness does not appear the Court advised that they would compel the witness to attend. The matter was adjourned until 18 November 2002 at 9.30am

### **Criminal Case 86 of 2002 –(the Public Prosecutor v Antonio Naro)**

The case was before Judge Carmelita Caitano Moniz. The case was closed to the public because it involved a charge of attempted rape and molestation where the victims were minors. The case was adjourned for judgment. The accused admitted to the charges.

The accused has already been in detention for almost seven months. The public prosecutor explained that the victim(s) and their family did not want to come to Court and give evidence because they were satisfied that the accused had already been appropriately punished having spent almost 7 months in jail. They had no further interest in the proceedings.

### **Criminal Case 75 of 2002 – (the Public Prosecutor v Quintalino Da Costa)**

The case was listed before Judge Renato Bere Nahak. The accused is charged with negligence causing death. The charges arise from a car accident. There was no hearing in this case because the accused, who is on conditional release, did not appear. He was aware of the hearing because he was present in Court when the case was adjourned to today. The case was adjourned until 8 November 2002.

- **Proceedings before the investigating judges**

**Case One** – Two suspects were brought before Judge Joao Henrique. They had been arrested on 4 November in Dili pursuant to an arrest warrant issued that day. The incident occurred on 1 November 2002 but as the judge explained that coincided with a holiday.

The first suspect was suspected to have committed theft. The suspect was 16 years old so the Judge said it was inappropriate to detain him given that there were no facilities for a minor in the accused boy's circumstance. Therefore the suspect was returned to the police so that they could find an appropriate facility where he could be given some guidance so that he would not become a petty criminal.

The second suspect was suspected of having received stolen goods. He was eighteen years old and was conditionally released. The conditions of release were that he report to the police station twice a week. The conditional release order expires after two months.

**Case Two** - a suspect was brought before Judge Joao Henrique in a domestic violence case. The incident was alleged to have occurred on 1 November 2002 but because it was a holiday the suspect was arrested on an arrest warrant issued today 4/11/02 and brought straight before the Court. The man was suspected of having hit his wife. He was released unconditionally because the investigating judge found that there was no evidence. The judge noted that there were no marks on the suspect's wife. I asked whether the police would continue to investigate the matter and he said that as he had decided that there was no evidence, that was essentially the end of the matter.

**Case Three** – a man suspected of committing an assault was brought before Judge Joao Henrique. He was arrested on Sunday 3 November without an arrest warrant. He was conditional released. The condition imposed on his release was that he report once a week to the police station.

## **5 November 2002**

- **Hearings**

### **Criminal Case No 116 of 2002 – (Public Prosecutor v Joaquim M Sola)**

The case was before Judge Carmelita Caitano Moniz. It commenced at approximately 11.20am. The accused was charged with assault under s 351(1) of the Indonesian Penal Code. The incident is alleged to have occurred in Hera on 19 August 2002. The accused and the victim were alleged to have been drinking together at the time of the assault after a day working in the field. The case was at the stage of witness examination. One eyewitness was called and then the accused himself was called and examined by the judge and both parties.

The prosecutor made her closing submissions requesting a sentence of 18 months imprisonment. The public defender made his closing statements, submitting that the assault had been a spontaneous one with no malicious intent. The matter was adjourned for judgement at 10.30am on 14 November 2002.

The accused is on conditional release, although he did spend one month in Becora Prison in pre-trial detention.

During the hearing the Public Defender handed up to the Court a declaration signed by both the accused and the alleged victim. The defence acknowledged that this was a criminal case but said that it was not particularly serious. The defence submitted the agreement so that it might be taken into consideration by the Court. The Judge said that she would take it into consideration as material from the defence but said that the matter was before the Court and therefore had to be processed according to law. When the accused was called to give testimony the judge told him that just because he had reached an agreement with the victim, did not alter the fact that this was a criminal proceeding in the hands of the prosecutor and the Court. The Judge explained that the victim did not have the authority to waive a prison sentence as possible punishment because only the Court had the authority to determine the appropriate penalty once a charge was proven. The agreement was just another factor to be taken into consideration. The Judge also told the accused that if he used

violence to solve his problems, he should be aware that there would be consequences.

