



T H E M C K E L L I N S T I T U T E

**Mckell Institute Data Briefing**

*Into Retail Violence & Abuse in Tasmania*

September 2023

## McKell Data Briefing: *Into Retail Violence and Abuse in Tasmania*

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### Context

Violence in retail settings has emerged as a significant policy challenge in recent years across Australia. Recorded incidences of abuse and violence targeted towards employees in retail settings consistently increased during the pandemic, and remain elevated during this current cost-of-living challenge. In response, some states have either considered or have indeed legislated laws specifically aimed at deterring the abuse from occurring in the first place. Abuse in retail settings is particularly alarming given the disproportionate number of workers in these settings that are underage. This **McKell Data Briefing** assesses this challenge from a Tasmanian perspective. It finds that retail violence and abuse is a persistent problem in the state and recommends that the Tasmanian Government consider adopting similar legislative measures as in NSW and SA to deter violence from occurring.

### Key Findings

1. Retail violence and abuse in Tasmania has been consistently rising in recent years. Reported incidences have increased by 40.3 per cent since 2014 — this is **the fastest increase, in percentage terms, among all states**.
2. All violence in workplaces is unacceptable. There is a particular concern about violence in retail settings, however, due to the **disproportionate number of workers in retail settings that are underage**.
3. Recognising similar challenges, **governments in South Australia and New South Wales have, in 2023, legislated to strengthen penalties** for those who commit violence in retail settings.
4. Stronger deterrence and penalties for retail violence abuse is warranted in Tasmania. However, **this briefing notes genuine concerns among some parties that mandatory minimums** may exacerbate the cycle of incarceration for disadvantaged offenders.
5. **A balanced approach would see stronger penalties imposed**, while the judiciary retain the capacity to recognise individual offender circumstances during sentencing.

### Recommendations

1. To curb Tasmania's increasing levels of retail violence, the McKell Institute recommends the introduction of a NSW-like amendment to the *Criminal Code 1924 (Tas)* that adds specific penalties for violence, abuse and other offences targeted towards retail workers.
2. These stronger deterrents should be coupled with a public awareness campaign, undertaken in consultation with peak employer groups and unions.

## Part 1 — Violence and Abuse in Retail Settings is An Enduring Problem in Tasmania

In recent years there has been a sustained increase in violence, aggression, and anti-social behaviour towards retail employees in Australia. Such behaviour serious physical and psychological injury to the affected workers. It leads to feelings of isolation, stress, depression, serious bodily injury, and even death.<sup>1</sup> For example, only three months ago, a BWS retail worker was tragically murdered by a customer.<sup>2</sup>

Women, young people, and those from culturally and linguistically diverse backgrounds are disproportionately affected by the scourge of retail violence.<sup>3</sup>

Indeed, 57 per cent of retail workers are female, making it the third most feminised industry in Australia.<sup>4</sup>

What is more, retail employees are comparatively paid less and more insecure than other industries – with most employees engaged on part-time or casual contracts.<sup>5</sup> This insecurity amplifies the significant economic costs for individual victims of retail violence.

Retail violence does not just leave a mark on the individual worker and their family, it creates negative externalities for businesses and the wider community. It contributes to absenteeism, high turnover rates, and poor job performance;<sup>6</sup> and creates environments which are unsafe for other customers and the public at-large.

