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**LEGAL AND TACTICAL ASPECTS OF THE INSPECTION OF A TRAFFIC  
ACCIDENT SCENE IN PROCEEDINGS ON CASES OF ADMINISTRATIVE  
OFFENCES<sup>1</sup>**

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Argues that the use of advances in criminalistics and other sciences in the sphere of administrative process can improve the quality of proceedings on cases of administrative offences.

It is noted that the Code on Administrative Offences of the RF does not contain a clear determination of goals and objectives of inspection in a separate specific article, and thus creates the basis for mixing the concepts of inspection (27.8 CAO RF) and examination (27.9 CAO RF).

The methods of fixing a traffic accident scene, which is carried out in the framework of inspection, are reviewed in the article.

**Keywords:** traffic accident, inspection of traffic accident scene, proceedings on the case of administrative offence concerning the fact of a traffic accident, methods of fixing a traffic accident scene.

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In paragraph 1.2 of “Traffic Rules” road traffic accident (RTA) is defined as an event that occurred in the course of movement of a vehicle with participation of this vehicle when as a result people are wounded or deceased, transport vehicles, structures and cargoes are damaged or some other material damage is inflicted. From this definition it follows that a prerequisite for the attributing an event to traffic accident is the presence of a moving vehicle, a road and occurring harmful effects to human life and health or infliction of material damage.

Case on administrative offence on the fact of a traffic accident is instituted when as a result of this event slight or moderate damage to human health has been caused (articles 12.24, 12.30 of the Code on Administrative Offences of the RF (hereinafter – CAO RF) [1]), in other cases (if the accident causes serious harm to human health or leads to the death of a person) criminal proceedings are instituted. Such incidents often result in material and moral damage to a private or legal person. To address the issues arising from an RTA CAO RF provides for the drafting of a protocol on administrative offence at the accident scene (28.1.1 CAO RF) and, if necessary, administrative investigation proceedings (article 28.7 CAO RF).

The circumstances to be clarified in cases of administrative offences are enough clearly formulated in article 26.1 CAO RF. Such circumstances on the cases of RTA are mostly identified in the course of inspection of the place where the offence has been committed. CAO RF provides for the conducting of various kinds of inspections as a measure to ensure proceedings on cases of administrative offences (article 27.8 CAO RF), as well as the procedure for drafting up a protocol of inspection of the place of committing an administrative offence (article 28.1.1 CAO RF).

Inspection as a procedural action is envisaged by both CAO RF and the Criminal Procedure Code of the Russian Federation, the Federal Law “On Operational Investigative Activity”, as well as by other laws and subordinate acts. Inspection is uniquely understood in all cases, but the goal, form and procedure of inspection is different, and from this standpoint a clear definition of goals and objectives of inspection in a separate specific article of CAO RF would be justified. CAO RF does not contain such definitions, thereby setting up a framework for mixing the concepts of inspection and examination. Although the procedural order of conducting examination and inspection are formulated as various procedural actions, their goals and objectives are not defined by the Code. It is known that in practice, inspection and examination as procedural actions are often substituted by each other. Unlike CAO RF, the Criminal Procedure Code of the RF does not have such gap. Article 176 of the Criminal Procedure Code of the RF (hereinafter – CPC RF) clearly

states the goals and objectives of inspection, as well as special kinds of inspection, for example, article 178 CPC RF “External Examination of Corpse. Exhumation”.

Given the nature of the spheres of application the norms of administrative law, it seems advisable to formulate such objectives and tasks of inspection, which would correspond to the needs of administrative proceedings in general.

The purpose of the inspection the scene of administrative offense can be formulated as follows – identification and fixation of data about the committed offense. Such data can be displayed in material medium in the form of traces-images, traces-items, traces-substances, as well as in non-material form of information, in memory to witnesses, victims and perpetrators of an incident. Data identified at the scene of administrative offence can later be used as evidence in proving concerning the case of administrative offence. About peculiarities of proving in administrative process, in particular, is written by N. V. Sidoryak [5, 37-39]. She emphasizes the problematic aspects of the use of evidence in administrative proceedings.

