

Addenda to Probation Violation Reports

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Or is it addendums? Take your [pick](#). Regardless, today's post covers some of the issues that arise when a probation officer files an addendum to a probation violation report.

I'll start with this important point: there is no such thing as an addendum as a matter of statute. An addendum is, rather, a creation of [probation policy](#) (§E.0205(a)(11)), which describes it as the process for amending a violation or alleging additional violations after some have already been alleged, but before there has been a hearing on them.

My general view is that an addendum is just a new violation. Nothing in the law exempts an addendum violation report from all of the ordinary requirements of notice and timeliness applicable to regular violation reports. For example, the timely filing of one violation does not provide a foot in the door allowing future violations to be alleged after probation expires. There is no addendum exception to the rule in [G.S. 15A-1344\(f\)](#) that violations must be filed (and file stamped) before expiration in order for the court to act on them. Probation policy notes this rule, stating flatly that "[i]f the offender's period of probation has expired, new violations cannot be alleged." §E.0504(b)(2). The probationer must also receive notice of the new violations at least 24 hours before any hearing at which the violations are to be considered. [G.S. 15A-1345\(e\)](#).

A question that arises from time to time is whether a probationer may be arrested for a violation filed as an addendum to an existing violation. My general answer is yes—just like a person may be arrested for any probation violation. But I understand that things can be a little more complicated than that, both legally and as a practical matter with NCAWARE. There are some recurrent scenarios.

One scenario involves a probationer who has already been arrested and released on bail pending a hearing on some initial violation when he or she is alleged, via an addendum, to have committed additional violations. May an order for arrest (OFA) issue on the new violations? Yes. And my understanding is that there is no technical barrier to doing so in NCAWARE.

A more complicated scenario is when new violations are alleged against a defendant who has yet to be arrested on the OFA associated with the first batch of violations. The classic case is probably a probationer whose first violation is missing an office visit or a curfew check. If the officer can't find the person to serve an OFA related to the first violation, an addendum violation might be filed alleging that the person is an absconder. May an order for arrest issue for the new violation?

There is no clear legal prohibition on a second or subsequent OFA, and NCAWARE will apparently allow multiple unserved OFAs to be pending in the same case. There's a background question about whether the second OFA is truly necessary when the first one is still pending, but it may be useful as a way to make sure the offender, once arrested, receives notice of all pending violations.