



BILL DE BLASIO
MAYOR

CIVILIAN COMPLAINT REVIEW BOARD
100 CHURCH STREET 10th FLOOR
NEW YORK, NEW YORK 10007 ♦ TELEPHONE (212) 912-7235
www.nyc.gov/ccrb

TRACY CATAPANO-FOX, ESQ.
EXECUTIVE DIRECTOR

To: Board Members
From: Lisa Grace Cohen, Director of Mediation
Re: Mediation Report
Date: April 9, 2014

The CCRB Mediation Program is the largest mediation program of its kind in the country. Since its inception, 3,169 cases were closed by the Mediation Unit, involving 3,794 officers and 3,514 civilians. In 2013, the number of cases resolved by the Mediation Unit was approximately 16% of the total number of cases resolved, either through full investigation or mediation, by the CCRB.

The CCRB has always had three consistent goals regarding the Mediation Program – to grow the Program, to process cases efficiently and to provide a mediation alternative to investigation that is effective in creating understanding between police officers and the communities they serve.

In order to grow the Program we assess the rate at which mediation is offered to civilians, the rate at which mediation is accepted by civilians, the rate at which officers accept mediation and the pool of cases that are eligible and suitable for mediation.

The CCRB, unique among other police oversight mechanisms in New York, is a complainant driven process. When a case is eligible and suitable for mediation, the Investigator informs the complainant about both the mediation and investigation options. Investigators stress that mediations are non-disciplinary, voluntary and confidential. The rate at which Investigators offer mediation is, year-to-date, at an historical high – 68%. The average offering rate for the years from 2009 to 2013 was 53%.

The complainant then has the choice whether to participate in the mediation or have the case investigated. Year-to date, our complainant acceptance rate is 49%, which is 5 percentage points lower than the five year average of 54%. However, on a monthly basis, the acceptance rate has increased from an average of 51 cases per month in 2013 to 58 cases per month in year-to-date 2014, indicating that we are heading in the right direction.

Taken together the increase in the offering rate and decrease in the acceptance rate tells us that we need to focus more on Investigator training and civilian outreach.

The next part of the process is a review of the case by the Mediation Unit and the ADR Panel of the Board for eligibility and suitability. Generally speaking, a case is not eligible for mediation if there is an allegation of physical injury or property damage, or if the allegations raised by the complainant arose from an underlying arrest. A case may not be suitable if the complainant is suing the City and the suit relates to the complaint filed with the CCRB. Year-to-date, of the complaints received by the CCRB, 41% were eligible and suitable for mediation. This number has remained relatively stable and is consistent with the five year average of about 40%.

Another assessment is made by the Department Advocates Office of the Police Department for their determination of the officer's suitability to participate in the mediation. Year-to-date, the DAO has not rejected any officers. Over the last five years, this number has been steadily declining from 11 in 2009 to 2 in 2013.

The next step in the process is to offer the mediation to the subject officers. Our current officer acceptance rate is 79%, a significant increase over the 2008 rate which was below 70%.

Our assessment of case processing starts by looking at how long it takes to process a case. In the first quarter of 2014, the average number of days from the date the incident was reported to the date the mediation session was conducted was 188 days, which was a decrease by 31% when compared with 2013, when the average number was 274 days. We believe that the unprecedented 274 day case processing time in 2013 was due, in large part, to a significant turnover in personnel. With the addition of another Mediation Coordinator last year, we believe we can reduce completion time to below the 6-month mark.

We have also reviewed the way our mediation cases are processed and are working with the Department to implement a new processing method that reorders the way cases are approved, which should significantly reduce the case processing time.

In order to assess the effectiveness of the Program, the CCRB conducted a review of the Mediation Program and its effect on deterring additional complaints. The resulting study found that officers who accepted mediation were less likely to receive another complaint. The Policy Unit is planning to conduct a follow-up study.

Another indicator of effectiveness is the success rate of the Program. A mediation is considered successful when both parties have articulated that the mediation session has addressed their concerns and the case is closed as "mediated." 2014 year-to-date, the mediation success rate is 93%, which is consistent with the five-year average of about 92%.

The CCRB also utilizes a post-mediation satisfaction survey, given to both officers and civilians, to assess the success of our Program. The survey results show a great deal of satisfaction by civilians and officers with both the process and the outcome of the case: 85% of civilians and 91% of officers are satisfied with the outcome, 90% of civilians and 93% of officers were satisfied with the mediation session, 87% of civilians and 90% of officers would recommend

mediation to others and 98% of civilians and 97% of officers felt that they had had an opportunity to explain their point of view.

Going forward, the CCRB remains committed to its Mediation Program and addressing challenges. Next week, staff and Board members are meeting with Deputy Commissioner of Collaborative Policing, Susan Herman, to discuss ways in which the CCRB can work with the Department to increase civilians' and officers' knowledge of and accessibility to the Mediation Program. A detailed description of the Mediation Program is given in every outreach event and mediation staff are often participants. We have implemented weekly investigator trainings and have recently conducted a mediator refresher course. We believe that these efforts will help to effectively and efficiently grow the mediation program and thereby increase communication and understanding between police officers and the communities they serve.



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Mediation - Statistical Analysis

Mediation Outcomes

In the first quarter of 2014, the number of mediation sessions decreased slightly as compared to 2013. Year-to-date 2014, the CCRB has conducted 11 mediation sessions per month. In 2013, on average, the CCRB conducted 12.5 sessions per month. However, the average number of monthly mediation sessions year-to-date is up from the average of mediation sessions per month from 2007 to 2013, 11 sessions as compared to 10. (See Chart 1: Mediation Sessions 2007 – YTD 2014)

Year-to-date, the success rate – measured as the proportion of cases closed as mediated after a mediation session - continues to be high, 94%. The average was 92% from 2008 to 2013.

The CCRB also utilizes a post-mediation satisfaction survey to assess the success of our program. The survey focuses on the satisfaction with the process of both civilians and officers, the role of the mediator and mediation staff, the disposition of the complaint, and to what extent there is a learning experience. The satisfaction survey shows a great deal of civilian satisfaction with both the process and the outcome of the case: 85% of civilians were satisfied with the outcome (54% strongly satisfied), 90% were satisfied with the mediation session (61% strongly satisfied), 87% of civilians would recommend mediation to other civilians (68% with a strong recommendation) and 98% of civilians felt that they had an opportunity to explain their point of view. The survey also found a high degree of satisfaction with the learning process: 78% of civilians strongly or somewhat agreed with the statement that "mediation helped me to understand the actions of the other party during the incident" and 67% of civilians strongly or somewhat agreed with the statement that "I learned things that would likely cause me to behave differently in a similar situation in the future" and 80% of civilians strongly or somewhat agreed with the statement that "I think the other party understood my point of view."

