



## Language Access Implementation Plan

The Language Access Implementation Plan explains how the agency will provide services to people who have limited English proficiency (or LEP).

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## 1. KCDA MISSION AND SERVICES

The Kings County District Attorney's Office ("KCDA" or "Office") strives to keep Brooklyn safe and strengthen community trust by ensuring fairness and equal justice for all. District Attorney Eric Gonzalez is the chief law enforcement officer in Brooklyn, New York. A Brooklyn native and career prosecutor, DA Gonzalez has always approached his role as prosecutor with a deep commitment to justice and fairness. This commitment continues to drive him as the leader of one of the nation's largest, most diverse, and innovative prosecutors' offices. KCDA investigates and prosecutes crime, assists victims, and implements crime prevention strategies to improve public safety and the quality of life of Brooklyn's residents.

A core principle of the Office of the Kings County District Attorney ("KCDA" or "Office") under DA Gonzalez' leadership is creating an equitable, diverse, and inclusive environment. Lack of meaningful access for limited English proficient (LEP), deaf, and hard of hearing persons who have contact with our prosecutorial agency can impact the accuracy of the evidence presented, taint the outcome of a case, cause negative consequences to the LEP, deaf, or hard of hearing individual, and result in a failure to prosecute subsequent crimes. Language accessibility is critical in successfully prosecuting cases involving LEP, deaf, and hard of hearing victims, witnesses, and defendants. Additionally, language accessibility is crucial in providing services to LEP, deaf, and hard of hearing victims, witnesses, family members, unrepresented defendants, represented defendants in KCDA diversion and reintegration programs, and community members.

## 2. KCDA LANGUAGE ACCESS POLICY

The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance to LEP, deaf, and hard of hearing persons who come in contact with KCDA.

This Language Access Implementation Plan (LAIP) was developed to ensure equal access to services for LEP, deaf, and hard of hearing persons. Although deaf and hard of hearing individuals are covered under the Americans with Disabilities Act rather than Title VI of the Civil Rights Act, they have been included in this plan.

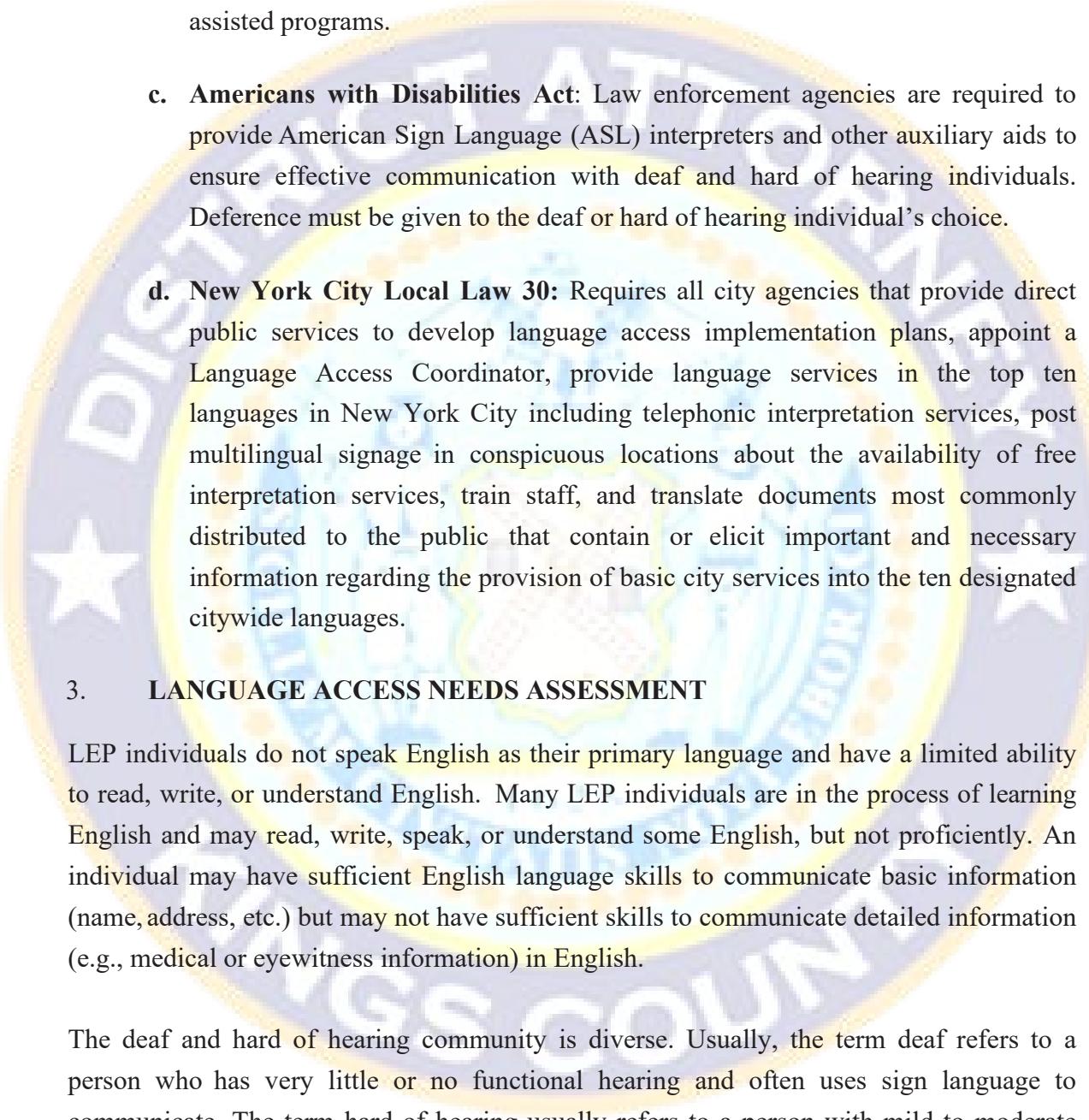
It is KCDA policy to take reasonable steps to provide timely and meaningful access for