### **Criminal Case No 141/02 – (Public Prosecutor v John Robert Cord)**

This case was before Judge Edite Palmira Dos Reis. It was a traffic offence case brought under s9 and s10 of UNTAET Regulation 8/2001. The accused was an Australian national. It was alleged that the accused, on 11 November 2002, had been speeding while under the influence of alcohol. The accused admitted that he was speeding but not that he was under the influence of alcohol to the extent that it had affected his ability to drive the car. The matter proceeded very quickly. The judge had been allocated the case the previous day and listed it immediately. The brief indictment was read, the prosecutor briefly outlined the facts, the defence briefly responded, Judge Edite fined the accused \$135 and the matter was resolved.

### **Criminal Case No 30 of 2001 – (Public Prosecutor v Aderito Lemos)**

The case was before Judge Rui Pereira Dos Santos. It commenced at approximately 3pm. The case involved an alleged misappropriation of goods by a company employee. The case has been on going for some time. Many witnesses have already been called. Today another witness was called and examined by the judge and both parties. The matter was adjourned until 11 November 2002 at 3pm so that the physical evidence could be put to the witness for comment/identification.

There was an oral motion by the defence during the trial that the prosecutor, Alcino Baris, should be disqualified from the case having been officially appointed that morning as the Vice Minister for the Interior. The Court said that if an application of that nature was to be made then it should be made formally and then the Court would rule on it. In the meantime the Judge was content for the prosecutor to continue.

Later the prosecutor explained to JSMP that he has two weeks to finish up his work and hand over all his files to other prosecutors. He explained that he currently has 40 or more cases before the Court but many more in the preliminary preparatory phase. Some of these will be easier than others to hand over to the other prosecutors who already have significant case loads of their own. He said that today's case was very complex, many witnesses had already been called and it would be better if he could finish the calling of evidence himself. It appears that a replacement prosecutor has not yet been appointed.

### **Criminal Case No 15 of 2000 (Public Prosecutor v Jose M Pereira)**

The case was listed before Aderito Tilman. This is an attempted rape case that has been before the Court for some time. It did not proceed today because the accused, who is on conditional release, did not appear.

## **Criminal Case No 116 of 2002 (Public Prosecutor v Boanebtura Das Dores & Feliciano Babo)**

The case was listed before Judge Antonio Helder V Carmo. This is an assault case whereby a husband and wife are alleged to have together assaulted a female relative. The case did not proceed today because the accused, who are on conditional release, did not appear.

- **Proceedings before the Investigating Judge**

**Case one** – A woman suspected of having assaulted her son in law was brought before the Judge Joao Henrique. He ordered that she be conditionally released with the condition that she report each Wednesday to the police. The conditional release order is effective for one month. I am not sure when the lady was detained. The prosecution requested and was issued an arrest warrant when they brought the suspect to Court today.

**Case Two** – A woman suspected of having attacked her mother and suspected of having threatened the police with a knife when they came to her home was brought before Judge Sergio Dias Quintas. She was arrested on Sunday 3 November 2002. When JSMP asked the Judge why she was not brought before the Court yesterday he said that he was unsure. He did not inquire because it was still within the 72 hour period. The woman was conditionally released with the condition that she report to the police every Saturday. (The Judge made Saturday the reporting day so that it would not interfere with the suspect's work schedule.) The conditional release order is effective for 2 months. The Judge told JSMP that he expected the matter would resolve itself unofficially and did not expect that an indictment would be filed.

## **6 November 2002**

- **Hearings**

### **Criminal Case 106 of 2002 – (Public Prosecutor v Zeca Dos Santos)**

The case was before Judge Carmelita Caitano Moniz. The case commenced at 10.15am. The case involves an alleged assault which was said to take place in Liquisa in July 2001. The alleged victim and the accused are half brothers. Today the first witnesses were called. Three witnesses gave evidence – the victim; an eyewitness (who was not in fact an eyewitness) and the accused's mother. The accused accepted the evidence of the victim as true.

The hearing was adjourned until 14 November 2002 at 11.00am when further witnesses will be called.

The accused has been in detention at Glenog for 7 months.