The survey also shows a great deal of officer satisfaction with both the process and the outcome of the case: 91% of officers were satisfied with the outcome (69% strongly satisfied), 93% were satisfied with the mediation session (68% strongly satisfied), 90% of officers would recommend mediation to other officers (64% with a strong recommendation) and 97% of officers felt that they had an opportunity to explain their point of view. The survey also found a high degree of satisfaction with the learning process: 78% of officers strongly or somewhat agreed with the statement that "mediation helped me to understand the actions of the other party during the incident" and 60% of officers strongly or somewhat agreed with the statement that "I learned things that would likely cause me to behave differently in a similar situation in the future" and 80% of officers strongly or somewhat agreed with the statement that "I think the other party understood my point of view."

In past years, the CCRB conducted a review of the mediation program and its effect on deterring additional complaints – the deterrence effect. The study found that 53.2% of the 581 officers who rejected mediation received another complaint after receiving a notification of an offer to mediate. By comparison, the study found that 616 officers who accepted mediation were less likely to receive another complaint, with a recidivism rate of 48.9%. The study validated the hypothesis that participation in mediation had a greater deterrence effect in prospective complaint activity than non-participation in the mediation program. The Policy Unit is planning to conduct a follow-up study.

Mediation Outcomes and Completion Times

In the first quarter of 2014, the average number of days from the date of report to the date the mediation session is conducted has decreased by 31% when compared to 2013. Year-to-date 2014, the average number of days is 188 days. In 2013, the average number of days was 274. This is a 3-month reduction. (See Chart 2: Mediation Completion Times)

The goal of the unit is to reduce this time below the six-month mark. By comparison, in 2008 and 2009, the average number of days was 172 for the years 2007 through 2012.

In order to reduce the completion time, the CCRB is working with the Police Department to explore ways to expedite the process. The current timeline protocol of the mediation program is as follows:

Civilian offered and accepted mediation → to Mediation Unit for acceptance → to DAO for acceptance → to CCRB's ADR Committee for acceptance → to Member of Service (MOS) for acceptance → to schedule mediation session.

Mediation Docket

The current open docket of the mediation unit is 263 cases. Year-to-date 2014, 50% of cases are four months or younger and 96% of cases are less than one year old. The statute of limitations expired on 4 cases, which are pending panel review. (See Chart 3: Mediation Open Docket)

Cases Eligible and Suitable for Mediation

In the first quarter, complaint activity remained stable as compared to 2013. Year-to-date 2014, the CCRB has received an average of 444 complaints per month. In 2013, on average, the CCRB received 451 complaints per month.

The number of cases eligible for mediation also remains stable.

The board has the discretion to determine which cases should be considered for mediation and has established eligibility guidelines. Eligibility for mediation depends upon the allegations raised by the complaint, whether there is reported physical injury, whether the complaint grew out of an arrest, whether property was damaged, and whether the officer's or civilian's CCRB complaint history permits him/her to mediate.

Year-to-date 2014, 200 complaints per month are eligible for mediation. In 2013, on average, 204 complaints per month were eligible per month.

Though a case is eligible for mediation under agency guidelines, the case may not in fact be suitable for mediation. A case's unsuitability may arise from different factors. Thus, for instance, when the complainant is suing the city of New York and the suit relates to the complaint filed with the CCRB, the case will not be suitable for mediation. When the case involves both the complainant and an alleged victim and the two differ about whether the complaint should be mediated, the complaint may not be suitable for mediation.

Year-to-date, the suitability rate (the rate at which complaints received are suitable for mediation) is 41%, which is higher than the 38% rate of 2013. The rate is, however, the same as it was in 2011 and 2012.

In the first quarter of 2014, the universe of cases eligible and suitable for mediation was 184 complaints per month, 14 complaints higher than in 2013. (See Chart 4: Cases Suitable and Eligible per Month)

Mediation Offering Rate

When cases are eligible and suitable for mediation, a CCRB investigator offers the opportunity to mediate to the person who actually filed the complaint and any alleged victim.

Year-to-date, the CCRB mediation program has experienced a pronounced increase in the number of cases in which the CCRB offered mediation to the complainant. Both in terms of monthly average and relative rate, mediation is being offered at the highest levels since the program's inception.

Year-to-date 2014, the mediation offering rate is 68%. In 2013, the CCRB offered mediation in 60% of all eligible and suitable cases (or, 28% of all cases received). By comparison, in 2008 and 2009, the CCRB offered mediation in 11% of all eligible and suitable cases (or, 11% and 13% of all cases received, respectively). (See Chart 5: Mediation Offering Rate)

Year-to-date, the CCRB has offered mediation in 125 cases per month. In 2013, the CCRB offered mediation in 103 cases per month. By comparison, in 2008 and 2009, when complaint activity was approximately 30% higher than in 2013 and year-to-date 2014, the CCRB offered mediation in 71 and 83 cases per month, respectively. Put simply, monthly mediation offerings have increased by 77% since 2008.

Civilian Acceptance

The complainant who is being offered mediation has the opportunity to refuse or accept mediation. Year-to-date 2014, the CCRB mediation program has experienced a decrease in the proportion of cases in which civilians accept mediation.

Year-to-date 2014, the civilian acceptance rate is 49%. In 2013, the rate was 54%. The rate is at its lowest level since 2008 when the rate was 48%.

This decrease in relative terms has not affected the monthly average number of complaints in which civilians accepted mediation. Year-to-date, complainants in 58 cases per month accepted mediation. In

2013, the number of complainants that accepted mediation was 51 cases per month. By comparison, in 2008 and 2009, civilians accepted mediation in 32 and 42 cases per month, respectively. (See Chart 6: Civilian Accepted Mediation)

Transfer of Cases to Mediation Program

If the subject officer(s) is identified, the investigator explains to the complainant that his/her case is referred to the agency's Mediation Unit and that a staff member from that unit will handle the complainant from that point onward. If the officer(s) is not identified, the investigator must identify the subject officer(s) before the case can be transferred to the Mediation Unit.

Year-to-date 2014, the rate at which cases are transferred after the civilian has accepted mediation is 63%. In 2013, the rate was 88%. Since 2008 the average transfer rate has been 82% (85% if we adjust for the disruption of Hurricane Sandy in 2012). As a result, the average monthly number of cases transferred to the mediation unit has declined from 45 cases per month in 2013 to 36 cases year-to-date 2014. (See Chart 7 & 8: Cases Transferred to Mediation)

Cases Processed

The Mediation Unit and the Investigations Division always discuss with the civilian that before a case can be mediated certain protocols must be met. For example, the officer must also agree to mediate. If asked, the investigator can explain the approval process in detail: 1) the Mediation Unit must determine that the case is suitable for mediation (this should already have been determined in most cases); 2) the NYPD must determine that the subject officer's personnel history makes him/her a suitable candidate for mediation; 3) the board's ADR Committee must decide that the case is suitable for mediation; and 4) the subject officer(s) must voluntarily agree to participate. The approval process usually takes about two or three months.