LEP, deaf, and hard of hearing persons coming in contact with the Office, including victims, witnesses, family members, unrepresented defendants, represented defendants in KCDA programs, and community members. KCDA shall ensure this meaningful access in the entire scope of its work including programs, activities, information, services, and/or benefits to victims, witnesses, defendants (when appropriate), and the general public. KCDA personnel will inform members of the public that language assistance services are available free of charge to LEP, deaf, and hard of hearing persons and that KCDA will provide access to these services for them.

It is also KCDA policy to provide meaningful access to all programs, activities, functions or services of the Office, to any individual, regardless of their national origin, ability to speak, read, write or understand English, whether they are deaf or hard of hearing, and whether they are a member of any other protected class listed in the Office EEO Policy. KCDA has a language coordinator and a language access committee to facilitate and monitor all aspects of the Office's LAIP.

The below federal, state, and local laws and regulations require that the Office provide language support necessary for meaningful participation by LEP, deaf, and hard of hearing persons in all programs and activities:

- a. **Title VI of Civil Rights Act of 1964:** This Act ensures language access for LEP individuals. Pursuant to Title VI's prohibition against discrimination based on race, color, or national origin, organizations receiving federal financial assistance are required to develop and implement policies that ensure meaningful access for limited English proficient persons to their programs and activities.



- b. Executive Order 13166:** This order requires federal agencies that provide federal financial assistance to issue guidance explaining the obligations of recipients to ensure meaningful access by LEP individual to their federally assisted programs.
- c. Americans with Disabilities Act:** Law enforcement agencies are required to provide American Sign Language (ASL) interpreters and other auxiliary aids to ensure effective communication with deaf and hard of hearing individuals. Deference must be given to the deaf or hard of hearing individual's choice.
- d. New York City Local Law 30:** Requires all city agencies that provide direct public services to develop language access implementation plans, appoint a Language Access Coordinator, provide language services in the top ten languages in New York City including telephonic interpretation services, post multilingual signage in conspicuous locations about the availability of free interpretation services, train staff, and translate documents most commonly distributed to the public that contain or elicit important and necessary information regarding the provision of basic city services into the ten designated citywide languages.

### 3. LANGUAGE ACCESS NEEDS ASSESSMENT

LEP individuals do not speak English as their primary language and have a limited ability to read, write, or understand English. Many LEP individuals are in the process of learning English and may read, write, speak, or understand some English, but not proficiently. An individual may have sufficient English language skills to communicate basic information (name, address, etc.) but may not have sufficient skills to communicate detailed information (e.g., medical or eyewitness information) in English.

