



..... **2018**

T I M O R - L E S T E
C O M M U N I T Y - P O L I C E
P E R C E P T I O N S S U R V E Y

THEMATIC BRIEF — DISPUTE RESOLUTION

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The Asia Foundation



**NEW ZEALAND
FOREIGN AFFAIRS & TRADE**

Background

This is a review of the findings of The Asia Foundation's 2018 Timor-Leste Community Police Perceptions Survey relating to dispute resolution.¹ This is the fifth survey commissioned by The Asia Foundation, following surveys conducted in 2008, 2009, 2013 and 2015.²

In 2018 over 70 questions were asked of 3,178 respondents across all 12 Municipalities and the Special Administrative Region of Oecusse-Ambeno through a process of random sampling. As with previous surveys, respondents were categorized into three groups – public (1,808), Police (731), Community Leaders (639) – with three distinct but similar sets of questions for respondents in each group. The data was collected from September-October 2018.

This briefing aims to show how people in Timor-Leste resolve disputes by focusing on the initial responses to crimes and disputes and how those crimes or disputes are ultimately resolved.

It is important to note that the surveys have avoided using legal definitions of 'crime' or 'dispute', despite this distinction having important implications under law, for the simple reason that the difference between a criminal offence and a civil dispute is often unclear for Timorese people. This is important in terms of the appropriateness of responses to commonplace crimes or disputes, which will be explored in further detail below.

Timorese people use a variety of processes to resolve disputes and crimes, sometimes formal or informal, sometimes involving the state or not. How an issue is resolved often depends on complex, dynamic relationships based on proximity and trust involving a range of actors with varying, and often overlapping, roles.

Because of the links between these groups, we cannot be certain exactly how they interact in relation to resolution and, in particular, 'referral' of disputes. We can be confident that referrals are not necessarily a formal, legalistic procedure. Instead, these are likely to take place spontaneously, informally and usually through existing communal relationships according to the patterns outlined below.

Despite this complexity, the data found in the Surveys helps us to better understand how disputes are being resolved in Timor-Leste. This will provide a strong quantitative foundation for more qualitative assessments³ of the nature of contemporary dispute resolution in Timor-Leste.

¹ The authors of this briefing are Robin Perry and Selene Ceja. The design and layout was by Nuno Costa. The views expressed in this briefing do not necessarily represent those of the donor, the New Zealand Ministry of Foreign Affairs & Trade. For more information about the 2018 CPP Survey see: <http://asiafoundation.org/publication/timor-leste>.

² Survey data can be accessed through The Asia Foundation's Data Portal: <http://surveys.asiafoundation.org/>.

³ For example, in 2019 the Ministry of Legislative Reform & Parliamentary Affairs conducted nationwide consultations on customary law ('Konsulta Lei Kostumeiru') for the purpose of developing a policy position for Government on the relationship between formal—state and informal—traditional/customary justice institutions (see eg <http://www.tatoli.tl/2019/08/27/mrlap-kontinua-konsulta-lei-kostumeiru-iha-atabae/>).

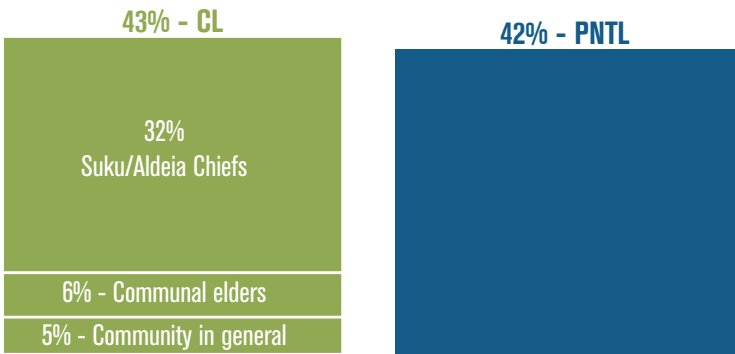
1. People are equally likely to report a security threat to PNTL as they are to the community, although there is a preference for recourse to community leaders

1.1 For all public respondents who experienced a crime/dispute in the previous year: 42 percent sought assistance from PNTL, and 43 percent sought assistance from someone within the community.