Although we believe that mediation is the best alternative to resolve suitable complaints, data show that the parties are in control of the resolution of the complaint. The civilian acceptance rate is approximately 50%. Our data also show that civilians sometimes change their mind after the case has been transferred to mediation. Year-to-date 2014, 7 people have requested to have their complaint investigated after they accepted mediation and the case was transferred to the mediation program. There were 62 such cases in 2013. Of the cases where an investigator initially offered mediation to the civilian and the case was ultimately investigated and substantiated, data show that most civilians rejected mediation. In 2013, in 88% of substantiated cases in which we offered mediation, the civilian rejected mediation. The rate was 89% in 2012, 96% in 2011 and 91% in 2010.

The same principle that the parties are in control applies to the officers. Year-to-date, 79% of officers accepted mediation. In 2013, 83% of officers accepted mediation, the highest rate ever. In 2008, fewer than 70% of officers accepted mediation. (See Chart 9: Officer Acceptance Rate)

Chart 1: Mediation Sessions per Month

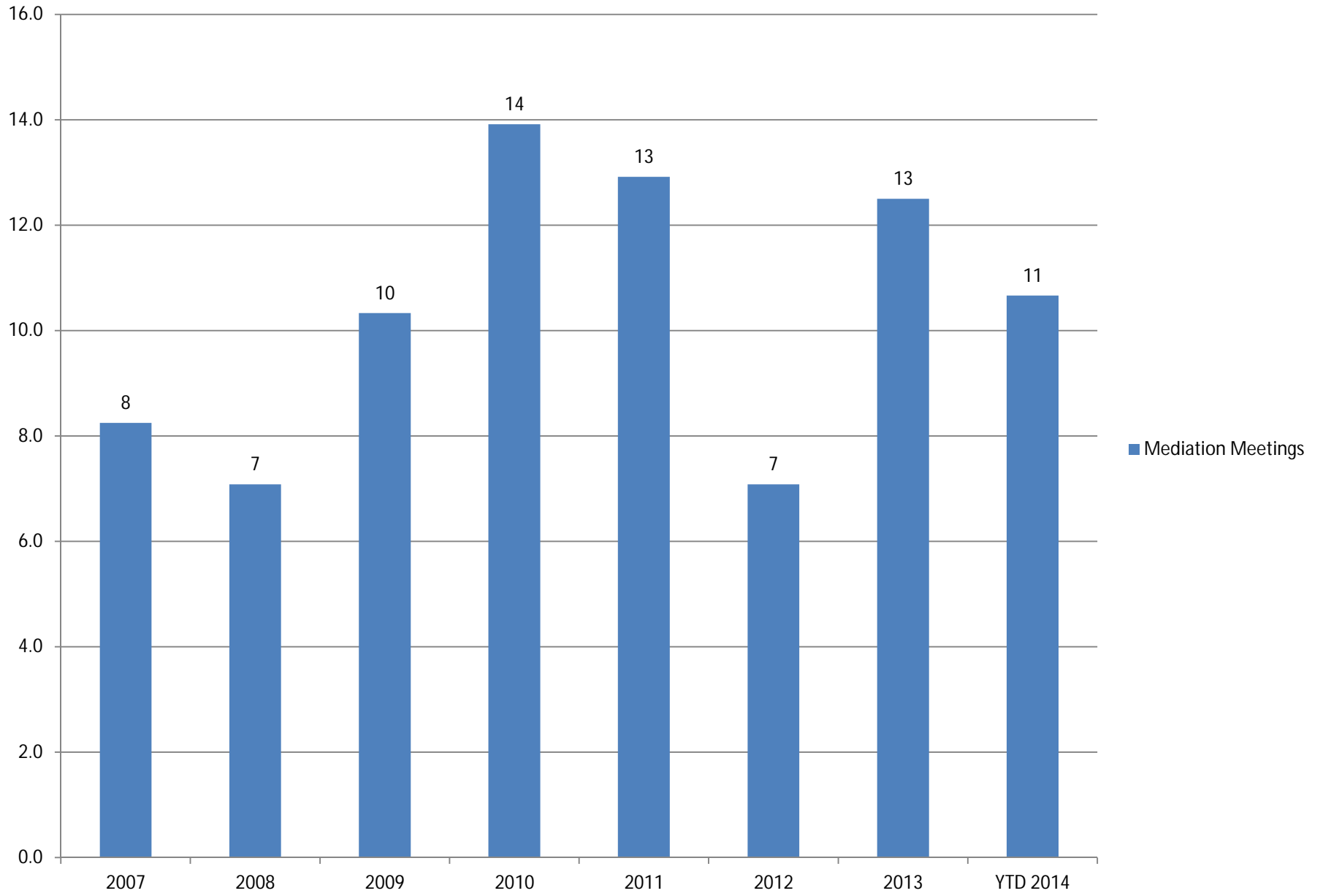


Chart 2: Mediation Completion Times (in Days)