The deaf and hard of hearing community is diverse. Usually, the term deaf refers to a person who has very little or no functional hearing and often uses sign language to communicate. The term hard of hearing usually refers to a person with mild to moderate hearing loss who may communicate using sign language, spoken language, or both. There are variations in how deaf and hard of hearing persons identify themselves, whether and to

what degree they can speak or hear, and how they communicate.<sup>1</sup>

LEP individuals may not always self-identify and may state that they understand more English than they actually do. They may also fear differential treatment. Context affects English language proficiency. Unfamiliar or stressful situations, including legal proceedings or health-related matters, can affect language ability in individuals who are otherwise proficient in English.

According to the 2018 American Community Survey, the top twelve languages spoken at home in Brooklyn besides English are Spanish, Russian, Chinese (Cantonese and Mandarin), Yiddish, French (including Cajun), Haitian, Arabic, Urdu, Bengali, Polish, Italian, Ukrainian or other Slavic languages.<sup>2</sup>

The first step in communicating with a LEP, deaf, or hard of hearing person is to ascertain if the person is LEP, deaf, or hard of hearing. This may not always be obvious to the staff person initially communicating with the individual. The LEP, deaf, or hard of hearing person may use English words to convey understanding even if the person's comprehension or speaking ability is limited. Therefore, staff will be trained on how to determine whether people who come in contact with the Office are LEP, deaf, or hard of hearing.

There are various ways that KCDA staff will determine whether an LEP, deaf, or hard of hearing person needs an interpreter. First, the LEP, deaf, or hard of hearing person may request an interpreter. Second, staff may determine during the course of an interview that the LEP, deaf, or hard of hearing person needs an interpreter. Third, the need for an interpreter and/or the language need may be identified on police paperwork or the case file.

If an LEP, deaf, or hard of hearing person does not specify their language need, KCDA personnel will use the public notification posters regarding free interpretation services available at reception areas. The poster invites LEP, deaf, or hard of hearing persons to self-identify their language access need.

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<sup>1</sup> Data regarding the number of deaf and hard of hearing language interpretation services the Office provided from 2020-2022 is available upon request.

<sup>2</sup> Based on the 2018 American Community Survey—the most recent available at the time of publication—available at [https://s-media.nyc.gov/agencies/dcp/assets/files/pdf/data-tools/census/acs/top\\_lang\\_2018sflyr\\_nyc.pdf](https://s-media.nyc.gov/agencies/dcp/assets/files/pdf/data-tools/census/acs/top_lang_2018sflyr_nyc.pdf).

#### 4. NOTICES FOR LEP, DEAF, AND HARD OF HEARING PERSONS

Notices written in multiple languages will be posted throughout KCDA reception areas about the availability of free interpretation services, including the KCDA Action Center—a walk-in center that addresses public safety and quality of life concerns in the community. A notice with the universal symbol for sign language interpretation services  will be posted along with the text “Free Sign Language Interpretation Services Available.” The text is included primarily to ensure that staff know that the person needs a sign language interpreter.

This LAIP will be posted on the KCDA website where it can be immediately translated into more than 133 languages utilizing Google Translate, which is integrated into the header of each page of the Office website: [www.brooklynda.org](http://www.brooklynda.org).

Signs will be maintained at all KCDA reception areas about the availability of free interpretation services. Each sign shall clearly state that these services are available at no cost.

#### 5. PROVISION OF LANGUAGE SERVICES

##### a. Live Translation and Interpretation

The Office is responsible for providing interpretation for communications outside the courtroom such as grand jury or trial preparation. An ADA or other staff member assigned to any matter should review the file to determine if any LEP, deaf, or hard of hearing victims or witnesses are known to be associated with the case. In such matters, whenever possible, the assigned ADA or staff member should arrange for appropriate language assistance resources in advance of any interviews. This could include working with bilingual KCDA staff, using Language Line Solutions, or contacting Grand Jury to make arrangements for an interpreter with appropriate approval.

When the language is identified, staff interacting with the LEP, deaf, or hard of hearing individual, depending on the circumstances, staff may contact bilingual staff, request an interpreter, or use Language Line. For languages less-commonly spoken, such as indigenous languages for which there is no certification test available, staff will be trained that the interpreters may not be certified or provisionally qualified. Staff will be trained to review the interpreter code of ethics to ensure interpretation is accurate,

complete, and neutral.<sup>3</sup>

If the staff member assisting with interpretation is a bilingual support staff member, they should be reminded to remain neutral and refrain from having side conversations or providing opinions or advice to the LEP, deaf, or hard of hearing victim/witness. All staff should be mindful that leaving an interpreter (or bilingual support staff member acting as an interpreter) alone with the LEP, deaf, or hard of hearing victim or witness provides the opportunity for that victim or witness to ask questions of the interpreter (or bilingual support staff member acting as an interpreter), thereby placing the interpreter in a non-neutral position, outside the scope of the interpreter's duties.