For those reporting to the community, 32 percent sought help from Suku/Aldeia Chiefs, six percent from communal elders and five percent from the community in general (Fig 1). This is further illustrated by the people on the bus in Fig 5.

Figure 1

GP What was your first reaction to a crime or dispute which you experienced in the last year? [ie. to whom did you report first]

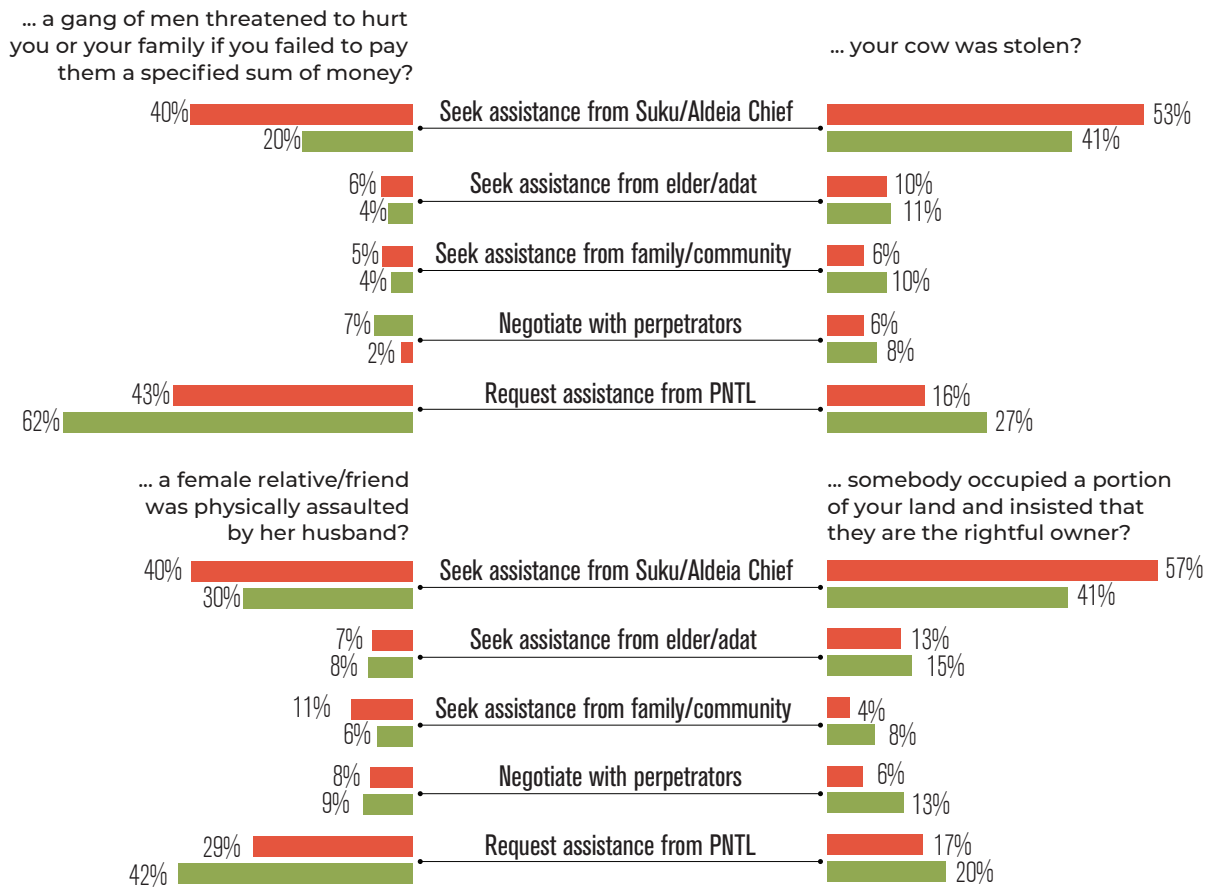


In all figures, GP refers to general public respondents, CL to community leader respondents and PNTL to respondents from the National Police of Timor-Leste (Policia Nacional de Timor-Leste)