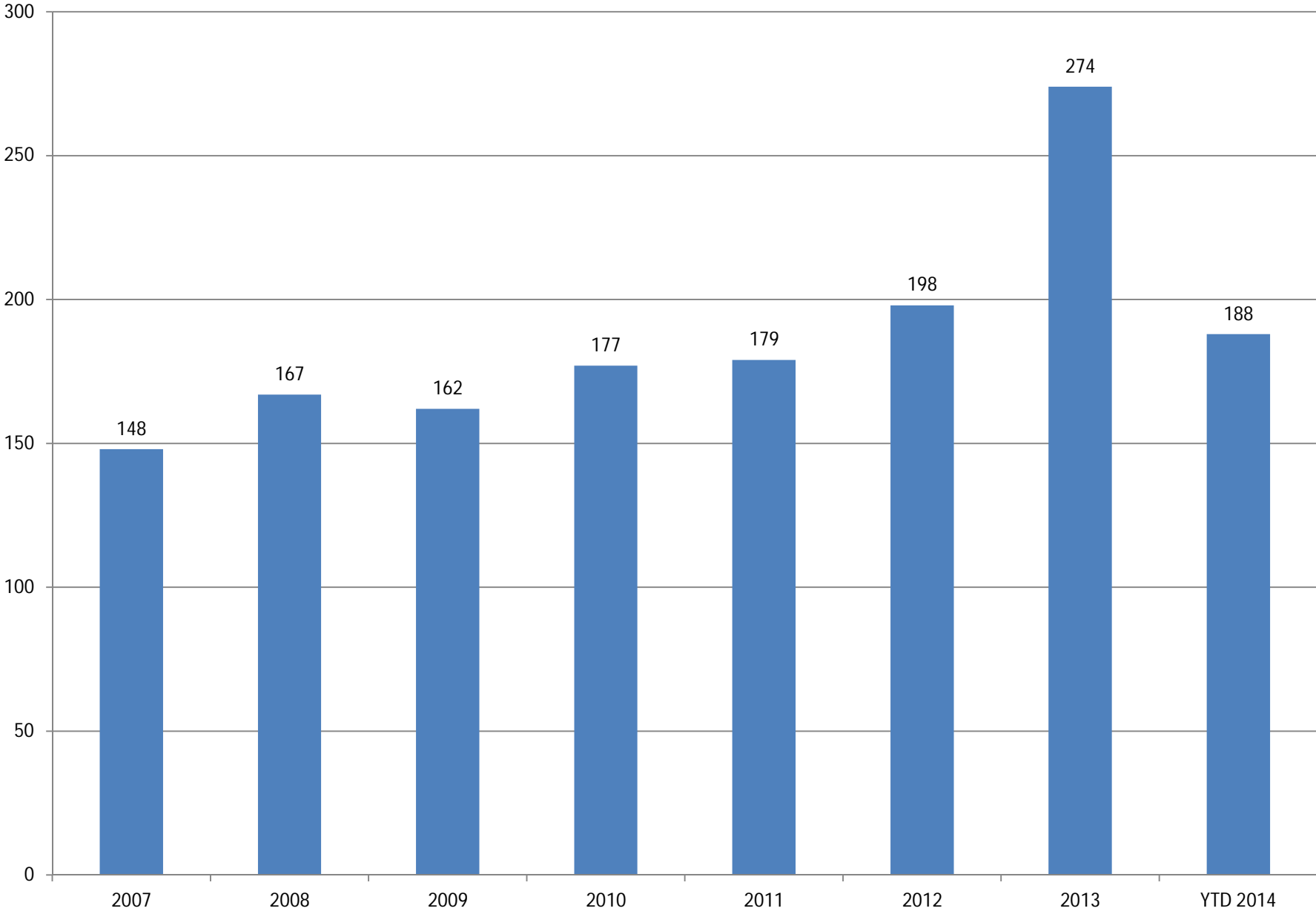


Chart 3: Open Docket Cases

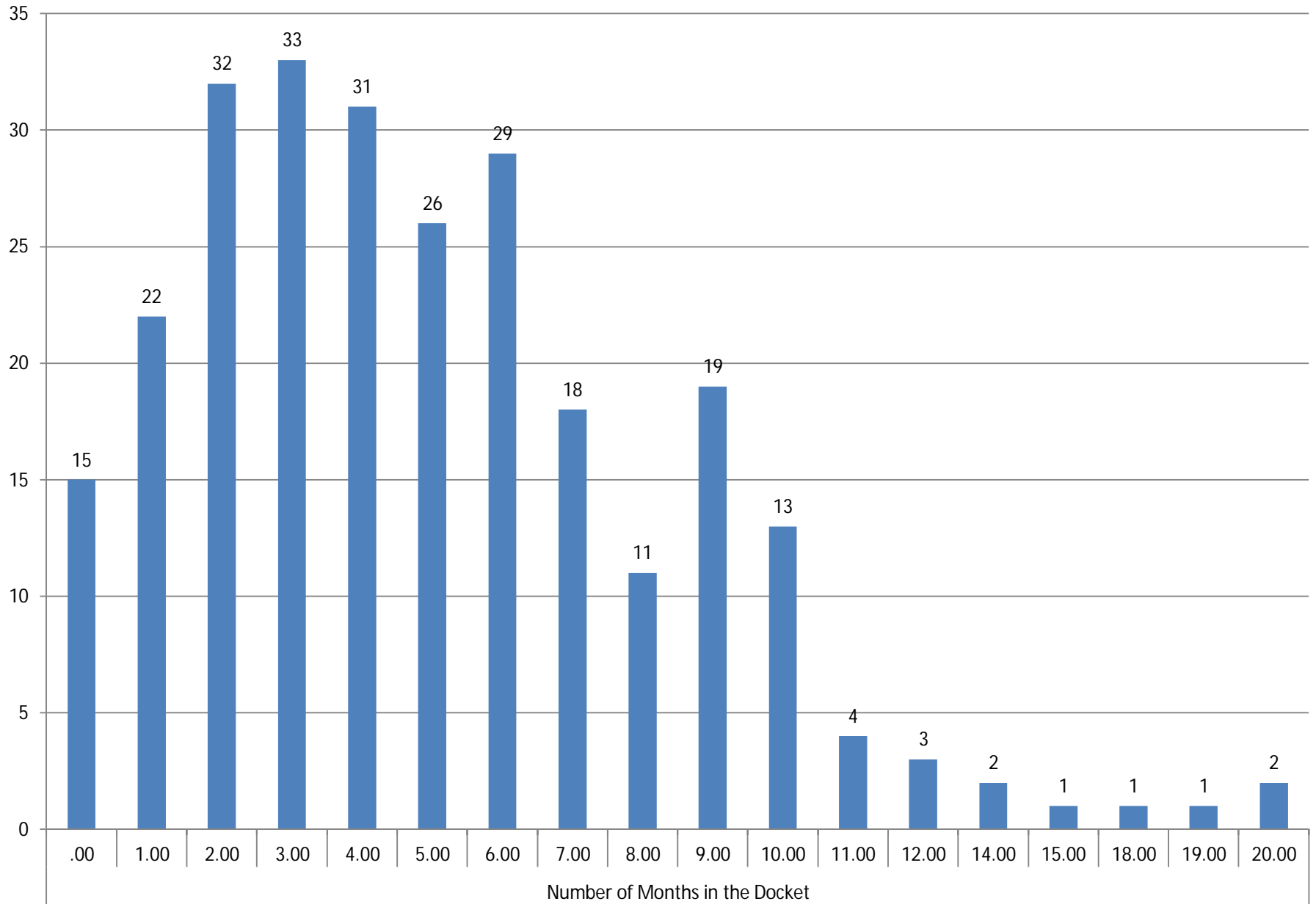


Chart 4: Cases Suitable and Eligible per Month