If a bilingual ADA or bilingual advocate is assisting another ADA with interpretation, they may also be involved in the case and therefore their role may include both interpreting and providing information and explanation to the victim/witness. In either case, the role of the bilingual ADA/advocate should be explained to the LEP, deaf, or hard of hearing victim/witness. If the victim/witness is left alone at any time with the bilingual ADA/advocate and the victim/witness asks any questions, the bilingual ADA/advocate will refrain from answering the question and instead will alert the ADA upon their return to the office.

Except for exigent circumstances and for obtaining basic information such as name, age, or national origin, KCDA staff should not allow children, family members of the victim, family members of the defendant, friends of the victim or defendant, and/or any interpreter used by the defendant to provide interpretation or translation.

If a LEP, deaf, or hard of hearing victim or witness is going to be testifying at a trial, the court arranges for the interpreter. It is the responsibility of the ADA to notify the court clerk of the language needs in advance. KCDA arranges to hire certified interpreters to assist with Grand Jury interviews and testimony, trial preparation, and translation. These interpreters are often hired from the list of certified per diem interpreters from the New York State Unified Court System (UCS). Court interpreters are managed by the Coordinator of the Office of Court Interpreting Services as part of the Division of Court

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<sup>3</sup> A "Sample Interpreter Code of Ethics", created by the Asian Pacific Institute on Gender-Based Violence (APIGBV), a national technical assistance provider on language access issues is available upon request. This sample is intended as a brief reference guide of best practices for interpreters.

Operations. The Court Interpreter Manual and Code of Ethics includes the following procedures for court interpreters when communicating with the LEP, deaf, or hard of hearing person. Prior to the court appearance, the court interpreter shall:

- Advise the LEP, deaf, or hard of hearing person that the court interpreter's role is to interpret all statements and comments throughout the proceeding;
- When necessary and where available, arrange for wireless interpreting equipment to be used;
- Advise the LEP, deaf, or hard of hearing person to direct all questions to the counsel or to the court; and
- Not engage in independent dialogue, discussions, or conversation with the LEP, deaf, or hard of hearing person.

See the full New York State Unified Court System Court Interpreter Manual and Code of Ethics, which includes the Canons of Professional Responsibility and the Code of Ethics of the Unified Court System [here](#).

UCS arranges for interpretation services for court proceedings. KCDA employs two Spanish and one Mandarin interpreter in the Grand Jury and hires certified interpreters as needed for other languages, but otherwise does not use bilingual staff to interpret in official proceedings.

#### **b. Translation of Forms and Documents**

On an ongoing basis, the Language Access Coordinator and Language Access Committee will review KCDA forms and documents and determine the need for translations of documents into additional languages. The documents most commonly distributed to the public will be translated either by in-office staff, by a contracted translation vendor, and—if deemed appropriate—placed on the KCDA website so that they can be immediately translated into more than 133 languages utilizing Google Translate, which is integrated into the header of each page of the Office website: [www.brooklynda.org](http://www.brooklynda.org).

Commonly distributed documents and languages in which those documents are currently available:

- **Fliers:**
  - Elder Abuse Unit: English, Spanish, Haitian Creole, and Chinese.

- Action Center flier: English, Spanish, Haitian Creole, Russian, Chinese.
- Immigrant Fraud Unit flier includes text in English, Spanish, French, Polish, Arabic, Russian, and Chinese.

- **Legal documents**

- Corroborating affidavit: English (requires an affidavit of translation for any other language).
- Subpoena and letter: English and Spanish.

- **Outreach letters**

- “Come See Me” letter (mailed by ADAs): English and Spanish.
- General outreach letter (mailed by mailroom on all cases): English and Spanish.
- Letters that get mailed with Orders of Protection:
  - For domestic violence cases where the victim/witness was successfully contacted after arraignments by the Victim Services Unit: English and Spanish.
  - For other cases (mailed by the criminal court bureau): English and Spanish.

**c. Public Communications and Emergency Preparedness**

Responses are posted on the KCDA website and available to be translated immediately by Google Translate into more than 133 languages. Due to the volume of public communications and the timeliness of emergency preparedness responses, utilization of a contracted vendor for each would be cost prohibitive and ineffective due to translation delays of days or weeks. However, Office staff will assess in each instance whether exigent manual translation services are needed to meet the unique needs of an impacted community and ensure that public communications containing vital information are available in English and the top ten languages and the languages that best serve that community.