1.2 There is a major difference in how people actually report and how they think they would report if they experienced a crime/dispute. When the public were asked whether, hypothetically, they would first report a crime/dispute to a community leader or a PNTL officer, nearly three quarter of respondents (72%) said they would report to a community leader while just over a quarter (27%) said they would report to PNTL. Since 2015 there has been a decrease in the proportion of both public (2015=34%, 2018=27%) and community leaders (2015=48%, 2018=39%) who say they would report first to PNTL. There has been a similar increase in public respondents saying they would report first to a community leader (2015=64%, 2018=72%).

Figure 2

GP **CL** What is the first thing you would do if...



1.3 The difference between the roles played by PNTL officers and community leaders in relation to dispute resolution is often unclear, beginning with the initial response to and reporting of crimes/disputes through to their resolution (see Section 4). In the vast majority of cases PNTL and community leaders work together. For example, in 2018, 83 percent of the public, 93 percent of community leaders and 95 percent PNTL say that PNTL and citizens are working together to address security problems in their community. Although these responses are at similar levels to 2015, they represent a sharp increase from 2013 (public=50%, community leaders=78%, PNTL=91%).

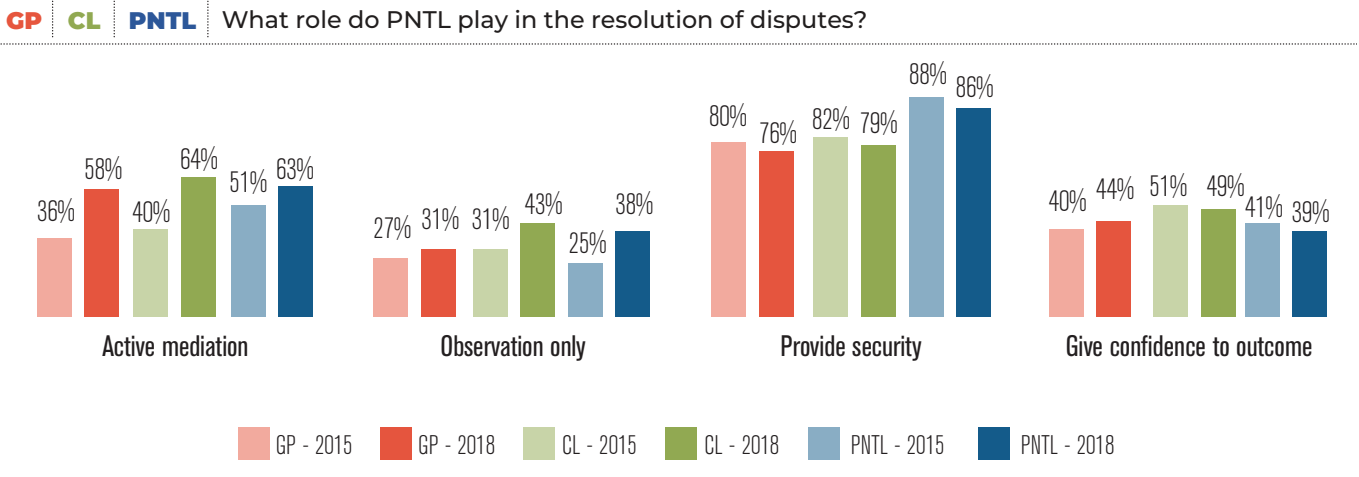
2. Most people are satisfied with how their cases are handled however this is much less so for women