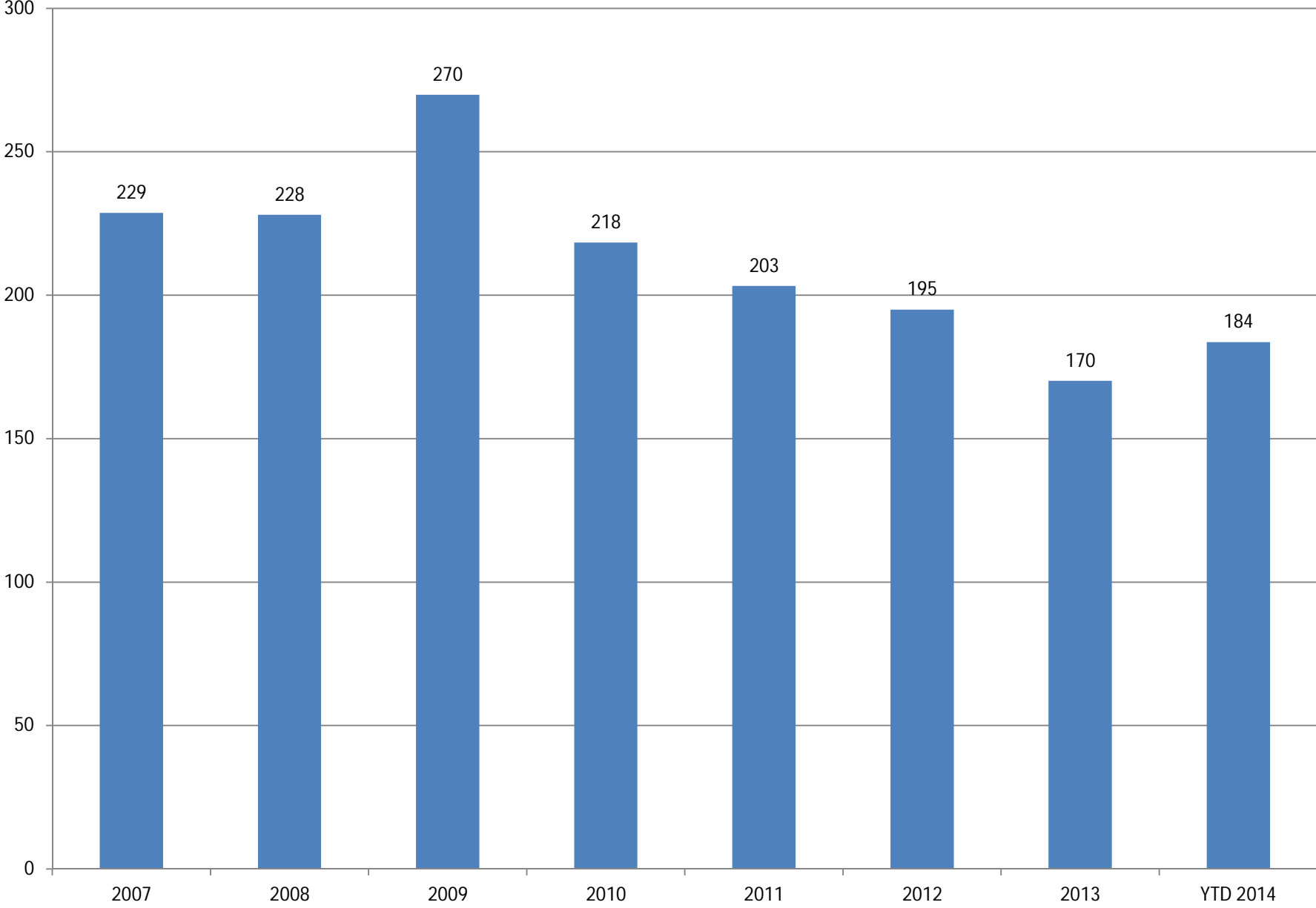


Chart 5: Mediation Offering Rate

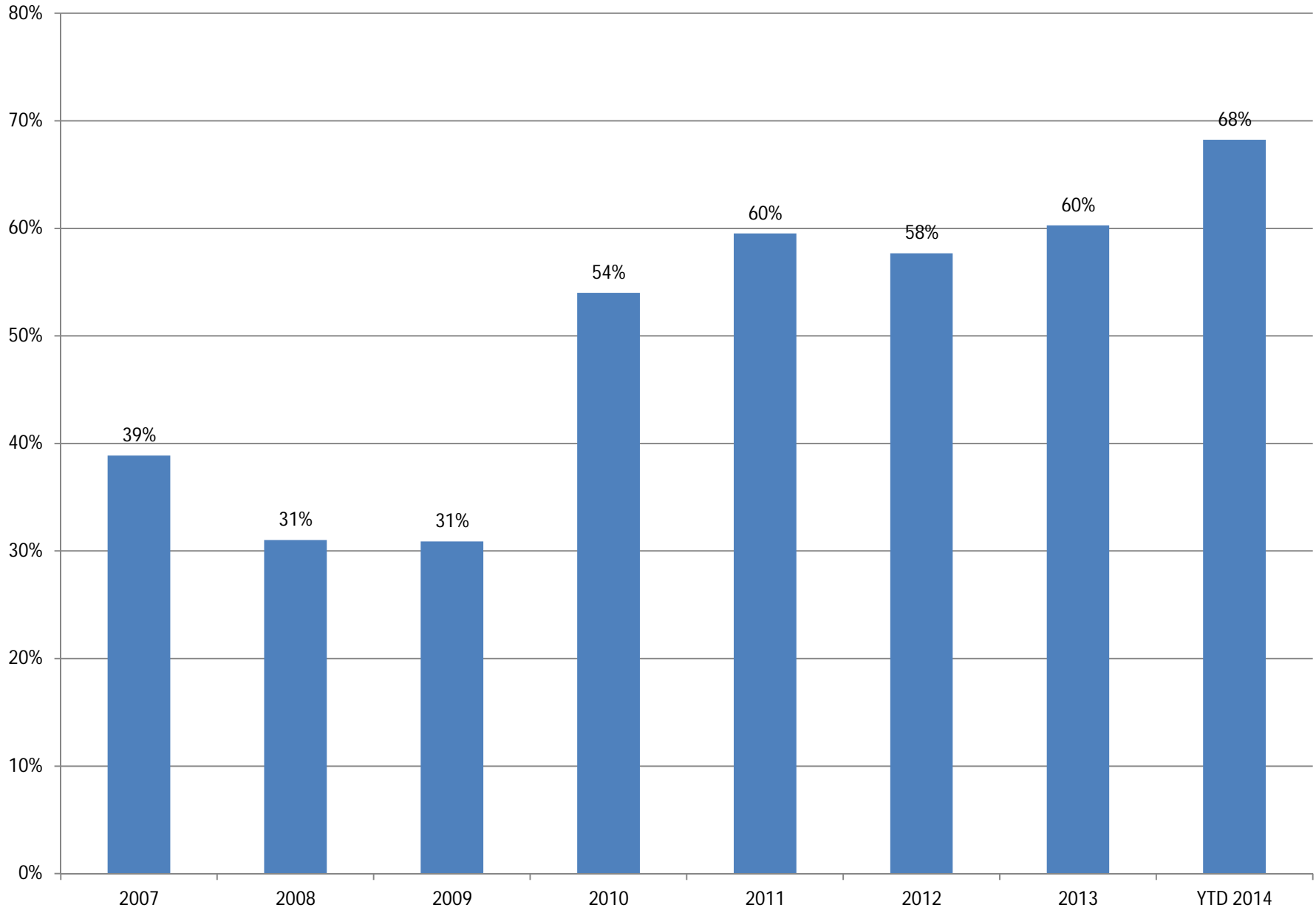


Chart 6: Number of Cases Civilian Accepted Mediation per Month