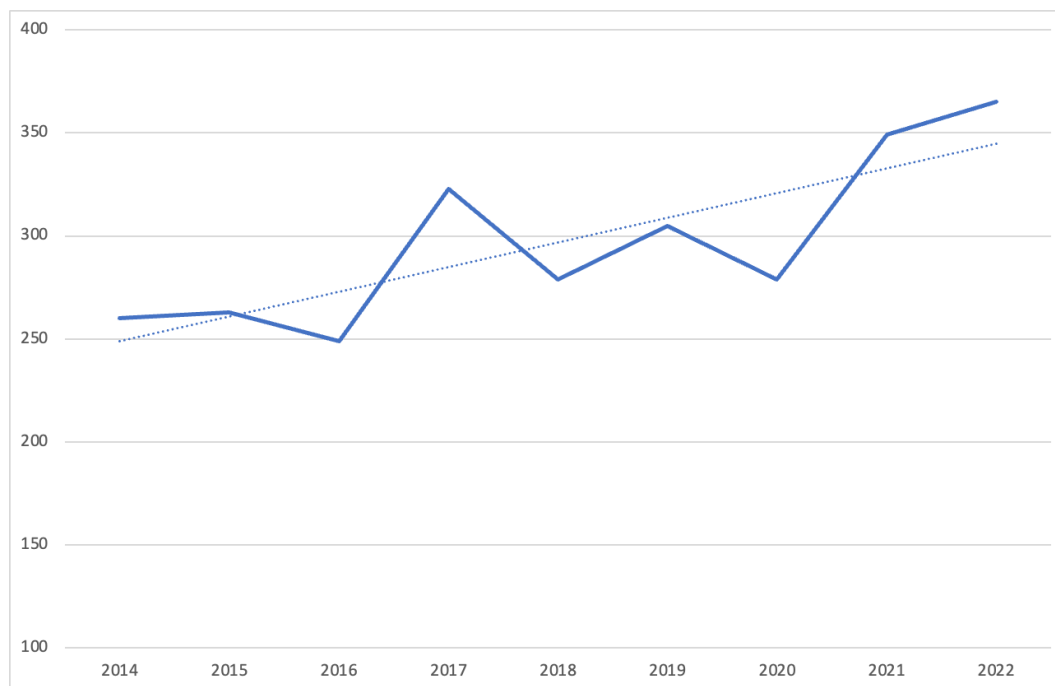
Survey figures are likely an *underestimate* of the true prevalence of retail violence in Australia. Workers will often be deterred from reporting their experiences due to a culture of normalisation, embarrassment, a perception that nothing will happen, and a fear of employer retribution.<sup>7</sup>

The McKell Institute has previously documented a marked increase in retail violence in New South Wales ('NSW') during the COVID-19 pandemic,<sup>8</sup> but this increase has not since subsided despite the 'new normal'. It is likely that the cost-of-living crisis, and the pressure it is putting on household budgets, is a significant contributor to the stubbornly high level of retail violence in the post-pandemic era.<sup>9</sup>

## Part 2 — The Data on Retail Violence in Tasmania

Relatively, Tasmania is one of the worst jurisdictions in Australia for retail violence. The number of *reported* retail assaults grew from 260 in 2014, to 365 in 2022 – an increase of over 40 per cent in just 8 years.