- 2.1 People are usually satisfied with the initial assistance they receive from PNTL. Upon requesting help to respond to a crime/dispute, a majority of the public describe their treatment by PNTL as being with full respect and showing professional conduct, whether in relation to unlawful land occupation (92%), cases of attack leading to death (91%), theft (88%), bribes (87%) or cases of attack leading to injury (78%). People also generally expressed satisfaction with the outcome of their request for assistance in cases of theft (86%), bribes (78%), unlawful land occupation (71%), attack leading to death (68%), or attack leading to injury (65%).
- 2.2 There is a clear difference between men and women in terms of satisfaction with handling of their case by PNTL. For example, while 94 percent of male public respondents were satisfied with PNTL's response to their complaint of theft, this was only 78 percent for women. Similarly, in cases of unlawful land occupation, 86 percent of male public respondents were satisfied with PNTL's response compared to 68 percent of women. Only 65 percent of women public respondents said that they were treated with full respect and professionalism when they sought the help of PNTL following an attack leading to injury, compared to 94 percent of men who were of this view.
- 2.3 Levels of satisfaction with the initial response at the community level are the same. Eighty five percent of public respondents reported being treated with full respect when seeking assistance from their community. Satisfaction levels were almost as high when people were asked how they felt about how the case was handled overall, following the initial request for assistance. For example, 82 percent of the public was satisfied with how their complaint of theft was handled at the community level. Levels of satisfaction with handling of unlawful land occupation cases were much lower, but still relatively high, at 67 percent.
- 2.4 As with PNTL, there is a clear difference between men and women in terms of satisfaction with handling of their case at the community level. For example, in cases of attack leading to injury, 86 percent of male public respondents compared to 69 percent of women public respondents indicated they were satisfied with how their case was handled at the community level. In cases of bribes this was 97 percent of male public respondents versus 79 percent of women.

3. Disputes are primarily being resolved through communal mediation involving both PNTL and community leaders

3.1 Building on communal collaboration at the initial response phase, PNTL are heavily involved in communal dispute resolution, primarily through provision of security and active mediation. When public respondents have reported a crime/dispute to PNTL, these are usually resolved through mediation involving both PNTL and community leaders.⁴ According to public and PNTL respondents, when the public seek assistance from PNTL, 64 percent of cases are resolved through mediation involving both PNTL and community leaders. There has been an extraordinary increase in the number of people saying that PNTL are involved in active mediation from 2015 (36%) to 2018 (58%). The other main roles played by PNTL officers are to provide security, give confidence to the outcome of the resolution process and conduct observation.

Figure 3



3.2 According to public and PNTL respondents, the other common PNTL response to crimes/disputes is arrest of perpetrators (11%). These respondents also indicate that it is very rare for cases to be referred on for prosecution and investigation (2%) or to go trial (1%). See Fig 5.⁵

3.3 Of crimes/disputes reported initially to the community or referred to the community through PNTL, 75 percent are settled through mediation facilitated by Suku/Aldeia Chiefs,⁶ 10 percent are settled by elders and six percent through negotiation directly with the perpetrator (according to public and PNTL respondents).

3.4 Based on public and PNTL Survey responses, community leaders refer cases for exclusive consideration to PNTL and PNTL to community leaders at the same rates (4%).

⁴ The specific wording of the response option offered to respondents was 'settled through police and community mediation'.
⁵ According to the OPS Evaluation commissioned by The Asia Foundation in 2018, only a little more than half of OPS respondents, and 70% of Squadron Commanders, thought that it was their responsibility to 'refer cases and victims to other institutions', despite referral being an important part of the OPS mandate.
⁶ The specific wording of the response option offered to respondents was 'settled through mediation facilitated by Suku or Aldeia Chief' – slightly different to the response option referred to above in footnote 4.