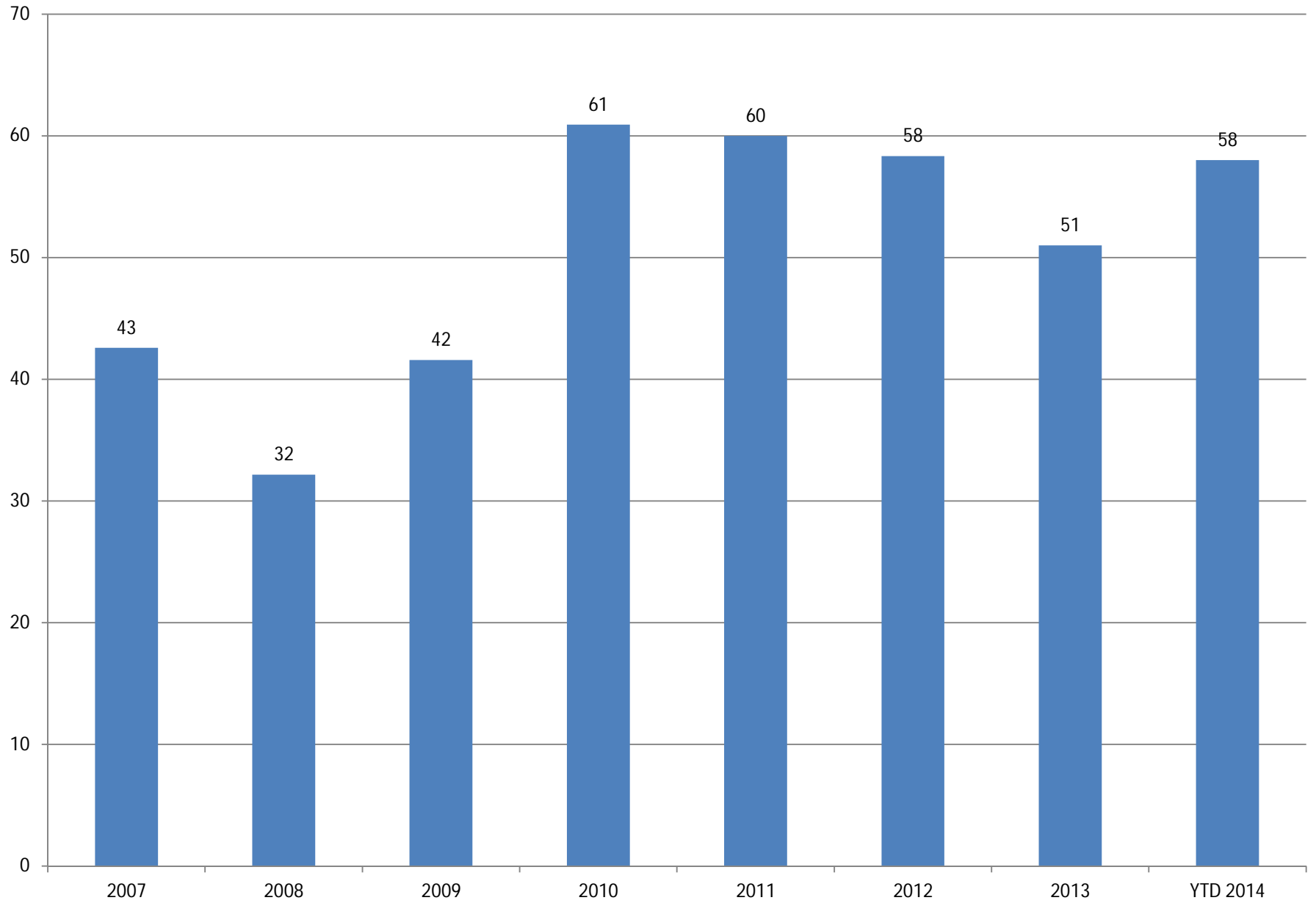


Chart 7: Cases Transferred and Accepted for Mediation per Month

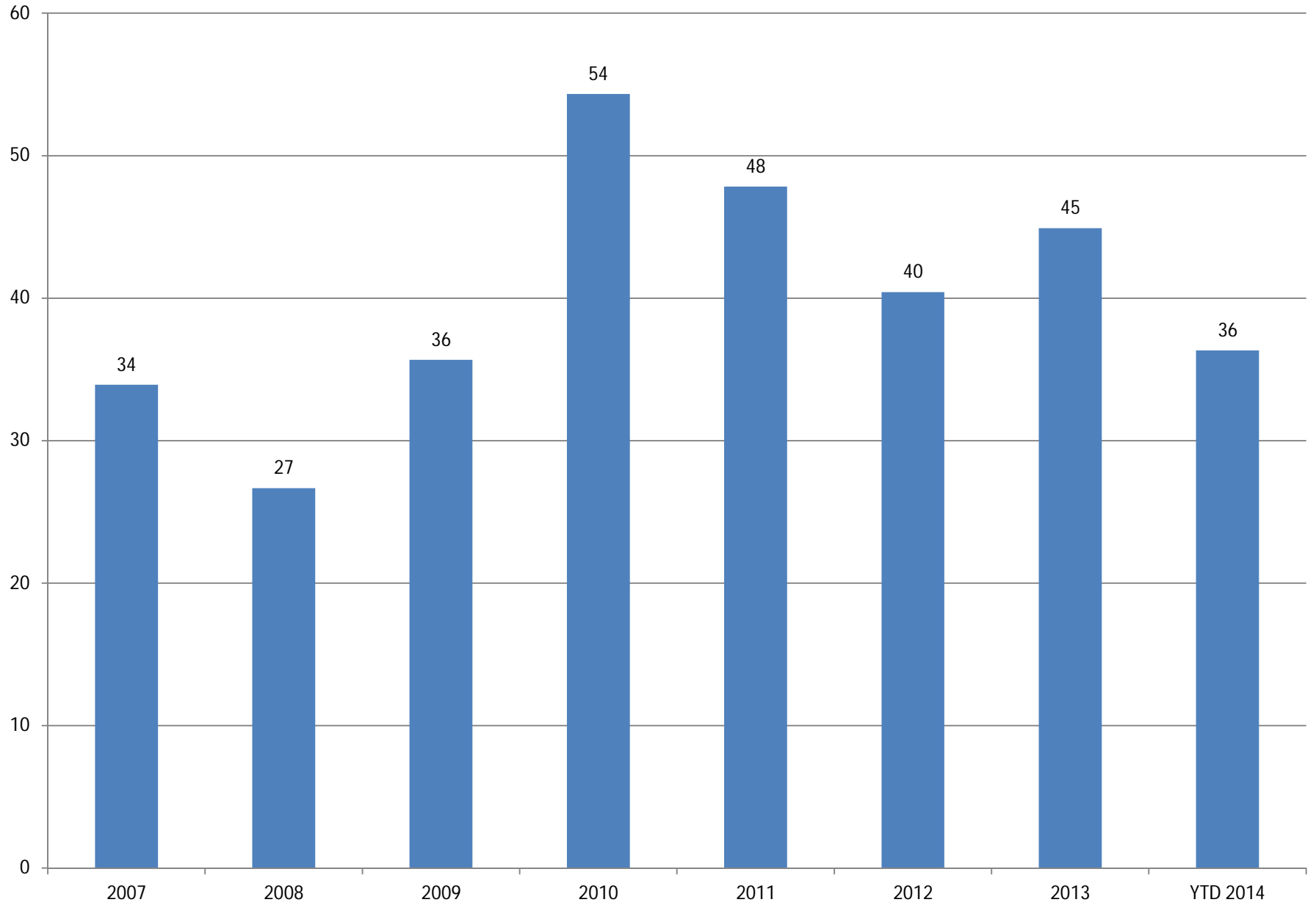


