EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:26-cv-1123-GPG-CYC

ISAAC N., through his next friend Kerry Simpson,
TONY S., through his next friend Leigh Truhe,
VEGETA K., through his next friend Quentin Montemayor,
OTTO O., through his next friend Elise Miller, and
TYRONE P., through his next friend Brittany Radic,
for themselves and those similarly situated,

Plaintiffs,

v.

JARED POLIS, in his official capacity as the Governor of Colorado; and
MICHELLE BARNES, in her official capacity as Executive Director of the Colorado Department of Human Services,

Defendants.

SUPPLEMENTAL CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

(Adding Named Plaintiffs Otto O. and Tyrone P.)

Plaintiffs Isaac N., Tony S., Vegeta K., Otto O., and Tyrone P. ("Plaintiffs"), through their respective Next Friends, and by and through their attorneys, supplement their Amended Class Action Complaint as follows:

INTRODUCTION

240. Plaintiffs supplement their pleading to add material facts that have developed since the filing of the Amended Complaint on June 8, 2026. Am. Compl. (Dkt. 53). Specifically, two additional children, Otto O. and Tyrone P., are presently incarcerated by Defendants in Colorado Division of Youth Services ("DYS") secure detention facilities despite juvenile court determinations that each may be released from detention. Each joins this action as a Named Plaintiff and proposed class representative.

241. Plaintiffs incorporate by reference and in full their Complaint filed at Dkt. 1 and their Amended Complaint filed at Dkt. 53. The claims for relief pleaded at ¶¶ 187-237 of Dkt. 53, and the prayer for relief at ¶¶ 238-39 of Dkt. 53, are asserted by and on behalf of Otto O. and Tyrone P. and are supplemented herein to reflect the facts alleged below.

241. Like the previously named Plaintiffs, Otto O. and Tyrone P. are children whom juvenile courts have determined may be released from secure detention, but who remain incarcerated because Defendants have failed to develop and maintain the community-based placements, services, and procedures necessary to effectuate their release. Their continued incarceration is the direct and predictable result of the same statewide systemic failures already challenged in this action.

SUPPLEMENTAL PARTIES

242. Plaintiff Otto O. is a fourteen-year-old child who is presently incarcerated by Defendants in a DYS secure detention facility in Colorado. He brings this action through his Next Friend and Guardian *ad Litem*, Elise Miller. Otto O. is a member of the proposed Releasable Youth Class and of the proposed Disabilities Subclass.

243. Plaintiff Tyrone P. is a sixteen-year-old child who is presently incarcerated by Defendants in a DYS secure detention facility in Colorado. He brings this action through his Next Friend and Guardian *ad Litem*, Brittany Radic. Tyrone P. is a member of the proposed Releasable Youth Class and of the proposed Disabilities Subclass.

244. Defendants Jared Polis, in his official capacity as Governor of Colorado, and Michelle Barnes, in her official capacity as Executive Director of the Colorado Department of Human Services ("CDHS"), remain unchanged from the operative pleading. The allegations concerning Defendants set forth in Dkt. 1 and Dkt. 53 are incorporated in full.

SUPPLEMENTAL FACTS

A. Plaintiff Otto O.

245. Plaintiff Otto O.[1] is a fourteen-year-old boy charged with juvenile delinquency offenses and is presently incarcerated by Defendants in a secure detention facility in Colorado.

246. At all relevant times, Otto O. has been charged with, but not yet adjudicated for, the delinquency offenses for which he is being held. He is not serving a commitment sentence.

247. A juvenile court judge determined that Otto O. is releasable. Despite this, as of the time of this filing, Otto O. has remained in detention for over three months beyond when a juvenile court judge determined him releasable.

[1] "Otto O." is a pseudonym selected by the child due to his love of the Spider-Man movies and the character Dr. Otto Octavius. A motion requesting leave for Otto O. to proceed under a pseudonym has been filed concurrently with this Supplemental Complaint.

