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# Cleanliness

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Table of Contents

<b>Cleanliness .....</b>	<b>3</b>
--------------------------	----------

# Cleanliness

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Jailers are required by statute to enforce cleanliness in their respective jails. They are required to furnish the necessary apparatus for shaving once a week, provide bathing facilities separate for males and females, furnish hot and cold water, provide clean and sufficient bedding, and provide laundering once a week to prisoners who are not able to provide for themselves. Jailers are required to keep the jails clean, and must remove all filth from each cell once every 24 hours. T.C.A. § 41-4-111. See Rules of the Tennessee Corrections Institute, Rule 1400-1-.09 and Rule 1400-1-.15. See also *Leach v. Shelby County Sheriff*, 891 F.2d 1241, 1247 (6th Cir. 1989) (Under Tennessee law the sheriff has the responsibility of conforming to at least minimal constitutional standards in providing and maintaining adequate bedding, toiletries, and cleanliness.). Facilities shall be clean and in good repair. Floors throughout the facility shall be kept clean, dry, and free from any hazardous materials or substance. Rules of the Tennessee Corrections Institute, Rule 1400-1-.09(2)

A facility employee shall make daily sanitation and safety inspections. Dates of inspections shall be recorded and conditions noted. Any maintenance problems shall be recorded on a regular maintenance report. Rules of the Tennessee Corrections Institute, Rule 1400-1-.09(3). Additionally, facility administrators shall develop a list of articles and materials that shall be allowed in the cell area. Inmates shall be informed of this list upon admission. Rules of the Tennessee Corrections Institute, Rule 1400-1-.05(6)

It has been held that the "failure to regularly provide prisoners with clean bedding, towels, clothing and sanitary mattresses, as well as toilet articles including soap, razors, combs, toothpaste, toilet paper, access to a mirror and sanitary napkins for female prisoners constitutes a denial of personal hygiene and sanitary living conditions." *Dawson v. Kendrick*, 527 F.Supp. 1252, 1288-1289 (S.D. W.Va. 1981) (finding conditions to be violative of the 14th Amendment as to pretrial detainees and the Eighth Amendment as to convicted prisoners) (citation omitted); *Laaman v. Helgemoe*, 437 F.Supp. 269, 310 (D. N.H. 1977) (When the deprivation of basic elements of hygiene and the presence of unsanitary conditions in the cells threaten the health of the occupants, the Constitution is violated.).

The Eighth Amendment requires states to furnish its inmates with reasonably sanitary conditions, reasonably adequate ventilation, hygienic materials, and utilities (i.e., hot and cold water, light, heat, plumbing). Inmates must be furnished with materials to keep their cells clean and for the maintenance of personal hygiene. *Grubbs v. Bradley*, 552 F.Supp. 1052, 1122-1123 (M.D. Tenn. 1982). "Where reasonably sanitary conditions are not maintained, an Eighth Amendment violation may be sustained." *Jones v. Stine*, 843 F.Supp. 1186, 1190 (W.D. Mich. 1994) citing *Walker v. Mintzes*, 771 F.2d 920, 928 (6th Cir.1985); *Grubbs v. Bradley*, 552 F.Supp. 1052, 1122-23 (M.D. Tenn. 1982). See *Brown v. Brown*, 46 Fed.Appx. 324 (6th Cir. 2002) (Any inconvenience that prisoner suffered due to his inability to purchase personal hygiene and toiletry items for several months because of unlawful hold on his account did not demonstrate a condition of confinement that fell beneath the minimal civilized measure of life's necessities, and therefore did not violate Eighth Amendment.); *Lunsford v. Bennett*, 17 F.3d 1574 (7th Cir. 1994) (Delay in providing inmates with requested hygiene supplies for approximately a 24- hour period found not to violate the Eighth Amendment where the record contained no evidence indicating that inmates' cells were unusually dirty or unhealthy, or that health hazards existed.); *White v. Nix*, 7 F.3d 120, 121 (8th Cir. 1993) (No Eighth Amendment violation found where inmate was housed in a screened cell for 11 days. All the cells in the cellblock were equipped with a toilet, a sink with hot and cold water, a bed and table, and each cell was wired for cable television.); *Jones v. Stine*, 843 F.Supp. 1186, 1190 (W.D. Mich. 1994) (Mere denial of cleanser and disinfectant found not to violate the Eighth Amendment where inmate had access to running water, a sponge and weekly access to a mop and duster.).