Chart 8: Civilian Accepted and Case Transferred to Mediation Rate

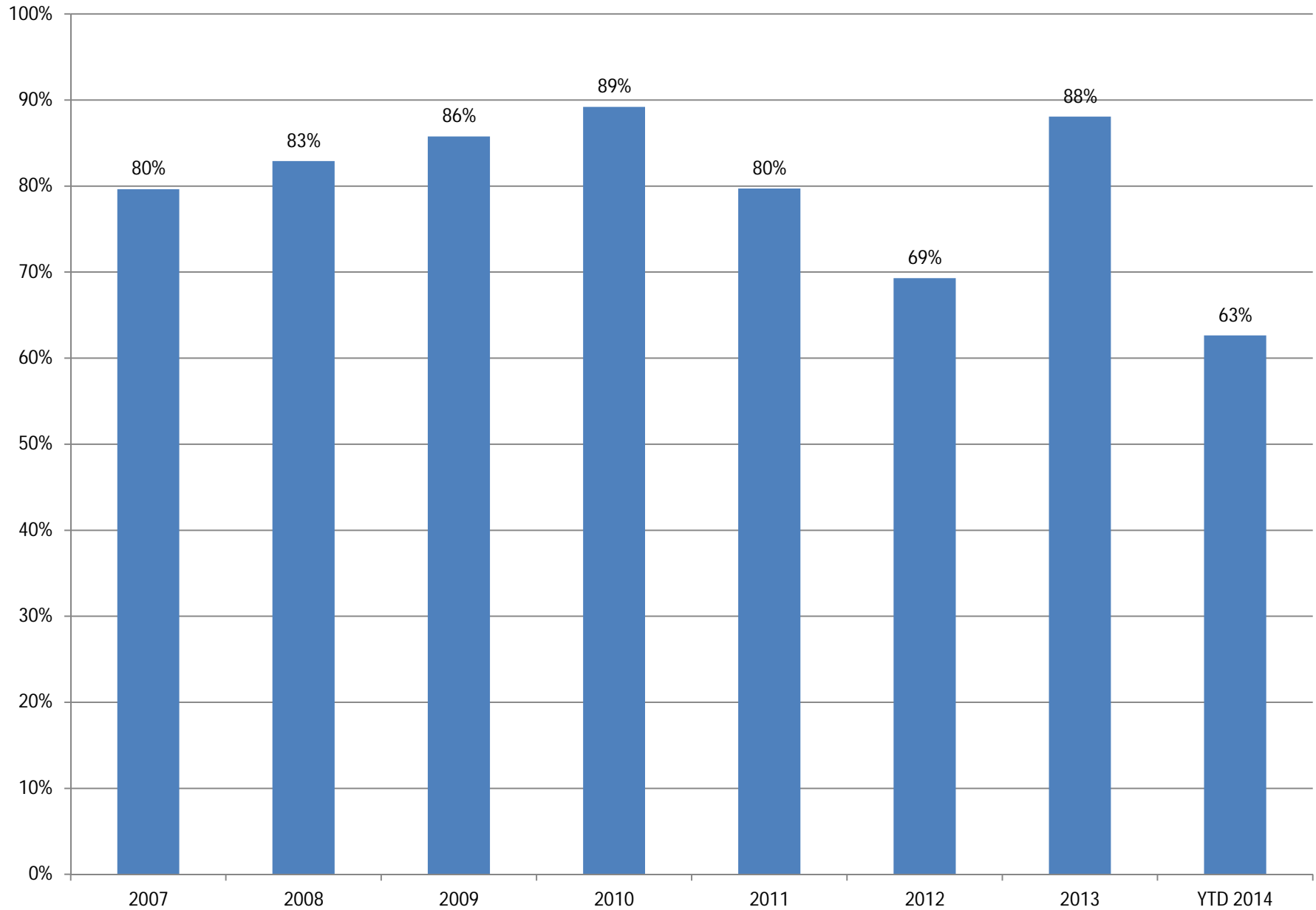
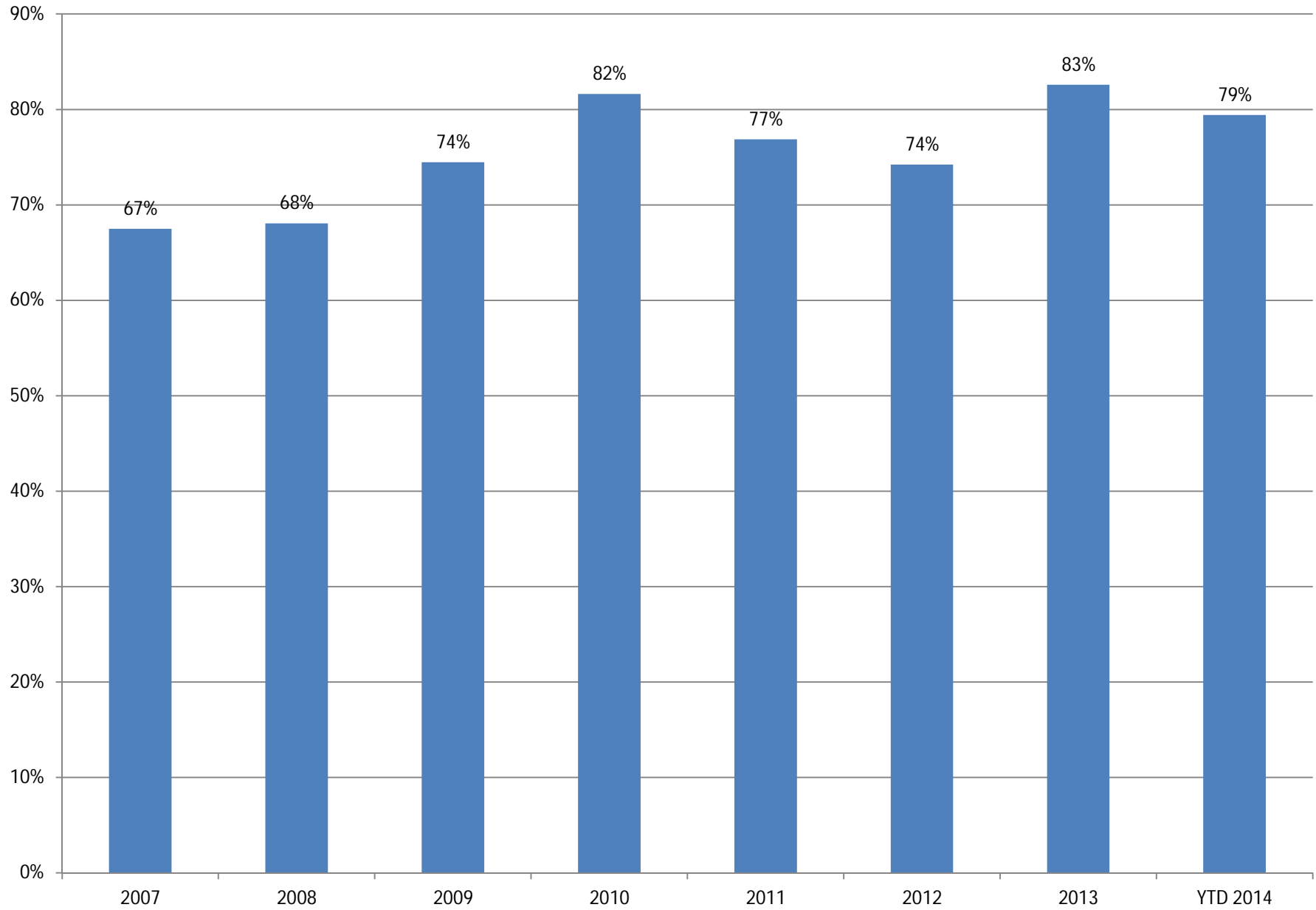