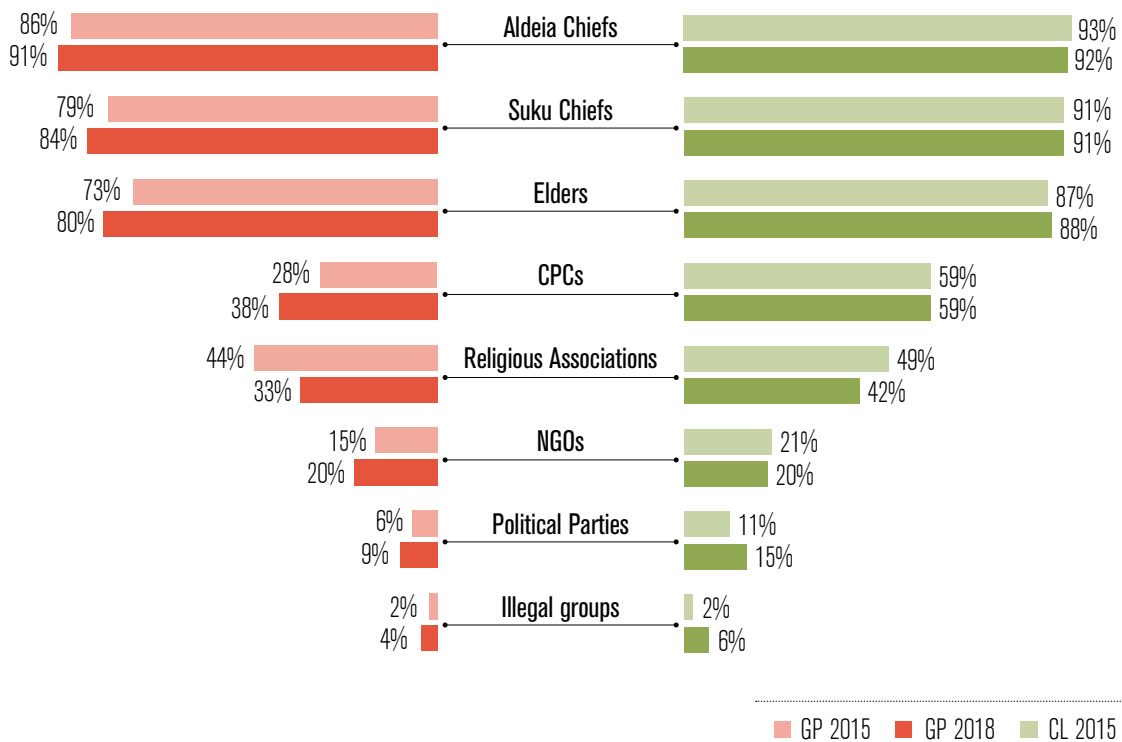
4. There are numerous actors who are playing a role in helping to resolve disputes, in addition to PNTL and community leaders

4.1 Five surveys over ten years have made it clear that in Timor-Leste there is a large number of security actors and institutions playing a role in responding to communal security challenges. There are usually at least three, and often up to six, actors working together to resolve any given crime/dispute. Overwhelmingly, PNTL and community leaders play the leading role, as outlined above. Family members, NGOs, legal aid organisations and Community Policing Councils (CPC) also have a role to play, especially for women.

For example, 46 percent of women compared to 20 percent of men indicated that their first reaction to a case of attack leading to injury was to contact a legal aid organization. Women are less likely than men to refer their case to PNTL or community leaders. Hence, while 55 percent of male public respondents sought initial assistance from *Chefe Suku/Aldeia*, this was the case for only 12 percent of women (in relation to bribery cases). Similarly, 92 percent of men compared to 60 percent of women indicated that *Suku Chiefs* were involved in the resolution of those bribery cases.

Figure 4

GP **CL** In your opinion, which of the following groups are very active in the community in assisting the police in fighting crime in your community



⁷ In this document, Elders refers to *Lia Na'in*. *Lia Na'in* is the commonly-used (but not the only used) designation in Timor-Leste for people—invariably men—who are broadly considered to be traditional mediators. The title originates from the Mambai language, meaning the 'owner of the words'.

