DisAbled Women's Network of Canada

Réseau d'action des femmes handicapées Canada

Speaking Notes

The Standing Senate **Committee** on Legal & Constitutional Affairs

BILL S-205

An Act to amend the Corrections and Conditional Release Act

Tona's Law

Presented by
Bonnie Brayton, CEO
DAWN Canada (DisAbled Women's Network) Canada

February 25, 2026

ABOUT THE DISABLED WOMEN'S NETWORK (DAWN) CANADA

DAWN Canada is a feminist cross-disability human rights organization that works to address systems of oppression. We focus on addressing issues of disability and through our four pillars of research, education/learning, policy and advocacy. We amplify the voices of women across the gender spectrum through an intersectional lens.

DAWN's mandate to end the poverty, isolation, discrimination and violence experienced by women, girls and gender diverse people with disabilities and Deaf women in Canada and to promote our advancement and inclusion by creating change at a systemic level.

Contact:
469, Jean Talon W. #215
Montréal (Quebec)
H3N 1R4

Telephone: (514) 396-0009
Fax: (514) 396-6585
Toll free (Canada): 1-866-396-0074

Email:admin@dawncanada.net
Web: www.dawncanada.net

Thank you to Senator Pate for advancing this important legislation and to the committee for inviting us to speak today. I am pleased to be here with you on unceded Anishinabe Algonquin territory.

Tona Mills, is an Indigenous woman who spent over 10 years in solitary confinement in federal custody, primarily due to mental health issues. She was diagnosed with isolation-induced schizophrenia after her prolonged isolation.

Solitary Confinement, Disability, and the Over-Representation of Indigenous & Black Women

Thank you, Senators, for the opportunity to speak to Bill S-205. My comments draw on a recent literature review DAWN Canada completed as part of our work in developing new standards under the Accessible Canada Act for Federal Corrections Services, examining the experiences of Indigenous and Black women, and gender-diverse people with disabilities in the Canadian correctional system.

The evidence is unequivocal: solitary confinement and other forms of isolation disproportionately harm those who are already the most marginalized. As your own bill recognizes, *"those most marginalized, including Black and Indigenous Peoples… and those with disabling mental health issues, have been overrepresented in segregation and other conditions of isolation."*

Our research confirms this. Indigenous women represent **42% of all federally incarcerated women**, despite being about 5% of the population. As the review states, *"Indigenous women represent 42% of incarcerated women and show higher levels of substance abuse and mental health issues."* Black women are also overrepresented, though the lack of disaggregated data makes their experiences less visible — a problem in itself.

Disability is a major driver of this over-representation. Nearly all federally sentenced Indigenous women have a diagnosed mental health-related disability, and many Black women experience trauma, chronic illness, or intellectual disabilities that go unrecognized. Yet prisons are structurally incapable of meeting these needs. The literature notes that *"women living with disabilities are frequently placed in isolation not due to any proven risk, but because they are misunderstood by undertrained correctional staff."*

This is where Bill S-205 is most responsive. The 48-hour limit on isolation, combined with mandatory judicial oversight, is not simply a procedural safeguard — it is a human-rights protection. For Indigenous and Black women whose behaviours are often trauma-driven or disability-related, isolation is routinely used as a substitute for care. The bill's recognition that irreversible harm can occur after 48 hours aligns with the evidence and with international standards.

The bill's second major contribution is its requirement for mental-health assessments and mandatory transfers to hospitals when CSC cannot provide appropriate care. This is essential. The literature shows that penitentiaries *"lack the capacity, resources, and infrastructure required to meet the needs of this population."* When women with disabilities are kept in prisons that cannot accommodate them, the result is predictable: deterioration, self-harm, and further isolation. Need I remind this committee of Ashley Smith's tragic death!

The third pillar — expanding section 81 and 84 agreements — is equally important. Indigenous women have long advocated for healing-based, community-led alternatives. Black women, too, have expressed deep distrust of institutional mental-health services and a need for culturally grounded supports. By allowing agreements with organizations serving disadvantaged or minority populations, the bill opens the door to Black-led, disability-led, and 2SLGBTQIA+-led community supports. This is a meaningful step toward culturally safe reintegration.

Finally, the bill's creation of a judicial remedy for unlawful or discriminatory administration of a sentence is a powerful accountability tool. Indigenous and Black women routinely experience misclassification, cancelled visits, microaggressions, and punitive responses to disability-related behaviours. A mechanism allowing courts to reduce a sentence when CSC's actions are oppressive or discriminatory is a necessary corrective.

However, there are gaps that deserve attention.
First, the bill focuses narrowly on "disabling mental health issues." Disability is broader. Women with physical, sensory, and intellectual disabilities — like the Indigenous woman forced to sleep on the floor because her cell was not wheelchair accessible — are equally harmed by isolation and inaccessible environments. The Accessible Canada Act defines disability holistically; this bill should do the same.

Second, gender is not explicitly named. The literature shows that Indigenous and Black women face unique, gendered pathways into criminalization — often rooted in colonization, poverty, and violence. Their experiences of isolation are not interchangeable with those of men. Explicit recognition would strengthen the bill's grounding in lived reality.

Third, accessibility obligations are not clearly imposed on CSC. Without explicit requirements, women with disabilities may still be placed in inaccessible SIUs or denied participation in programs.
Finally, most incarcerated women are in provincial custody. While this bill applies federally, the committee should strongly recommend that provinces adopt parallel protections.

In closing, Bill S-205 is a significant and necessary step. It aligns with the evidence, responds to longstanding human-rights concerns, and offers meaningful pathways to care, community, and accountability.
Strengthening it through an intersectional, disability-inclusive lens will ensure it protects those who are most affected by isolation — Indigenous and Black women, and gender-diverse people living with disabilities.

In Summary ….

---

1. Limiting Isolation (48-hour cap + judicial oversight)
Recommendations

- Require CSC to demonstrate that disability-related needs were assessed and accommodated before any isolation is authorized.
- Mandate disaggregated reporting on SIU placements by race, Indigeneity, gender, and disability.
- Explicitly prohibit the use of isolation as a response to self-harm, trauma responses, or disability-related behaviours.

2. Mental-Health Assessment & Mandatory Hospital Transfer
Recommendations

- Expand the definition of disability beyond "disabling mental health issues" to include physical, sensory, intellectual, cognitive, and psychosocial disabilities.
- Require culturally adapted assessment tools for Indigenous and Black women.
- Ensure transfers include access to trauma-informed, culturally safe care.

3. Expanded Section 81 & 84 Agreements (Community-Based Alternatives)
Recommendations

- Set targets for agreements with Indigenous, Black, disability, and 2SLGBTQIA+ organizations.
- Provide stable federal funding for community-based partners.
- Require CSC to document and publicly report efforts to identify eligible community organizations.

4. Judicial Remedy for Discriminatory Administration of Sentences
Recommendations

- Ensure legal aid funding so marginalized women can access this remedy.

- Require courts to consider systemic racism, colonization, and disability when assessing whether CSC's actions were oppressive or discriminatory.
- Mandate public reporting on the use and outcomes of these applications.

Thank you/merci/mgwetch

Our full Brief will follow.

Bonnie Brayton
For
DAWN CANADA