**Figure 1: Retail Assaults in Tasmania 2014-2022<sup>10</sup>**



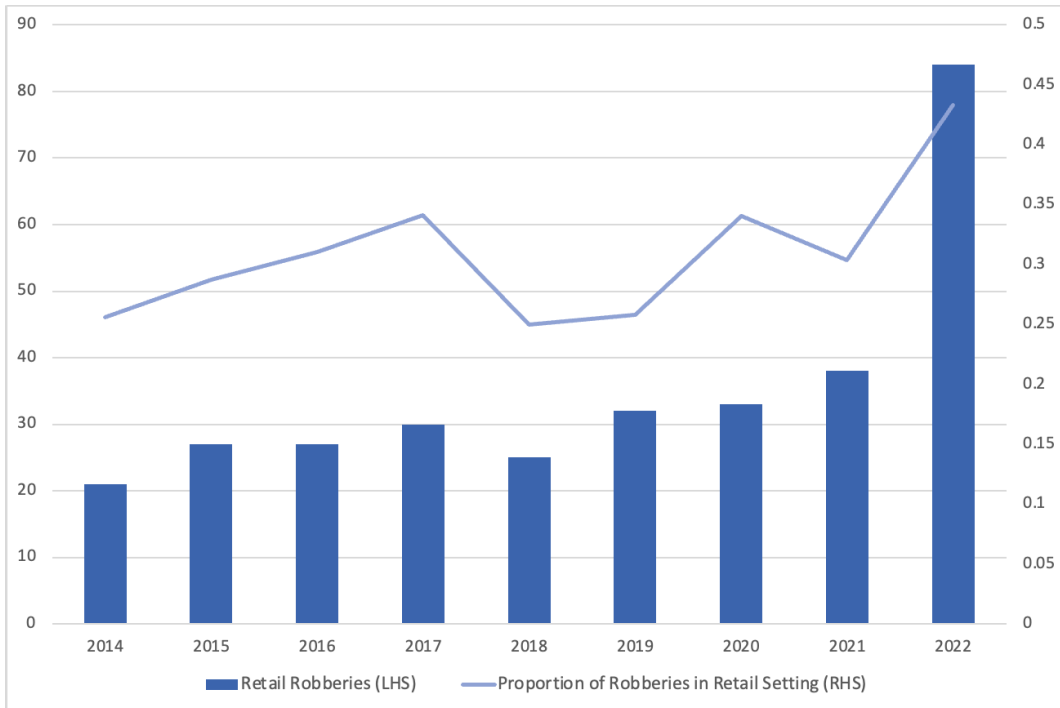
This increase of 40.3 per cent is the **greatest percentage increase** over the period of all Australian jurisdictions which report retail assaults. Western Australia recorded a 38.8 per cent increase, the Australian Capital Territory ('ACT') recorded a 31.6 per cent increase, NSW recorded only an 11.2 per cent increase, the Northern Territory ('NT') recorded a 3.1 per cent increase and South Australia recorded a 47.1 per cent *decrease*.

Furthermore, unlike most other jurisdictions **retail assaults have increased as a proportion of total assaults in Tasmania**. Retail assaults made up 9.44 per cent of all assaults in 2014, and this increased to 9.66 per cent in 2022. In South Australia, Western Australia, the ACT and the NT, this proportion decreased over the same period.

Investigations data also suggests that **victims of assault in Tasmania are not seeing justice**. In 2014, the proportion of assault investigations which were not finalised was 30 per cent, by 2022 this figure had risen to 38 per cent.

Retail settings are increasingly becoming the location of other violent crime in Tasmania. For example, the **number of robberies occurring in a retail setting increased from 21 in 2014 to 84 in 2022 – an increase of 300 per cent**. Over that same period, the proportion of total robberies occurring in a retail setting increased from 25.6 per cent to 43.3 per cent.

**Figure 2: Retail Robberies (LHS) and Proportion of Total Robberies in Retail Setting (RHS) in Tasmania<sup>11</sup>**



### Part 3 — What Other Australian States are Doing to Solve the Problem

It is clear that an intervention is required to halt the unacceptable trends in retail violence in Tasmania. The United Kingdom, as well as other Australian jurisdictions, have successfully spearheaded criminal law reforms to deter would-be offenders, and to punish perpetrators, of retail violence.

Of the three abovementioned jurisdictions, the United Kingdom was the first mover in imposing greater penalties for retail violence. The addition of s 68A to the *Sentencing Act 2020* (UK) in May 2022 forced courts to impose additional penalties on perpetrators of assault, threats to kill and other violent crime if the victim was a retail worker.<sup>12</sup>

In September 2022 South Australia followed suit by amending their definition of ‘prescribed emergency worker’ to include employees ‘whose duties primarily involve working in an area of a shop accessible to the public’, in other words, retail workers.<sup>13</sup> This now means that causing harm or assaulting a retail worker, in the course of their duties, is caught under the same offence as assaulting paramedics, police officers, and other more traditional ‘emergency workers’. Intentionally causing harm attracts a maximum penalty of 15 years, reckless harm attracts a penalty of 10 years and assault attracts a maximum penalty of 5 years.<sup>14</sup> These changes were welcomed as an appropriate and targeted response to retail violence.<sup>15</sup>