During the hearing an issue of competency arose. The accused man's mother said during her testimony that the accused was mentally ill. The Judge asked why neither the prosecution nor defence had investigated this and examined whether the accused was competent to stand trial. The prosecution explained that it had never

arisen as an issue, his mother had never mentioned it before and there were no indications that he was mentally ill nor reports to that effect from the prison. The defence also said that the accused man's mother had never mentioned this before. The judge ordered that the accused be checked by a doctor. Later JSMP spoke to the defence counsel and he said that there were no signs that the accused man was mentally ill and that his client had denied that it was true. I asked whether the accused might refuse to be examined. At first the defence said that if the Judge ordered that he be examined, he could not refuse. Later he stated that it would depend on why the accused had refused but, at any rate, refusal would weigh against him in the case and would look bad.

### **Criminal Case 108 of 2002 (Public Prosecutor v Alberto Mendes)**

The case was before Judge Rui Pereira Dos Santos. It commenced at 2.55pm. The case was closed to the public. The accused is alleged to have raped his grandchild. The incident was alleged to have occurred in Maubara on 5 June 2002. Some witnesses, including the victim had already given evidence. Today, a child was supposed to give evidence but did not appear. (The Prosecutor explained to me that the child was from a small village, rarely travelled and would find the car trip too difficult.). The Court proceeded to hear evidence from the accused who had already admitted to the crime. The case was adjourned for closing arguments on 21 November 2002.

The accused is in detention.

### **Criminal Case 103 of 2002 – (Public Prosecutor v Domingus Soares)**

The case was listed before Judge Pedro A de Oliveira. The case did not proceed because the public defender with carriage of the matter was ill. The accused is alleged to have raped his step child. The accused has been in detention since 24 May 2002.

### **Criminal Case 68 of 2001– (Public Prosecutor v Kamal MA Hiary)**

The case was listed before Judge Aderito Tilman. The case did not proceed because the public prosecutor (who is an international prosecutor from serious crimes) did not appear. The accused is a citizen of Jordan who was in East Timor as a UN policeman. He is alleged to have raped a local woman. He has already fled the jurisdiction.

### **Civil Case 24/PDT.06/2002 – (Jose A MS v Zeca Soares)**

The case was before Judge Edite Palmira Dos Reis. It commenced at 3.04pm. The case involved a dispute over land ownership between two East Timorese families – one who fled in 1999 and another that remained in East Timor. The defendant and his lawyer did not appear although they had been notified of the hearing. The hearing was adjourned until 13 November 2002 at 3pm. The plaintiff was represented by the public defender's office.

- **Proceedings before the Investigating Judge**

**Case One** – Two people, a mother and daughter, suspected of assaulting another lady, were brought before Judge Joao Henrique. The Judge released both suspects on the condition that they report every Saturday and Thursday to the police station. The order is valid for two months. Given that the maximum sentence facing the suspects was a jail term of less than five years, the judge explained that it would be inappropriate to detain the suspects because the period of their pre-trial detention might exceed any jail term ultimately ordered against them.

The incidents occurred on 30 October 2002 and the suspects were arrested on 31 October 2002 pursuant to an arrest warrant issued by Judge Constancio Basmeri on the same day. Given that 1 – 3 November was a holiday, the police temporarily released the suspects and asked them to return to Court today. JSMP asked the Judge how he could release suspects that were not under arrest and he explained the problem when the 72hour period expires over a holiday.

## **7 November 2002**

- **Hearings**

### **Criminal Case 112 of 2002 – (Public Prosecutor v Celestino Ribero)**

The case was before Judge Cirilo JJV Cristovao. The case involves an alleged attempted murder. It is a domestic violence case. Judge Cirilo decided that the prosecutor with carriage of the matter, Mr Alcino Baris, was no longer able to appear as a prosecutor having been appointed two days ago as the Vice Minister of the Interior. The case was adjourned until the matter could be handed over to another prosecutor.

The accused has been in detention since 15 March 2002.

### **Criminal Case 48 of 2002 (Public Prosecutor v Nelson Dos Santos de Rosario)**

The case was before Judge Edite Palmira Dos Reis. The accused is charged with negligence causing death. case involves manslaughter charges arising from a car accident in which 4 people were killed and others injured. All the prosecution witness have been called and examined already. Likewise, the accused has already been examined. The case was adjourned until 8 November 2002 at 4.00pm so that the defence could call witnesses.

The prosecutor said she had no notice that the defence would call witnesses.