Inspection of traffic accident scene like any other kind of inspection is very important procedural action. Exactly inspection allows determination of the mechanism of occurred event, receiving of primary information through the identification evidences, their preliminary study and analysis. Versions are built and further actions are planned on the base of such primary information. In parallel with inspection may be conducted other procedural actions, which are also aimed at obtaining evidence about an occurred event.

Based on inspection purposes, we can distinguish the following tasks that need to be solved by an official, who carries out this procedural action in accordance with CAO RF:

- determine the time and place of collision (rollover, automobile-pedestrian accident) of a vehicle;
- determine the location of RTA participants prior to the accident;
- identify the speed of vehicles;
- find out the mechanism of RTA and marking formation;
- determine exactly what road rules have been violated;
- determine the condition of the road surface at the scene of traffic accident;
- find out weather conditions of the moment of accident;
- determine witnesses to event;
- presence of road signs;
- possibility to prevent RTA;
- other circumstances.

While inspection of traffic accident scene as a procedural act has enough significant features in administrative process, in general, its direct procedure has similarities to inspection provided for by CPC RF. From this point of view, for its efficient carrying out and solving the above mentioned tasks may be useful to use tactical techniques (recommendations) of inspection elaborated by forensic science, which are aimed at optimization of carrying out of this kind of procedural action. In addition, a new branch "Vehicles Science of Traces or Clues" develops in the structure of Criminalistics, whose developments can provide substantial help in solving issues that arise in investigation of road traffic offences. Artificial limiting of forensic means and techniques only to criminal procedure sphere is not justified, and their effectiveness for the purposes of administrative proceedings is obvious.

One of the major tactics recommended by forensic science is phased inspection. This approach allows you to arrange all activities, comprehensively explore the place and get as much evidence of investigated event. It is proposed to divide this procedural action into three phases: preparatory (initial actions upon arrival at the scene of accident); working (identification, fixation, and seizure of evidence); final (summarizing the work done).

Inspection must be carried out immediately after receiving information about the RTA. The delay means the loss of valuable evidence available at the accident scene, because the more time passes since the moment of accident, the more changes are made into the situation.

In the preparatory phase, on arrival at the scene of accident, the person authorized by CAO RF to conduct inspection and draw up the protocol, first of all, must provide first aid to victims, as well as their immediate hospitalization if necessary. Determine the boundaries of inspected territory and ensure its protection. Find a temporary bypass road for vehicles and arrange traffic. Estimate the volume of upcoming work, and if necessary to attract professionals and other persons to assist, as well as attesting witnesses. In addition, the head of inspection, has to find out whether there have been any changes in the circumstances of the committed offence, if yes, which ones? V. N. Kutafin indicates this important point of inspection: "Upon arrival to traffic accident scene one should first clarify whether all the previous requirements have been met, and only then with the help of witnesses, victims and persons who have arrived first on the scene find out circumstances of the RTA, any changes in situation, location of vehicles, victims, and taking into account the gathered data determine the boundaries, procedure and objects to be inspected" [3, 12].

Before start of inspection, if necessary, one should prepare technical means. Use of technical means in the course of inspection provides you more detailed and full exploring of traffic accident scene. Domestic specialized enterprises, such as, for example, "Svema-SIB", "Soyuzspetsosnashchenie» produce kits for Traffic Police officers, which contain the means necessary to work at the scene of traffic accident. Technical means should be kept in good order and preparedness, since inspection should always be performed immediately and moreover promptly in cases of RTA.

Working phase of inspection the place of road traffic offense involves identification and fixing of all kinds of traces formed as a result of the incident. For the most detailed carrying out of search works it is advisable to turn to forensic science, which has a number of useful recommendations on this occasion in the form of tactical techniques of inspection. Such tactical techniques should be applied depending on the situation.

