§ 75. Law enforcement misconduct investigative office. 1. Jurisdiction. This section shall, subject to the limitations contained in this section, confer upon the law enforcement misconduct investigative office jurisdiction over all covered agencies. For the purposes of this section "covered agency" means an agency of any political subdivision within the state maintaining a police force or police forces of individuals defined as police officers in section 1.20 of the criminal procedure law, provided however, covered agency does not include any agency, public authority, or other entity under the jurisdiction of the state inspector general pursuant to article four-A of the executive law, the metropolitan transportation authority inspector general pursuant to section one thousand two hundred seventy-nine of the public authorities law, or the port authority inspector general pursuant to chapter one hundred fifty-four of the laws of nineteen twenty-one.

2. Establishment and organization. (a) There is hereby established the law enforcement misconduct investigative office in the department of law. The head of the office shall be a deputy attorney general who shall be appointed by the attorney general.

(b) Such deputy attorney general may appoint one or more assistants to serve at his or her pleasure.

(c) The salary for the head of such office shall be established within the limit of funds available therefore; provided, however, such salary shall be no less than the salaries of certain state officers holding the positions indicated in paragraph (a) of subdivision one of section one hundred sixty-nine of this chapter.

(d) The mission of the law enforcement misconduct investigative office shall be to review, study, audit and make recommendations relating to the operations, policies, programs and practices, including ongoing partnerships with other law enforcement agencies, of state and local law enforcement agencies with the goal of enhancing the effectiveness of law enforcement, increasing public safety, protecting civil liberties and civil rights, ensuring compliance with constitutional protections and local, state and federal laws, and increasing the public's confidence in law enforcement.

3. Functions and duties. The deputy attorney general shall have the following duties and responsibilities:

(a) receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse in any covered agency;

(b) inform the heads of covered agencies of such allegations and the progress of investigations related thereto, unless special circumstances require confidentiality;

(b-1) promptly inform the division of criminal justice services, in the form and manner prescribed by the division, of such allegations and the progress of investigations related thereto unless special circumstances require confidentiality. Nothing in this paragraph shall require the division of criminal justice services to participate in the investigation of such allegations or take action or prevent the division of criminal justice services from taking action authorized pursuant to subdivision three of section eight hundred forty-five of this chapter in the time and manner determined by the commissioner of the division of criminal justice services;

(c) determine with respect to such allegations whether disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, state or local agency is warranted, and to assist in such investigations, if requested by such federal, state, or local agency;

(d) prepare and release to the public written reports of investigations, as appropriate and to the extent permitted by law, subject to redaction to protect the confidentiality of witnesses and other information that would be exempt from disclosure under article six of the public officers law. The release of all or portions of such reports may be temporarily deferred to protect the confidentiality of ongoing investigations;

(e) review and examine periodically the policies and procedures of covered agencies with regard to the prevention and detection of corruption, fraud, use of excessive force, criminal activity, conflicts of interest and abuse;

(f) recommend remedial action to prevent or eliminate corruption, fraud, use of excessive force, criminal activity, conflicts of interest

and abuse in covered agencies; and

(g) investigate patterns, practices, systemic issues, or trends identified by analyzing actions, claims, complaints, and investigations, including, but not limited to, any patterns or trends regarding departments, precincts, and commands; and

(h) on an annual basis, submit to the governor, the attorney general, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly, no later than December thirty-first, a report summarizing the activities of the office and recommending specific changes to state law to further the mission of the law enforcement misconduct investigative office.

4. Powers. The deputy attorney general shall have the power to:

(a) subpoena and enforce the attendance of witnesses;

(b) administer oaths or affirmations and examine witnesses under oath;

(c) require the production of any books and papers deemed relevant or material to any investigation, examination or review;

(d) notwithstanding any law to the contrary, examine and copy or remove documents or records of any kind prepared, maintained or held by any covered agency;

(e) require any officer or employee in a covered agency to answer questions concerning any matter related to the performance of his or her official duties. No statement or other evidence derived therefrom may be used against such officer or employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of any officer or employee to answer questions shall be cause for removal from office or employment or other appropriate penalty;

(f) monitor the implementation by covered agencies of any recommendations made by the law enforcement misconduct investigative office; and

(g) perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of office.

5. Responsibilities of covered agencies, officers and employees. (a) Every officer or employee in a covered agency shall report promptly to the law enforcement misconduct investigative office any information

concerning corruption, fraud, use of excessive force, criminal activity, conflicts of interest or abuse by another officer or employee relating to his or her office or employment, or by a person having business dealings with a covered agency relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty. Any officer or employee who acts pursuant to this subdivision by reporting to the law enforcement misconduct investigative office shall not be subject to dismissal, discipline or other adverse personnel action.

(b) Upon receiving at least five complaints from five or more individuals relating to at least five separate incidents involving a certain officer or employee within two years, the head of any covered agency shall refer such complaints to the law enforcement misconduct investigative office for review. The law enforcement misconduct investigative office shall investigate such complaints to determine whether the subject officer or employee has engaged in a pattern or practice of misconduct, use of excessive force, or acts of dishonesty. The referral and investigation pursuant to this subdivision shall be in addition to and shall not supersede any civil, criminal, administrative or other action or proceeding relating to such complaints or the subject officer or employee.

(c) The head of any covered agency shall advise the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and the division of criminal justice services within ninety days of the issuance of a report by the law enforcement misconduct investigative office as to the remedial action that the agency has taken in response to any recommendation for such action contained in such report.

(d) Nothing in this section shall be construed to impede, infringe, or diminish the rights, privileges, benefits or remedies that accrue to any employee pursuant to any agreement entered into pursuant to article fourteen of the civil service law.