### **Criminal Case 86 of 2001 – (Public Prosecutor v Domingos X Babos)**

The case was before Judge Carmeleta. The case involves an alleged rape. The hearing today progressed with the examination of witnesses. The accused is in detention and has been in detention since 18 July 2001.

**Criminal Case 68 of 2001 – (Public Prosecutor v Kamal MA Hiary)**

The prosecutor appeared today to proceed with this case but there must have been a misunderstanding because the victim came to Court yesterday. Judge Aderito Tilman has carriage of the matter and he told the prosecutor that he would send notice of a new date in approximately 2 weeks time. The accused is a citizen of Jordan who was in East Timor as a UN policeman. He is alleged to have raped a local woman. He has already fled the jurisdiction.

**Criminal Case 85 of 2002 - (Public Prosecutor v Antonio Joaoquim)**

The case did not proceed. The accused is charged with damaging property. He escaped from Becora prison during the mass breakout. Judge Cerilo has carriage of the matter and he explained that the Court had already ordered the police to look for the man.

**Criminal Case 19 of 2001 – (Public Prosecutor v Armando Da Silva)**

The case did not proceed. The accused is charged with theft but he escaped from Becora some time ago. Judge Adertio Tilman has carriage of the matter.

**Criminal Case 21 of 2002 – (Public Prosecutor v Teresa M deCavalio)**

The case was before Judge Adertito Tilman. The accused is a member of the student council who is alleged to have incited the other student to eject and attack a TVTL journalist from the campus. The case was adjourned to 21 November 2002 because a witness did not appear. The matter was also adjourned because the prosecutor with carriage of the matter was Mr Alcino Baris who has been appointed as the Vice Minister for the Interior.

**Civil Case 31/PDT.06/2002 – (Cipriana J G Da Costa v Macalio Da Conceilao)**

The case was before Judge Guilhermino da Silva. The case involved a dispute over land ownership between two East Timorese families. The final witness gave evidence today and the matter was adjourned until 14 November 2002 for closing arguments.

**Civil Case 54/PDT.06/2002 – (Madalene Da Costa SP v Jose GS Da Silva)**

The case was before Judge Edite Palmira Dos Reis. The case involves an inheritance dispute between siblings over land. This was the first hearing in the case – it was adjourned because the defendant's lawyer was not able to attend because he had only just received the file and was still preparing. The defendant himself was there. The plaintiff was not present but was represented by a lawyer from the public defender's office who has carriage of the matter. The case was adjourned until 20 November 2002. According to the plaintiff's lawyer the case was initially filed on 27 March 2002. He has conducted a series of mediations between the parties and still hopes that it will be resolved by agreement.

### **Civil Case ??/PDT.06/2002 – (Unsure of Case Name)**

The case was before Judge Rui Pereira Dos Santos. The case involved a dispute over land ownership between two East Timorese families – one family has recently returned from West Timor and claims that the other family is occupying their house. This was the first listed hearing of the matter. The defendant did not appear although he had been notified of the hearing. The case was adjourned until 19 November 2002. The defendant has three chances to appear before a decision can be made in his absence.

- **Proceedings before the Investigating Judge**

**Case One** – A man suspected of assault was brought before Judge Joao Henrique. The incident had actually occurred and the man had been arrested on 22 October 2002. The man, who was related to the alleged victim, was subsequently released by the police and efforts were made to resolve the matter at the village level. Those attempts were unsuccessful so the man was brought before the Investigating Judge who ordered that he be conditionally released. The condition was that he report twice weekly to the police station. The order is effective for two months.

### **8 November 2002**

- **Hearings**

#### **Criminal Case 13 of 2002 (Public Prosecutor v A Minor [the accused name does not actually appear to be suppressed])**

The Judge sitting on the matter was Judge Aderito Tilman. The case commenced at approximately 10.00am. The case involves a minor (who is now 17 but was 16 at the time of the alleged offence) who is charged under s 359 of the Indonesian Criminal Code with negligence causing death. The charges arise out of a car accident in which the accused was alleged to have hit and killed a 3 year old child. Judgment was delivered. The accused was found guilty and sentenced to 1 year and 27 days imprisonment. The accused has already spent that exact period in pre-trial detention and was therefore released. Matters taken into consideration during sentencing were the fact that the accused was young, had no prior convictions and had admitted and expressed remorse over his negligence.