If an inspected area has a significant extent, it is recommended to use such tactic as "inspection by squares". The essence of this technique is that the inspected territory mentally divided into squares and each square is examined separately. In such a case a large number of specialists should be involved in the inspection. Such specialists can be called from the body conducting the inspection, if there are any, or from Criminal Expertise Centre to assist in detection and fixing of evidences.

The use of this tactical technique creates the conditions for a more thorough study of accident scene and eliminates the possibility of losing any of the evidence that may be essential to clarify the circumstances of a committed offence and ultimately determine the perpetrator.

If the situation allows inspectors to limit inspection only to one side of carriageway, it is advisable to apply a "linear inspection". This tactic involves inspection of territory along a mentally planned trajectory (line). This creates an opportunity not completely restrict the movement of cars, that is rather important on roads with a great flow of vehicles.

In cases where as the result of RTA the vehicles involved in accident are at a considerable distance from each other and from the factual point of collision, and if there is no need to examine the whole area, you can apply such tactic as "node inspection". In such a case certain areas (nodes) of the place of committed offence are inspected. For example, the area around the vehicle is inspected separately, separately inspected the particular place of collision, separately inspected a plot with the wreckage (parts) of the vehicle body.

Not rare, there is a need for inspection of territory near the scene of RTA. In such cases "spiral inspection" may be effective. The essence of this tactical technique



lies in the fact that inspection is carried out starting from the center, where a collision has occurred, further to the periphery along the spiral line and thereby inspectors capture land located near the scene of the offense, where also can be found traces of various kinds, which will help in clarifying the circumstances of the event. In this case, you can use another tactical technique such as “inspection on concentric circles”.

All of the above tactical techniques of inspection are carried out in various ways, using methods such as, for example: eccentric (inspection from the center to the periphery); concentric (inspection from the periphery to the center); frontal (full inspection); detailed (inspection of individual items, fragments of vehicle body, and traces of chassis), etc.

Tactical techniques of inspection can be applied individually or in combination, depending on a specific situation.

During the working phase of inspection of RTA scene, except for actions on search and detection of evidence, there is provided a fixation of the place of offense, as a whole, and also separate traces detected at the place, items, the very vehicles, as well as testimony of witnesses and victims.

Main method of fixation during the exploring of RTA scene, according to article 28.1.1 CAO RF, is the description of committed offence in corresponding protocol. In addition, other fixation methods can be used, such as, for example: photography, video recording, mapping, etc.

Measurement is an important element of inspection the scene of offence. Data obtained by measurements allow us to recreate a picture of an occurred event, its dynamics and ultimately as evidential information can be used in proving concerning administrative case.

Photographing as a secondary method of fixation is the most common practice and a great help in its effective carrying out can be provided by photography techniques that have been developed by the branch of criminalistic technique of forensic photography. Such methods applied in criminal proceedings in the conduct of investigative actions allow producing of high-quality visual images of an explored place, and there is reason to believe that in administrative process and, in particular, during fixation of RTA scene, these methods can be very useful.

When photographing the place of commission of a traffic offence the following types of photographing can be used:

1. Orienting photographing. This method of photographing captures the traffic accident scene in such a way that you can navigate the terrain where

the event occurred using a photo, i.e. near objects (marks) allow generally determine this place (as such marks may be buildings, crossing roads, river, etc.);

2. Overview photographing. This method of photographing allows you to capture directly the accident site as a whole (close-up);

3. Node photographing. It is intended for the capturing of separate areas (nodes) of RTA scene with the nearby orienting points. For example, the images of a vehicle next to a tree or piece of bumper near the vehicle. These photographs allow you in the future to visually explore specific moments of collision or rear-end collision, broadly determine the mechanism of emerging of traces, approximate distance between objects, etc.

4. Detailed photographing. This method of photographing allows you to capture separate traces, items, substances and other objects at RTA scene. This method of photographing should be implemented with a graduated scale for the indicative determination the size of objects.