## 6. RESOURCE PLANNING

### a. Bilingual staff

Bilingual staff may be called upon to assist with communicating with LEP victims /witnesses. Bilingual staff members are not called upon to interpret in court, with the

exception of the Spanish and Mandarin interpreters specifically employed to interpret in the Grand Jury.

The Office maintains a Foreign Language Directory. All staff can access the directory by going to the Start menu, opening KCDA Applications, and opening Language Translator. Office personnel can search the database by language and see the staff member's name, department, phone number, and level of fluency based on their self-reporting.

Staff should be mindful that other staff have varying levels of fluency and may only be able to perform certain tasks and not others. For example, a staff member may be able to conduct a basic intake in another language but is not qualified to provide simultaneous interpretation services.

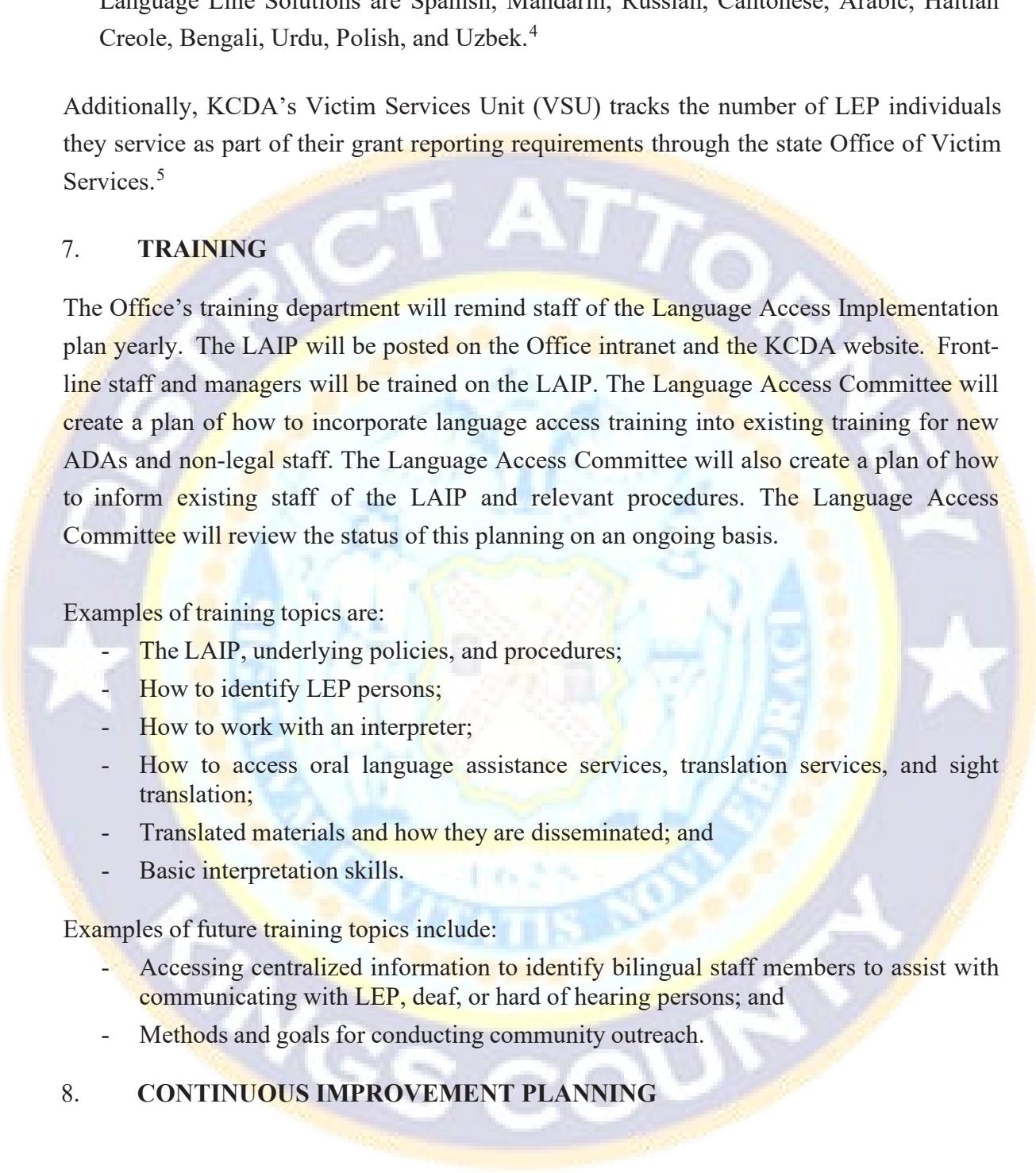
Staff should not assume that a bilingual staff member has received training in interpretation or translation.