248. CDHS is responsible for locating an appropriate placement for Otto O. but has failed to do so.

249. Otto O. has disabilities recognized under federal law. Specifically, he has been diagnosed with ADHD, an anxiety disorder, adjustment disorder, speech/language disorders, Post Traumatic Stress Disorder, and autism spectrum disorder. His disabilities make it difficult for him to sit still and concentrate in class, to access grade level curriculum without specialized services and support, to complete tasks and follow directions, to read at grade level, and to pay attention during class. His anxiety disorder results in uncontrolled behaviors like licking his lips excessively and picking at his skin. His trauma disorder substantially disrupts his thinking, planning, attachment, emotional regulation, and behavioral regulation. His disabilities further impact his judgment and ability to safely function independently, causing him to act impulsively and engage in hyperactivity. Thus, his disabilities impair his major life activities of thinking, concentrating, learning, communicating, and completing schoolwork.

250. Before his detention, Otto O. was enrolled in behavioral and occupational therapy, speech-language therapy, and specialized academic supports to address these disabilities. In middle school, he attended group therapy weekly with the school psychologist.

251. The schools Otto O. attended observed his disabilities and how they impact his ability to access his education and found him eligible for an Individualized Education Program ("IEP"). His IEP explains that because of the impact of his disabilities, he needs additional time for taking tests, audio and video learning aides, supportive writing

software, specialized transportation to school, and other accommodations to address his learning disabilities. Otto O. was receiving these accommodations while he was enrolled in public school before his arrest.

252. At various times, Otto O. has been prescribed medications to treat his ADHD and anxiety. These medications can substantially impair other major life activities, like his ability to sleep.

253. Upon assessment, a CDHS treatment professional found that Otto O. would be appropriate for release to a less restrictive placement outside of DYS detention that provides therapeutic services.

254. Otto O. wants to be released from detention and placed in the most integrated setting appropriate to his needs.

255. CDHS can serve Otto O. in the community through its existing array of home and community-based placements and services.

256. While waiting for CDHS to find him a placement, Otto O. remains incarcerated by Defendants in a locked detention facility.

257. Otto O. struggles with being in DYS detention. Otto O. has difficulty complying with all the rules of the detention facility, which causes him to lose “privileges” awarded to children who follow the rules. These facility rules sometimes seem arbitrary to Otto O. For example, Otto O. was recently denied the “privilege” of eating a snack during a visit with his attorneys because he had broken a rule by sharing food with another child during a meal.

258. Otto O.'s symptoms of his disabilities have worsened while he has been detained. For example, he has had limited access to occupational therapy or speech-language therapy and his language skills have decreased.

259. Other children in detention make fun of Otto O., call him names, and threaten to fight him. Other detained children have assaulted Otto O., which caused him to lose his "privileges."

260. Otto O. has additional difficulty sleeping in the detention center because the lights are kept on all night. This difficulty sleeping has caused Otto O. to have even more difficulty paying attention during school in the detention facility and concentrating while meeting with treatment professionals and his attorneys.

261. Before he was in detention, Otto O. enjoyed playing card games like Magic: The Gathering and video games, particularly the *Legend of Zelda* series. He enjoys playing board games with his family and playing soccer and basketball with his friends. He enjoyed being on his school's track and field team. He hopes to be out of detention by his fifteenth birthday because he cannot take part in any of these activities while he is in DYS detention.

B. Plaintiff Tyrone P.

262. Plaintiff Tyrone P.[2] is a sixteen-year-old boy charged with juvenile delinquency offenses who is presently incarcerated by Defendants in a secure detention facility in Colorado.

[2] "Tyrone P." is a pseudonym selected by the child. A motion requesting leave for Tyrone P. to proceed under a pseudonym has been filed concurrently with this Supplemental Complaint.

263. At all relevant times, Tyrone P. has been charged with, but not yet adjudicated for, the delinquency offenses for which he is being held. He is not serving a commitment sentence.

264. A juvenile court judge determined that Tyrone P. is releasable. Despite this, Tyrone P. has remained in detention for over two months past when a juvenile court judge determined him releasable.

265. CDHS is responsible for locating an appropriate placement for Tyrone P. but has failed to do so.

266. The district attorney in Tyrone P.'s delinquency case offered Tyrone P. diversion, which would result in his delinquency case being dismissed. The diversion program, however, cannot be completed while Tyrone P. remains in detention. Notably, his co-defendants—who were able to return home to their parents—are presently completing the diversion program.