#### **Criminal Case No 126 of 2002 – (Public Prosecutor v Erico)**

The case was listed before Judge Aderito Tilman. The accused is charged with negligence causing death. The accused is alleged to have been drunk and speeding when he his truck hit and killed a teenager on a bicycle. The incident occurred at the end of September 2002. The accused has been in detention for approximately one and a half months. The case was listed for judgement but the case did not proceed today because the prosecutor with carriage of the matter is Mr Alcino Baris who has been appointed as Vice-Minister of the Interior. As a result the Court has ruled that he can no longer appear as a prosecutor.

**Criminal Case No 90 of 2002 – (Public Prosecutor v Domingus S Pereira)**

This case was listed before Judge Adertio Tilman. The accused is charged with serious assault. He has been in detention since 20 March 2002. The indictment was filed on 17 June 2002. The case did not proceed today because the Prosecutor with carriage of the matter is Mr Alcino Baris who has been appointed as Vice-Minister of the Interior. As a result the Court has ruled that he can no longer appear as a prosecutor.

**Criminal Case No 05 of 2002 – (Public Prosecutor v Sabino da Costa Fatima and 5 others)**

The case was before Judge Edite Palmira Dos Reis. It commenced at approximately 10.30am. The case involves the alleged theft of approximately 400 cartons of beer from a container some time in early July 2001. All the accused are charged under s 55(1) and (2) in operation with s363(3e) and (4e) of the Indonesian Penal Code. In the hearing today the prosecution made closing arguments and asked for a sentence of 3 years for the first accused but no conviction for the remaining five accused, against whom there had been no evidence. The defence asked for an adjournment to prepare the defence's response. The case was adjourned to 19 November 2002 at 2.30pm.

The accused are all on conditional release. The first accused was detained from 5 July 2001 to 30 October 2001 before he was conditionally released. The second was detained from 5 July 2001 to 22 August 2001 before he was conditionally released.

**Criminal Case No 27 of 2002 (Public Prosecutor v Antonio Rodrigues)**

The case was before Judge Cerilo JJV Cristovao. The case commenced at 10.25am. The accused is charged with the attempted murder of his brother in law in Remizu on 20 July 2001. This was to be the second hearing in the case but it was adjourned because a three judge panel is required to hear the case and only Judge Cerilo was available. The two other judges who were allocated to the matter are in fact Suai judges and, given that their transfer to Suai is reasonably imminent, they will be replaced with Dili judges. The case was adjourned to 15 November 2002 when the first witness, the victim, will be called.

The accused has in detention and has been in detention since 21 July 2001.

**Criminal Case No 75 of 2002 (Public Prosecutor v Quintalino Da Costa)**

The case was before Judge Renato Bere Nathak. The case commenced at 10.35am. The accused is charged with negligence causing death and injury. The accused is alleged to have been driving a vehicle at high speed when he hit and killed one man and hit an injured another man in Bobonaro on 28 December 2001. The hearing today proceeded with witness examination from the man who was injured, an eye witness and the accused. The case was adjourned to 15 November 2002 for further witness testimony.

**Criminal Case No 86 of 2002 (Public Prosecutor v Antonio Naro)**

The Case was before Judge Carmelita Caitano Moniz. The case commenced at 10.40am. The accused was charged with attempted rape and molestation. Judgement was delivered. The accused was found guilty and sentenced to 7 months and two weeks imprisonment. He has already been in detention since 20 April 2002 (the day the incident was alleged to have occurred) and this period will be deducted from his sentence. Matters taken into consideration in sentencing were that the accused was young (22years), was an only child with family responsibilities and had no prior convictions.

**Criminal Case No 48 of 2002 (Public Prosecutor v Nelson Dos Santos)**

The case was before Judge Edite Palmira Dos Reis. The case commenced at 4.45pm. The accused is charged with negligence causing death. The case relates to a car accident in Maliana. The case was adjourned to 13 November 2002 at 9.30am for the defence to call witnesses. The case could not proceed today because both the prosecution and the defence were caught up for most of the day in proceeding before the investigating judge.

The accused is not in detention.