**b. Interpreter**

In certain instances, in-person interpreters will be called in as opposed to using bilingual staff or Language Line (discussed below). Examples include but are not limited to interviews with LEP, deaf, or hard of hearing victims/witnesses for Grand Jury testimony or trial preparation. Staff seeking an in-person interpreter must first confer with their bureau chief. The bureau chief will notify their professional staff to request a court interpreter when necessary. Once approved by the bureau chief, an in-person interpreter is arranged by calling Grand Jury. When an Assistant District Attorney (ADA) is in need of an interpreter in court for a witness or victim for a trial, it is the responsibility of the ADA to call the court clerk with sufficient notice and alert them to the language needs of the victim/witness.

**c. Language Line**

The Office utilizes Language Line Solutions, an independent company for telephonic interpretation services. Language Line Solutions provides telephonic interpretation by qualified interpreters in the event that Office personnel are unable or unqualified to speak to a victim or witness in their language or to provide interpretation. The most common languages for which telephonic interpretation services are requested through



Language Line Solutions are Spanish, Mandarin, Russian, Cantonese, Arabic, Haitian Creole, Bengali, Urdu, Polish, and Uzbek.<sup>4</sup>

Additionally, KCDA's Victim Services Unit (VSU) tracks the number of LEP individuals they service as part of their grant reporting requirements through the state Office of Victim Services.<sup>5</sup>

## 7. TRAINING

The Office's training department will remind staff of the Language Access Implementation plan yearly. The LAIP will be posted on the Office intranet and the KCDA website. Front-line staff and managers will be trained on the LAIP. The Language Access Committee will create a plan of how to incorporate language access training into existing training for new ADAs and non-legal staff. The Language Access Committee will also create a plan of how to inform existing staff of the LAIP and relevant procedures. The Language Access Committee will review the status of this planning on an ongoing basis.

Examples of training topics are:

- The LAIP, underlying policies, and procedures;
- How to identify LEP persons;
- How to work with an interpreter;
- How to access oral language assistance services, translation services, and sight translation;
- Translated materials and how they are disseminated; and
- Basic interpretation skills.

Examples of future training topics include:

- Accessing centralized information to identify bilingual staff members to assist with communicating with LEP, deaf, or hard of hearing persons; and
- Methods and goals for conducting community outreach.

## 8. CONTINUOUS IMPROVEMENT PLANNING

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<sup>4</sup> A report detailing the most frequent languages requested from Language Line from 2020 through 2022 is available upon request.

<sup>5</sup> A report of VSU's respective LEP-based assistance from 2020 through 2022 is available upon request.

Any problem with an interpreter will be documented by the KCDA staff member experiencing the issue and submitted to the Language Access Coordinator. The interpreter's name, language, ID number, and problem will be recorded. The Language Access Coordinator will submit a written complaint to the appropriate agency such as Language Line, UCS, or other agency that provided the interpretation services.

The Language Access Coordinator will keep an internal record of complaints including the interpreter's name, language, and agency. This list will be attached to the LAIP as a DO NOT USE list. Complaints will be reviewed by the Language Access Committee.

Complaints against KCDA staff who provide language services will be handled by the Office's Action Center, and that unit will log complaints and refer them to the appropriate supervisor for investigation and, if merited, appropriate action.

The Language Access Committee will review the status of translations within one year from the effective date of the LAP. The Language Access Committee will also consider creating alternatives to standard written translations, which may include tag lines for certain documents in multiple languages indicating that free interpretation services are available.

## **9. GOALS AND ACTION PLANNING**

The Language Access Committee will review the Language Access Implementation Plan annually. This evaluation will consist of:

- A. Review of Language Line bills for telephonic interpretation needs;
- B. Review top language needs for interpretation services in Grand Jury;
- C. Review vital documents and determine whether there is a need for additional translations;
- D. Review the status of training plans and areas for improvement;
- E. Review complaints from the public about language access services;
- F. Review complaints about court interpreters and Language Line; and
- G. Create a mailing insert in ten languages, which states that the document contains important information about the case and a number to call for language interpretation.