267. Tyrone P. is unable to return home to his parents; however, CDHS has not initiated dependency proceedings for Tyrone P. to search for a potential foster care placement.

268. Tyrone P. has disabilities recognized under federal law. Specifically, he has been diagnosed with PTSD. Tyrone P. has previously been enrolled in trauma-based therapy for his PTSD. As a result of his PTSD, he has memory problems. His PTSD further causes him to experience flashbacks as well as nightmares that disrupt his sleep, to have difficulty regulating his emotions, and to have "fight or flight" behaviors, which has sometimes resulted in his running away. His PTSD has caused negative alterations in his

cognitions and mood, and results in him feeling detached from others. He experiences difficulty concentrating, has blurred vision, experiences "blurry thinking," and has a hard time remembering things when he is feeling anxious, and can have difficulty controlling his emotions. Sometimes he has difficulty falling asleep, while other times he has difficulty getting out of bed.

269. According to an evaluation conducted on Tyrone P. while he was in DYS detention, his PTSD causes clinically significant distress in multiple areas of his daily functioning. The evaluation concluded his disabilities substantially limit his daily functioning in multiple ways, including his ability to relate to others in his family, recreate, attend school, make good decisions, and regulate his emotions, among others. Thus, his disabilities substantially impair his major life activities of sleeping, thinking, concentrating, learning, communicating, and completing schoolwork.

271. After Tyrone P. had been detained for over two weeks, a DHS caseworker referred him for an evaluation by a treatment professional through Medicaid. The evaluator was not assigned until mid-August and the evaluation itself was not completed for approximately six weeks after it was initially requested. Eventually, the evaluation determined that Tyrone P. needed a qualified residential treatment program ("QRTP"). The waitlists for such programs are notoriously long, and in Tyrone P.'s case even his placement on any waitlist was substantially delayed because of the delay in his evaluation.

272. Tyrone P. wants to be released from detention and placed in the most integrated setting appropriate to his needs.

273. CDHS can serve Tyrone P. in the community through its existing array of home and community-based placements and services.

274. While waiting for CDHS to find him a placement, Tyrone P. has remained incarcerated by Defendants in a locked detention facility.

275. During his detention, Tyrone P. has become increasingly depressed and anxious about his situation. For example, he feels "down," "hopeless," and unmotivated to perform daily tasks.

276. Tyrone P. struggles with being in the juvenile justice legal system. For several weeks during his detention, he was unable to make any phone calls to his family, his friends, his treatment team, and his lawyers. The CDHS-operated detention facility failed to "approve" the list of phone numbers that he is allowed to call, despite Tyrone P.'s good behavior in detention, his right to access his counsel, and the fact that approving phone number lists is a routine matter at the facility. Tyrone P. has also had difficulty sleeping while he has been incarcerated in the DYS facility because the lights are kept on all night.

277. Other juveniles incarcerated with Tyrone P., including juveniles who claim to be "affiliated" with street gangs, have threatened him during his detention. Tyrone P. also witnessed one juvenile repeatedly stab another child who was living in Tyrone P.'s jail-like "pod" in detention. Tyrone P. does not want to fight the other juveniles but is worried that he may have to defend himself.

278. Before he was in detention, Tyrone P. enjoyed playing video games, playing football on his school team, and spending time with his friends.

SUPPLEMENTAL CLAIMS FOR RELIEF

278. Plaintiffs Otto O. and Tyrone P. assert each of the claims for relief pleaded at ¶¶ 187–237 of the Amended Complaint (Dkt. 53) on their own behalf and on behalf of the proposed Releasable Youth Class and the proposed Disabilities Subclass.

279. **Count I (42 U.S.C. § 1983—Fourteenth Amendment, Substantive Due Process).** Defendants' continued incarceration of Otto O. and Tyrone P. in DYS secure detention facilities after juvenile courts determined that each may be released deprives them of their liberty without lawful justification and constitutes unlawful punishment of pre-adjudication children, in violation of the Due Process Clause of the Fourteenth Amendment.