**Criminal Case No 63 of 2002 (Public Prosecutor v A Minor [the accused man's name is not actually suppressed])**

The case was before Judge Pedro A de Oliveira. The case commenced at 12.40pm. The accused is charged under s351(2) of the Indonesian Penal Code with assaulting his school teacher on 30 January 2002 in Dili. In today's hearing the prosecutor read his closing argument. The prosecution requested a sentence of one year. The defence then requested that the matter be adjourned so that he could prepare before presenting his response. The matter was adjourned to 19 November 2002 at 10am. The hearing appeared open to the public.

The accused is a minor. He is on conditional release. He had been detained from 1 February 2002 to 26 August 2002.

**Criminal Case No 98 of 2002 (Public Prosecutor v Noberto Fernandez)**

The case was before Judge Aderito Tilman. It commenced at 2.45pm. The accused is charged with negligence causing death. The charge arose from a car accident. The defendant was present but his defence lawyer was not. As a result the case had to be adjourned. There were several witnesses present to give evidence who will now have to return. The case was adjourned until 18 November 2002 at 10.30am.

The accused is on conditional release.

**Civil Case No 36 of 2001 (.... v Manuel Goveau Lette)**

The case was before Judge Renato Bere Nahak. The case commenced at 2.40pm. I was not able to get information about the nature of the case. The hearing today involved examination of witnesses.

**Civil Case No 34 of 2001 (Maria Quintao v Andre Lemos)**

The case was before Judge Rui Pereira Dos Santos. The case commenced at 2.40pm. The case involves a request for compensation under s1365 of the Indonesian Civil Code. The Plaintiff is seeking full title to a house, gold and car currently jointly held with the defendant. Today's hearing involved the examination of witnesses. The case was adjourned to 15 November 2002 for the examination of further witnesses.

**Civil Case No 40 of 2001 (.... v Border Control)**

The case was before Judge Rui Pereira Dos Santos. The case commenced at 9.40am. The parties had already reached an agreement to resolve the matter, which essentially involved the plaintiff paying the tax on certain goods. The Court gave a judgement/order which gave effect to the parties' agreement.

**Civil Case No 29 of 2001 (Foo Hau Kung v Paul JJ McDonald)**

The case was before Judges Carmelita Caitano Moniz, Cerilo JJV Cristovao and Pedro A de Oliveira. (A Suai judge had been involved but was replaced by Judge Cerilo.) The case commenced at 11.40am. The case involves a contractual dispute between former joint venture partners. The defendant's legal counsel handed up a document which raised several issues about the Court's jurisdiction. The defendant requested that the civil case be postponed until a related criminal matter was resolved. The defendant put in issue the competence of the plaintiff to sue in his own name. The defendant also requested that the plaintiff's counsel be disqualified from the case because he had previously acted as legal counsel for the joint venture. The plaintiff replied orally but the Court requested that any response be put in writing. The Court stated that it would take time to read and consider the document presented by the defence. As such the matter was adjourned to 18 November 2002 at 10.30am

**Civil Case No 40 of 2002 (Chung Pok Lay v Ahu Lay Manuel)**

The case was before Judge Edite Palmira Dos Reis. The case commenced at 3.30pm. The case involves a dispute over property. The plaintiff claims the defendant is illegally occupying certain property while the defendant claims to have rented the property. In today's hearing the defendant presented his response to the plaintiff's claim. The hearing was adjourned to 11am on 14 November 2002 for the plaintiff to respond to the issues raised by the defence.

- **Proceedings before the Investigating Judge**

**Case one** –8 men suspected of assault were brought before the investigating judge. It is alleged that one of the men assaulted his wife who then reported him to the police. The man ran from the police to a group of his friends (the other seven suspects). When the police arrived the men threatened and goaded them. The suspects were all arrested yesterday on 7 November 2002. (The men all claim to be ex-Falantil and when they entered the Court building handcuffed in pairs they made a big commotion shouting out "viva Falantil.) The matter took the greater part of the day to process. The men were all conditionally released with the requirement that

they report once a week to the police station. The order will remain in effect for three months.

JSMP believes that the Court issued the arrest warrant today.

There were two other cases – one involving a man suspected of rape and another involving domestic violence. Both cases were not heard because by the time the cases were ready to proceed, it was 5.30pm and the investigating judges would not hear the cases. It was understood by JSMP that both suspects would be held over the weekend.