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Medical Segregation

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Inmates suffering from communicable diseases and those who are sick but do not require hospitalization shall be housed separate from other inmates as recommended by health care authorities.. Rules of the Tennessee Corrections Institute, Rule 1400-1-.13(26).

Placement in medical isolation is a permissible administrative intake procedure when an inmate refuses to take a TB test. *Johnson v. County of Nassau*, 2005 WL 991700 (E.D. N.Y. 2005), citing *Hewitt v. Helms*, 459 U.S. 460, 468, 103 S.Ct. 864, 74 L.Ed.2d 675 (1983). See also *Davis v. City of New York*, 142 F.Supp.2d 461, 464 (S.D. N.Y. 2001) (The brief placement of an inmate in medical isolation in order to restrict his exposure to the general population and facilitate a medical examination in consequence of his refusal to submit a blood sample did not violate any constitutional rights because it served the legitimate penological interest of insuring the health and safety of other prisoners.); *Jones-Bey v. Wright*, 944 F.Supp. 723, 732 (N.D. Ind. 1996) (Placement of prisoner who refused to submit to TB screening test in medical isolation unit for maximum of 40 days did not violate Eighth Amendment cruel and unusual punishments clause.); *Westbrook v. Wilson*, 896 F.Supp. 504 (D. Md. 1995) (Regulation and practice of placing inmates who refuse to submit to test for TB in medical segregation is constitutional; test is minimally intrusive, related to legitimate prison management goal of protecting other inmates and staff, and placement in medical segregation is reasonable.).

Several federal circuit courts have upheld against constitutional challenge the practice of segregating HIV-positive prisoners from the rest of the prison population on the theory that such segregation is a reasonable anticontagion measure even though it incidentally and necessarily effects disclosure of medical information. In *Harris v. Thigpen*, 941 F.2d 1495, 1521 (11th Cir. 1991), the Eleventh Circuit Court of Appeals found that the decision to segregate HIV-positive inmates from the general prison population served a legitimate penological interest in reducing the transmission of HIV and reducing the threat of violence. See also *Onishea v. Hopper*, 171 F.3d 1289, 1297-1299 (11th Cir. 1999) (allowing segregation of HIV-positive prisoners), cert. denied, 528 U.S. 1114, 120 S.Ct. 931, 145 L.Ed.2d 811 (2000). Other courts of appeals have likewise upheld the segregation of HIV-positive inmates from the general population. See, e.g. *Moore v. Mabus*, 976 F.2d 268, 271 (5th Cir. 1992) (finding HIV segregation policy reasonably related to legitimate penological interests); *Matthews v. Graham*, 235 F.3d 1339 (Table) (5th Cir. 2000) (Placement in administrative segregation in a county jail for three months due to HIV-positive status serves a legitimate penological interest.); *Carter v. Lowndes County*, 89 Fed.Appx. 439 (5th Cir. 2004) (County's segregation policy for inmates with contagious diseases served a legitimate penological interest.); *Camarillo v. McCarthy*, 998 F.2d 638, 640 n. 2 (9th Cir. 1993) (reserving question of whether HIV segregation policy is constitutional but holding officers entitled to qualified immunity); *Bowman v. Beasley*, 8 Fed.Appx. 175, 178-179 (4th Cir. 2001) (The practice of segregating HIV-positive inmates is within the wide deference afforded prison administrators, and it is reasonably related to legitimate penological interests.). Cf. *Anderson v. Romero*, 72 F.3d 518, 525 (7th Cir.1995) (holding that the constitutional rights of an HIV-positive inmate are not infringed when prison officials undertake to warn prison officials and inmates who otherwise may be exposed to contagion, even if those warnings are administered on an ad hoc basis).

In *McRoy v. Sheahan*, 2005 WL 1926560 (N.D. Ill. 2005), the district court found that jail officials were not deliberately indifferent to the presence of tuberculosis bacteria in the jail in violation of the 14th Amendment rights of a pretrial detainee who contracted latent form of tuberculosis where jail officials followed the screening, isolation, and treatment policies of the Centers for Disease Control (CDC) and the American Thoracic Society (ATS).

Temporary inconveniences incurred while being held in medical segregation usually do not rise to the level of a constitutional violation. *Taggart v. MacDonald*, 131 Fed.Appx. 544, 546 (9th Cir. 2005) (upholding dismissal of inmate's claims regarding his confinement in medical segregation because his allegations that he was temporarily deprived of reading material, temporarily unable to properly cleanse himself, and was yelled at by a prison official, were not objectively serious enough to rise to a constitutional claim).

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