280. **Count III (42 U.S.C. § 1983—Fourteenth Amendment, Procedural Due Process).** Defendants' failure to maintain adequate assessment, case planning, review, and release processes—illustrated by the months-long delays in evaluating Otto O. and Tyrone P. and in identifying placements for them—deprives them of a constitutionally adequate process for securing the release to which the juvenile courts determined they are entitled, in violation of the Due Process Clause of the Fourteenth Amendment.

281. **Count IV (Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*).** Otto O. and Tyrone P. are qualified individuals with disabilities. Defendants' failure to provide, fund, and effectively utilize community-based placements and services results in their unnecessary segregation in DYS secure detention facilities rather than the most integrated setting appropriate to their needs, in violation of Title II and its implementing regulations.

282. **Count V (Section 504 of the Rehabilitation Act, 29 U.S.C. § 794).** For the same reasons, Defendants' actions and inactions discriminate against Otto O. and Tyrone P. on the basis of their disabilities and unnecessarily segregate them in violation of Section 504.

283. As a result of Defendants' actions and inactions described herein, and in the absence of the declaratory and injunctive relief sought, Otto O., Tyrone P., and the members of the proposed Class and Subclasses will continue to suffer irreparable harm.

SUPPLEMENTAL PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court, in addition to the relief requested at ¶¶ 238-239 of the Amended Complaint (Dkt. 53) grant the following relief:

(A) Declare under Fed. R. Civ. P. 57 that:

a. Defendants' failure to administer services, programs, and activities for Otto O., Tyrone P. and all those in the proposed Disability Subclass in the most integrated setting appropriate to meet their needs unlawfully discriminates against Plaintiffs and Subclass on the basis of their disability and violates their rights under Title II of the ADA and under Section 504 of the Rehabilitation Act.

Dated: October 7, 2026

Respectfully submitted,

/s/ Scott C. Medlock

American Civil Liberties Union of Colorado
Scott Medlock, Colo. 57210
Timothy R. Macdonald, Colo. 29180
Emma Mclean-Riggs, Colo. 51370
Sara Neel, Colo. 36904
303 E. 17th Avenue, Suite 350
Denver, CO 80203
Tel: (303) 777-5482
smedlock@aclu-co.org
tmacdonald@aclu-co.org
emcleanriggs@aclu-co.org
sneel@aclu-co.org

Ropes & Gray LLP
Timothy R. Farrell, IL & N.Y. 6303276*
Nicholas Smith, IL 6327626*
Jashan Kashyap, IL 6346084*
191 North Wacker Drive, 32nd Floor
Tel: (312) 845-1209
Timothy.Farrell@ropesgray.com
Nicholas.Smith@ropesgray.com
Jashan.Kashyap@ropesgray.com

Children's Rights
Stephanie Persson, N.Y. 5469648*
Ira Lustbader, N.Y. 2516946*
Stephen Dixon, La. 18185*
Micaela Heery-Hyatt, N.Y. 5742218*
Eleanor Roberts, N.Y. 5994652*
88 Pine Street, Suite 800
New York, NY 10005
Tel: (212) 683-2210
spersson@childrensrights.org

ilustbader@childrensrights.org
sdixon@childrensrights.org
mheeryhyatt@childrensrights.org
eroberts@childrensrights.org

Center for Legal Advocacy D/B/A Disability Justice
Emily Harvey, Colo. 47188
1580 Logan Street, Suite 600
Denver, CO 80203
Tel: (303) 722-0300
eharvey@disabilityjustice.co

ACLU National Prison Project
Corene T. Kendrick, Cal. 226642*
Marisol J. Dominguez-Ruiz, Cal. 345416*
425 California Street, Suite 700
San Francisco, CA 94104
Tel: (202) 393-4930
ckendrick@aclu.org
mdominguez-ruiz@aclu.org

David C. Fathi, Wash. 24893**
Quinn Phillips, Mass. 717737**
915 15th Street, N.W.
Washington, D.C. 20005
Tel: (202) 393-4930
dfathi@aclu.org
eepstein@aclu.org
qphillips@aclu.org

*Admitted to D. Colo.
**Admitted to D. Colo. Not admitted in D.C.; practice limited to federal courts.

Attorneys for Plaintiffs