**Lawyer info sheet – Breaching a suspended sentence**

When reviewing the criminal history, look for any periods of a suspended sentence that may be breached by the new offences

**Submission points to resist immediate imprisonment (*PSA* 147)**

* Nature and circumstance of offence
* Capability of offender for subsequent offence and consequence of activating suspended sentence
* Antecedence and history of the offender
* Perveance of the original and subsequent offence
* Genuine effort at rehabilitation since the original offence was imposed such as: relative length of good behaviour during the operational period, community service performed, fines/compensation and restitution paid
* The degree to which the offender has reverted to criminal conduct of any kind
* Motivation for the subsequent offence
* Seriousness of the original offence
* Any special circumstances since the original sentence making it unjust to impose the whole of the term of then imprisonment

**Options for the court**

* Extend the operational period for not more than 1 year
* Further suspend the period of the suspended sentence
* Serve the whole of the period
* Serve part of the period

*Penalties and Sentences Act*

Section 10: Courts reasons to be recorded

Section 146: Consequences of committing an offence during the operational period

Section 147: Power of the court for a breach of suspended sentence:

 (1)(a)(i) - Operational period be extended for not more than 1 year

 (1)(b) – Order the offender to serve whole or part of the suspended imprisonment

(2) – The court must make an order under (1)(b) unless it is of the opinion it would be unjust to do so. (See (3) to determine if it would be unjust and craft submission accordingly)