- 4.2 Reflecting their traditional role, Elders⁷ have a much greater responsibility for resolving, as opposed to initially responding to, crime/disputes. For example, a majority of all respondents identified Elders as having direct involvement in cases of unlawful land occupation (public=62%, community leaders=75% and PNTL=71%) and theft (public=66%, community leaders=67% and PNTL=58%).
- 4.3 CPC appear to be increasingly playing a role in dispute resolution. For example, there was an increase between 2015 and 2018 in both members of the public (2015=71%, 2018=82%) and community leaders (2015=74%, 2018=86%) who described CPCs as being effective at preventing the escalation of crimes.

Figure 5

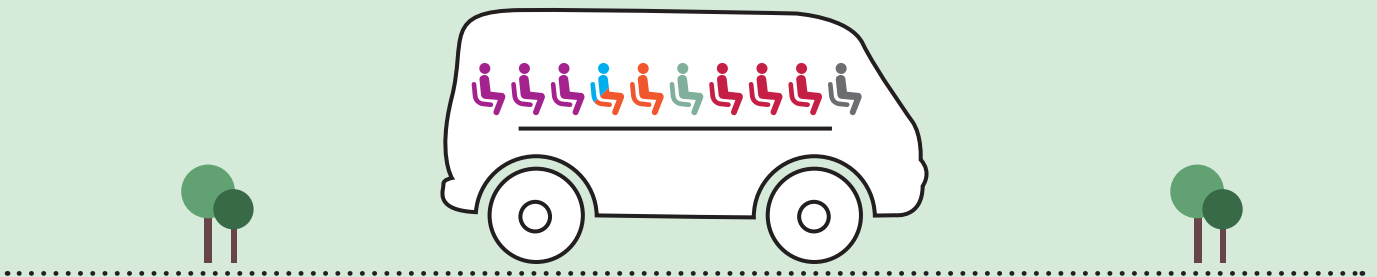
JUSTICE SEEKING BEHAVIOUR

Let's suppose that public respondents who experienced a crime in Timor-Leste in the last year are represented by



10 people in a bus

WHAT CRIMES DID THEY EXPERIENCE?

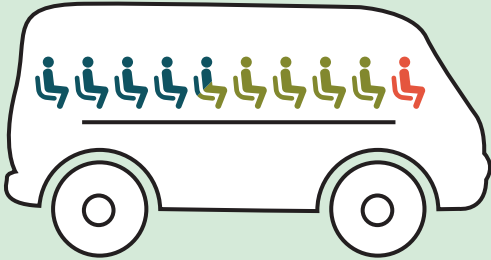


3 land | 0.5 attack – death | 1.5 attack – injury | 1 bribes & extortions | 3 theft | 1 other

** This does not include domestic violence because public respondents were not asked about this*

HOW DID THEY RESPOND?

Their first reaction to that crime was as follows:



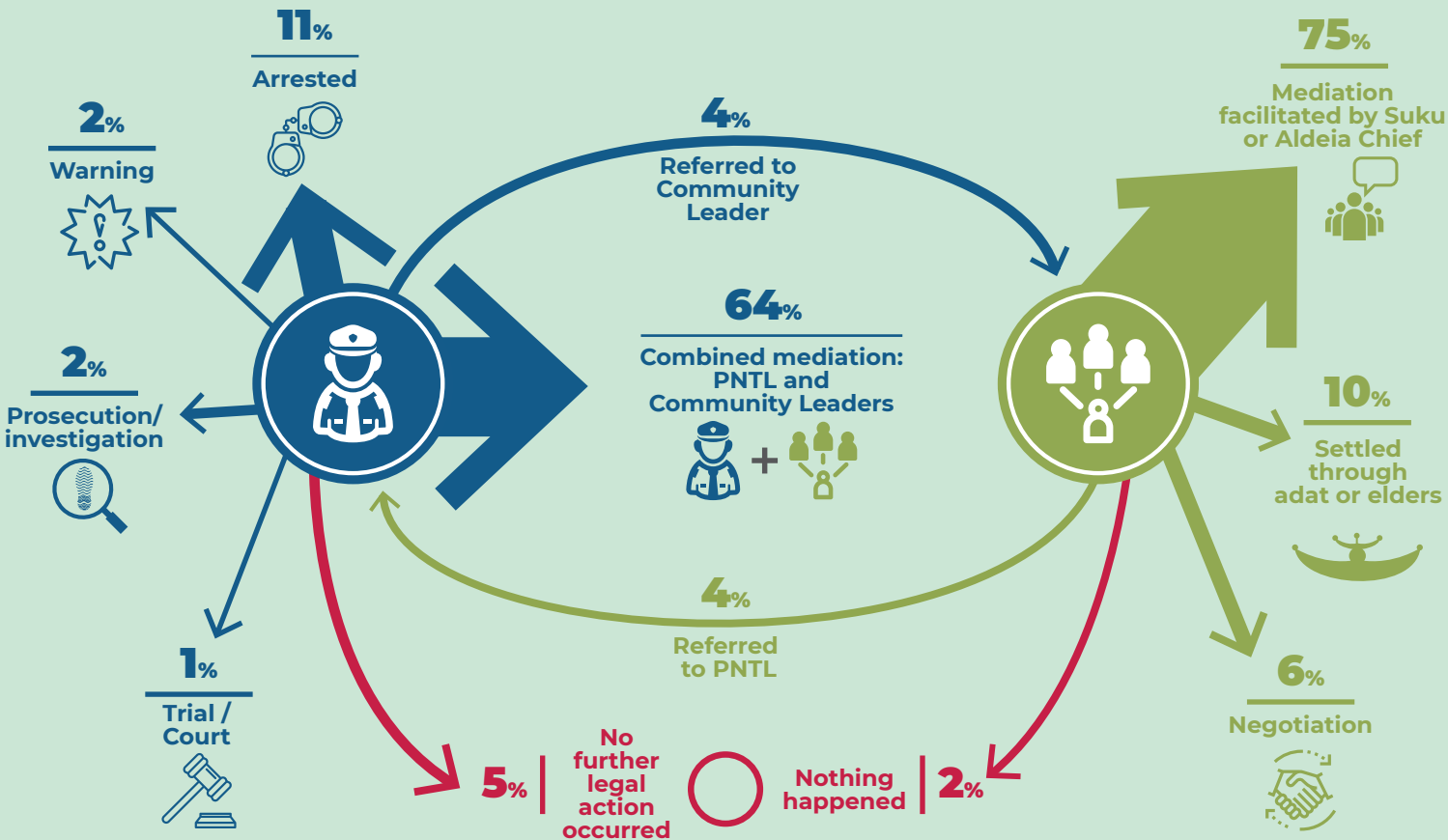
4.5 sought help from PNTL | 4.5 sought help from community | 1 other



WHAT DID THE PNTL DO?



WHAT DID THE COMMUNITY DO?



5. Dispute resolution in Timor-Leste in 2018

In summary, there are a number of conclusions from the 2018 Survey findings. Each of them has important implications for the development of Government policy to strengthen dispute resolution in Timor-Leste.

First, there is a lack of certainty and clarity around how specific disputes should be resolved, and by whom, in accordance with the law.



Second, community-based mediation is the overwhelming preference for dispute resolution; only a small number of people have recourse to the state justice system.

Third, despite the ambiguity of dispute resolution processes, community leaders exercise a disproportionate amount of power through the prominent role they play in communal mediation.

Fourth, PNTL officers are routinely working together with these community leaders, based on relationships of trust, to resolve disputes. This provides an important foundation for communal safety, security and stability throughout Timor-Leste.