The lack of adequate ventilation and air flow can violate the minimum requirements of the Eighth Amendment if it undermines the health of inmates and the sanitation of the jail. *Hoptowit v. Spellman*, 753 F.2d 779, 784 (9th Cir. 1985) citing *Ramos v. Lamm*, 639 F.2d 559, 569 (10th Cir. 1980), cert. denied, 450 U.S. 1041, 101 S.Ct. 1759, 68 L.Ed.2d 239 (1981). While courts have recognized that a constitutional right to adequate ventilation exists, it does not assure the right to be free from all discomfort. *Board v. Farnham*, 394 F.3d 469, 486 (7th Cir. 2005). "Inadequate ventilation, usually in combination with other factors, may give rise to an Eighth Amendment claim. However, the problem must be extreme. Conditions such as poor ventilation, or dry air, do not fall below 'the minimal civilized measure of life's necessities,' absent medical or scientific proof that such conditions exposed a prisoner to diseases or respiratory problems which he would not otherwise have suffered." *Gibson v. Ramsey*, 2004 WL 407025, \*7 (N.D. Ill. 2004) (citations omitted). See *Bomer v. Lavigne*, 101 Fed.Appx. 91 (6th Cir. 2004) (Lack of power in prisoner's cell from Friday until Monday, when electrician was scheduled to perform repair, could not

support civil rights claim under Eighth Amendment where, aside from a lack of ventilation, prisoner did not allege that he was harmed by the power outage.); *Ingram v. Jewell*, 94 Fed.Appx. 271 (6th Cir. 2004) (Confiscation of electrical extension cord used by state inmate to operate fan to ventilate his cell did not violate Eighth Amendment given absence of allegation that cell ventilation was so inadequate as to fall below minimal civilized measure of life's necessities.); *Shelby County Jail Inmates v. Westlake*, 798 F.2d 1085 (7th Cir. 1986) (Sufficient evidence existed to support jury finding that ventilation in county jail was adequate and did not constitute punishment of pretrial detainees or cruel and unusual punishment of convicted inmates.); *Carver v. Knox County*, 753 F.Supp. 1370 (E.D. Tenn. 1989) (County jail intake center's lack of adequate ventilation was constitutionally impermissible under either Eighth or 14th Amendments.).

Forcing a nonsmoking prisoner with a serious medical need to share a cell with a prisoner who smokes can constitute a violation of the Eighth Amendment. *Talal v. White*, 403 F.3d 423, 427 (6th Cir. 2005). "[T]he mere existence of non-smoking pods does not insulate a penal institution from Eighth Amendment liability where, as here, a prisoner alleges and demonstrates deliberate indifference to his current medical needs and future health." *Id.* See also *Wilcox v. Lewis*, 47 Fed.Appx. 714 (6th Cir. 2002) (Alleged exposure of state prisoner, who was diagnosed with cancer, to environmental tobacco smoke (ETS) did not violate his Eighth Amendment rights where there was no evidence that ETS had anything to do with his serious medical condition, prison officials were not aware that prisoner had any serious medical need for a smoke-free environment, and each cell in prison had separate intake and exhaust ventilation system and prisoners were permitted to smoke only in their cells and in prison yard.).

"Adequate lighting is one of the fundamental attributes of 'adequate shelter' required by the Eighth Amendment." *Hoptowit v. Spellman*, 753 F.2d 779, 783 (9th Cir. 1985) (holding that the lighting at the penitentiary violated the Eighth Amendment where the evidence showed that the lighting was so poor that it was inadequate for reading and caused eyestrain and fatigue and hindered attempts to ensure that basic sanitation was maintained). It has been held that the "failure to provide security quality lighting fixtures of sufficient illumination to permit detainees and convicted inmates to read without injury to their vision constitutes a danger to the health and security of pre-trial detainees and prisoners alike." *Dawson v. Kendrick*, 527 F.Supp. 1252, 1288 (S.D. W.Va. 1981) (citation omitted). "Inadequate lighting has been recognized in a variety of contexts as constituting cruel and unusual punishment violative of the Eighth Amendment when, in the absence of a valid governmental interest, it unnecessarily threatens the physical and mental well-being of prisoners." *Id.*

Such conditions as poor plumbing and sewage systems rise to the level of a constitutional violation where they appear "in such disrepair as to deprive inmates of basic elements of hygiene and seriously threaten their physical and mental well-being." *Jones v. City and County of San Francisco*, 976 F.Supp. 896, 910 (N.D. Cal. 1997) citing *Hoptowit v. Spellman*, 753 F.2d 779, 783 (9th Cir. 1985). See also *Dawson v. Kendrick*, 527 F.Supp. 1252, 1288 (S.D. W.Va. 1981) (finding antiquated, neglected and unsanitary state of the plumbing and the plumbing fixtures was both punitive and violative of the 14th Amendment rights of the pretrial detainees and the Eighth Amendment rights of the convicted inmates; further finding that conditions constituted a breach of county officials statutory duties under state law to keep the jail in a "clean, sanitary and healthful condition" and in "constant and adequate repair"). But see *Benjamin v. Fraser*, 2003 WL 22038387 (2d Cir. 2003) (Although some showers at city jails provided water that was either too hot or too cold, such plumbing problems were not sufficiently pervasive to amount to violation of pretrial detainees' due process rights.).

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