Chart 9: MOS Acceptance Rate



BASIC MEDIATION STATISTICS

	2007	2008	2009	2010	2011	2012	2013	YTD 2014
Mediation Meetings								
Mediation sessions	99	85	124	167	155	85	150	32
Mediation successful	97	80	118	157	145	75	132	30
Mediation Unsuccessful	2	5	6	10	10	10	18	2
Success Rate	98.0%	94.1%	95.2%	94.0%	93.5%	88.2%	88.0%	93.8%
Case Dispositions	17.3	16.0	17.0	28.4	31.3	23.8	32.7	10.0
Mediated	97	80	118	157	145	75	132	30
Mediations Attempted	111	112	86	184	231	210	260	0
Total	208	192	204	341	376	285	392	30
Annual change (%) - Mediated		-18%	48%	33%	-8%	-48%	76%	
Annual Change (%) - Attempted mediation		1%	-23%	114%	26%	-9%	24%	
Annual Change (%) - Total		-8%	6%	67%	10%	-24%	38%	

	2007	2008	2009	2010	2011	2012	2013	YTD 2014
Acceptance Rates								
MOS Accepted	249	213	277	573	505	337	512	135
MOS Rejected	120	100	95	129	152	117	108	35
Total MOS	369	313	372	702	657	454	620	170
MOS Acceptance Rate	67.5%	68.1%	74.5%	81.6%	76.9%	74.2%	82.6%	79.4%
Civilian Accepted	511	386	499	731	720	700	612	174
Civilian Rejected	471	413	434	564	631	539	526	178
Total	982	799	933	1295	1351	1239	1138	352
Complainant Acceptance Rate	52%	48%	53%	56%	53%	56%	54%	49%

	2007	2008	2009	2010	2011	2012	2013	YTD 2014
Cases suitable/eligible		228	83	118	121	113	103	125
CCRB Complaints Received	7,549	7,395	7,660	6,467	5,982	5,744	5,410	1,333
Complaints Eligible for Mediation	2,988	3,010	3,556	3,153	2,921	2,796	2,451	601
Complaints Suitable for Mediation	2,744	2,736	3,238	2,620	2,439	2,340	2,042	551
Suitability Rate	36.3%	37.0%	42.3%	40.5%	40.8%	40.7%	37.7%	41.3%
Mediation was Offered	1067	849	1000	1415	1452	1350	1231	376
Mediation Offering Rate	39%	31%	31%	54%	60%	58%	60%	68%

	2007	2008	2009	2010	2011	2012	2013	YTD 2014
Case processing								
Total Cases Processed	428	386	342	550	630	474	606	69
ADR Committee rejected case	7	1	1	4	1	0	0	0
C/V wanted investigation	29	36	22	36	52	40	43	7
C/V withdrew complaint	7	17	9	17	26	15	19	0
DAO rejected case	36	18	11	10	8	4	2	0
Investigations unable to return case after further work	19	13	5	12	15	13	9	0
Mediation Unit rejected case	13	15	4	6	12	6	7	0
Miscellaneous	0	0	0	0	1	4	8	0
Cases PO rejected mediation	104	86	80	109	126	97	92	27
Return to Investigations-further work needed	0	0	0	1	3	0	16	3

	2007	2008	2009	2010	2011	2012	2013	YTD 2014
Processing Time								
Mediation	148	167	162	177	179	198	274	188
Attempted mediation	200	228	227	264	267	261	351	0
Annual change (%) - Mediation		13%	-3%	9%	1%	11%	38%	-31%
Annual change (%) - Attempted		14%	0%	16%	1%	-2%	34%	0%