In June 2023 the newly elected NSW Labor government passed legislation to curb retail violence. Rather than amending existing legislation like the United Kingdom and South Australia, the NSW amendment added *three new offences* under the heading ‘[a]ssault and other action against retail workers’.<sup>16</sup>

They have broader coverage than other legislation, addressing assault, stalking, harassment, and intimidation of retail workers.<sup>17</sup> Maximum penalties range from 4 years for assault with no bodily harm,<sup>18</sup> to 11 years for wounding and causing grievous bodily harm.<sup>19</sup> The changes were similarly welcomed by both employees and employers.<sup>20</sup> In commending the legislation, Woolworths noted that they had seen 540 ‘serious incidents’ in *just their NSW stores* in the only preceding 12 months.<sup>21</sup>

## Part 4 — A Policy Approach For Tasmania

To curb Tasmania's increasing levels of retail violence, the McKell Institute recommends the introduction of a NSW-like amendment to the *Criminal Code 1924* (Tas). Unlike South Australia, there are no broad 'emergency worker' offences which could be suitably amended, and the NSW-like provision provides broader coverage for the various ways in which retail workers can be targeted (e.g., stalking, intimidation, harassment), whereas the South Australia offence is concerned with causing physical harm in a narrower sense.

It is important to remain cognisant of Tasmania's overexposure to the cost-of-living crisis,<sup>22</sup> and the increase in repeat youth offending,<sup>23</sup> in drafting the offence. Such an amendment should impose similar maximum penalties to the NSW legislation, but not impose any mandatory minimum sentences.

**High maximum penalties should be coupled with broad public messaging to deter would-be offenders, particularly given the Tasmanian Police's increasing inability to finalise assault investigations.**

### Conclusion

Retail violence disproportionately affects the most vulnerable workers and comes with significant economic and social effects to both individual workers and the community at-large. COVID-19 saw a spike in retail violence, but it has remained elevated since the pandemic.

Tasmania has seen the greatest increase in retail violence of all jurisdictions which collect data. It has also seen a spike in other violent retail-based crime.

Other jurisdictions have realised that something should, and can, be done to combat retail violence. South Australia extended coverage of existing offences relating to assault of emergency workers to retail employees, and NSW tailored three bespoke offences to protect retail workers. To curb their epidemic of retail violence, Tasmania should follow suit and introduce offences with broad coverage tailored specifically to retail workers.

Tasmanian retail employees deserve better. Reform is both desirable and achievable. Everyone has the right to feel safe at work.