The above mentioned types of photographing are carried out through various methods of capturing. Orienting photographing may be carried out by method of panoramic shooting. In addition, this method can also be applied in cases where separate vehicles, traces and other objects are captured and if they cannot be placed in one frame. Overview and node photographing is advantageously carried out through application of opposite and crosswise photographing to capture all aspects of RTA scene and its separate areas, as well as vehicles themselves. In the detailed photographing in addition to the mentioned methods, when you need to capture small sized objects close up, you can use the method macrophotography. This method of photography should be implemented through using reproductive mount or tripod. It should be emphasized that today's digital cameras have panorama features and macrophotography.

Another way of fixation RTA scene during inspection is the mapping of the place where the offence has been committed. For this purpose there is a special paper with millimeter grid. The schema can be written either true to scale or with drawing all the necessary measurements. The problem of such schemes is that often they are not of high quality and hard to read. A person carrying out inspection is not obliged to be familiar with mapping and therefore it may contain errors or not fully display the peculiarities of an occurred offence. In order to get a quality scheme of RTA scene, such work should be entrusted to a specialist.

Data about committed offence obtained during inspection should be correctly fixed from a procedural standpoint; otherwise they lose their probative value. Protocol of inspection of the place where an offence was committed shall be drawn up

in strict conformity with the requirements of CAO RF, and the nature of contained in it information must be entirely factual, and in no way probabilistic.

Tactical techniques will prove to be useful, only when bring real positive results, when be applied with taking into account a specific situation. The conditions and situation, in which inspection is carried out, are factors influencing the choice of a particular tactical technique. Excluding these factors, the above recommendations may be ineffective. One cannot but agree with V. Paulauskas who gives a considerable importance to the situational peculiarity of RTA. In particular, he notes: "In our opinion, during the investigation of traffic accidents that occurred in the dark, the situation is one of the most important elements. ...it is necessary to professionally and objectively recreate the situation before, during and after the accident" [4, 21].

In addition to the general requirements and tactical recommendations mentioned above, a crucial point in the inspection of RTA scene is it operative carrying out. Such important requirement is noted by A. G. Gamzиков, "Location of traffic accident is often the carriageway of the road (highway, street), where in a rapidly changing environment it is difficult to keep unaltered the original situation. Sometimes it is impossible to fence about an accident scene and arrange bypass for the flow of traffic, and if it possible then only within the limits of the minimum period of time. Therefore, inspection is expeditiously carried out, without any expectation of re-inspection, because it is obvious that after the restoration of traffic all traces and evidence, which have not fall into the field of view at the first inspection, will be destroyed by the flow of vehicles and pedestrians" [2, 14]. The aim is to conduct quick inspection, as quickly as possible to release the carriageway from the cars involved in traffic accident and resume the normal flow of vehicles, and, at that, gather enough evidence needed for the proper resolving of such cases. With each passing day this problem becomes more urgent not only for big cities, but even for small ones, since the number of cars on the roads grows every year, and interruption of dense flow of vehicles means the creation of traffic jams and accidental situations.

Choosing the optimal tactics of inspection may significantly reduce the time of its carrying out, but that is not enough, because most of the time when inspecting RTA scene is spent for conducting measurements. Modern technologies can help in such a situation. In Europe, for example, already use terrestrial laser scanning method for the fixation of RTA scene. Such devices (for example, Riegl VZ-400 is used by the police in Switzerland), terrestrial laser scanners are able in a short period of time to create a 3D computer model of RTA scene in general, as well as



of individual objects in high definition, and automatically perform all necessary measurements. Today such devices are tested also in Russia. There is no doubt that in the near future terrestrial laser scanners, as well as other modern technologies will expand the tool base of institutions carrying out proceedings on administrative offences, which will significantly improve the quality of work within the framework of administrative proceedings in general, and inspection of RTA scenes in particular. However, before applying these or other means and methods, in accordance with the requirements of CAO RF, they must be tested and recommended for use by appropriate state specialized agencies. A separate issue is the training of specialists, who will use such means. In addition, with the introduction of modern technologies, the necessity of further procedural regulation of their application may arise.

The use of advances in criminalistics and other sciences in the field of administrative process can improve the quality of proceedings on cases of administrative offences, and we believe that this issue has to be given more attention.

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