## Endnotes

- <sup>1</sup> See generally Lloyd C Harris and Kate L Reynolds, 'The Consequences of Dysfunctional Customer Behaviour' (2003) 6(2) *Journal of Service Research* 144.
- <sup>2</sup> Matt Garrick, 'Darwin protest sees thousands call for urgent action on crime in the wake of Declan Lavery's death', *ABC News* (online, 25 March 2023) <<https://www.abc.net.au/news/2023-03-25/nt-declan-lavery-rally-law-parliament-house/102145166>>.
- <sup>3</sup> Ariadne Vromen, Briony Lipton, Rae Cooper, Meraiah Foley and Serrin Rutledge-Prior, *Pandemic Pressures: Job Security and Customer Relations for Retail Workers* (Report, November 2021) <<https://apo.org.au/node/315279>> 5.
- <sup>4</sup> 'WGEA Data Explorer', *Workplace Gender Equality Agency* (Web Page, n.d.) <<https://www.wgea.gov.au/data-statistics/data-explorer>>;
- <sup>5</sup> Professor Rae Cooper, Dr Meraiah Foley, Laura Good, Dr Briony Lipton, Serrin Rudledge-Prior, Amy Tapsell and Ariadne Vromen, *Gendered Disrespect and inequality in retail work* (Report, 2022) 4.
- <sup>6</sup> See Alicia A Grandey, David N Dickter and Hock-Peng Sin, 'The customer is *not* always right: customer aggression and emotion regulation of service employees' (2004) 25(3) *Journal of Organizational Behaviour* 397.
- <sup>7</sup> 'Work-related violence and aggression in retail', *Workplace Health and Safety Queensland* (Report, n.d.) <[https://www.worksafe.qld.gov.au/\\_data/assets/pdf\\_file/0021/87006/Work-related-violence-and-aggression-in-retail.pdf](https://www.worksafe.qld.gov.au/_data/assets/pdf_file/0021/87006/Work-related-violence-and-aggression-in-retail.pdf)> 3.
- <sup>8</sup> Michael Buckland, 'Data Briefing Series – Retail Harassment', *The McKell Institute* (Web Page, September 2021) <<https://mckellinstitute.org.au/mckell-institute-data-briefing-series/>>.
- <sup>9</sup> Allanah Sciberras, "'It's getting worse": Retailers fear escalation of theft amid cost-of-living crisis', *9 News* (online, 3 July 2023) <<https://www.9news.com.au/national/victorian-retailers-fear-escalation-of-theft-amid-costofliving-crisis/c888a1eb-fb15-44cf-8364-3740769d8bff>>; see also *PA Media*, 'Shop workers blame cost of living stress for rising abuse', *The Guardian* (Web Page, 28 June 2022) <<https://www.theguardian.com/business/2022/jun/28/shop-workers-blame-cost-of-living-stress-for-rising-abuse>>.
- <sup>10</sup> Source: 'Recorded Crime – Victims', *Australian Bureau of Statistics* <<https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims>>.
- <sup>11</sup> Source: *Ibid*.
- <sup>12</sup> See *Sentencing Act 2020* (UK) ss 67-8, 67A; *Police, Crime, Sentencing and Courts Act 2022* (UK) s 156
- <sup>13</sup> *Criminal Law Consolidation (General) Regulations 2021* (SA) r 4(1)(l).
- <sup>14</sup> See *Criminal Law Consolidation Act 1935* (SA) s 20AA(1)-(3).
- <sup>15</sup> Shari Hams, 'People who assault SA retail workers to face tougher penalties but experts raise concerns', *ABC News* (online, 1 September 2022) <<https://www.abc.net.au/news/2022-09-01/harsher-penalties-for-abuse-against-retail-workers/101396664>>.
- <sup>16</sup> See *Crimes Act 1900* (NSW) s 60G.
- <sup>17</sup> See *ibid* s 60G(1).
- <sup>18</sup> *Ibid*.
- <sup>19</sup> *Ibid* s 60G(3).
- <sup>20</sup> See 'Tough penalties for abusing, assaulting retail workers', *The New Daily* (online, 21 June 2023) <<https://thenewdaily.com.au/news/state/nsw/2023/06/21/penalties-abuse-retail-workers/>>.
- <sup>21</sup> 'Woolworths Ground welcomes NSW government reforms to protect retail workers', *Woolworths Group* (Web Page, 21 June 2023) <<https://www.woolworthsgroup.com.au/au/en/media/latest-news/2023/woolworths-group-welcomes-nsw-government-s-reforms-to-protect-re.html>>.
- <sup>22</sup> Ami Seiwright and Sebastian Kocar, *Inflation, inflation, inflation: How Tasmanians are coping with rising costs of living* (Report, October 2022) <[https://www.utas.edu.au/\\_data/assets/pdf\\_file/0003/1624413/TTP8-Cost-of-Living\\_final.pdf](https://www.utas.edu.au/_data/assets/pdf_file/0003/1624413/TTP8-Cost-of-Living_final.pdf)>.
- <sup>23</sup> Lucy Macdonald, 'Surge in repeat youth crime worries Tasmania Police', *ABC News* (online, 8 May 2023) <<https://www.abc.net.au/news/2023-05-08/surge-in-youth-crime-repeat-offenders-tas-police-worried/102316044>>.