

COMPARING THE TWO COURTS

It can be confusing to understand the differences between the criminal and family court systems and who does what in each court process. To add to the confusion, the two courts do not communicate or share information with one another.

To help with this, we have created a chart for you. It outlines the differences between criminal and family court and compares the roles and services in each one.

JUDGE	
FAMILY COURT	CRIMINAL COURT
<p>A judge is a lawyer with at least 10 years' experience and is the person with the most authority in the court. Judges are referred to as "Your Honour," and people in the courtroom are expected to stand when the judge enters and leaves the courtroom. Judges in family court may be either federally or provincially appointed.</p>	<p>The Ontario Court of Justice (OCJ) handles about 95 percent of all criminal matters, which are heard by provincially appointed judges, who wear scarlet sashes. Bail hearings take place in the OCJ. Provincial offences are also dealt with in the OCJ, as are summary conviction offences.</p>
<p>Unified Family Court (UFC)</p> <p>If your community has a UFC, also known as the Superior Court of Justice (SCJ), your judges are federally appointed and will wear a burgundy sash over their black robes.</p>	<p>Judges in the Superior Court of Justice are federally appointed and wear burgundy sashes. They handle indictable offences, appeals from summary conviction offences and bail reviews.</p>
<p>When there is a UFC, it deals with all family law issues – parenting arrangements, child and spousal support, property division, restraining orders and divorce – as well as child protection matters.</p>	<p>Whether judges are federally or provincially appointed, they must be lawyers with at least 10 years' experience. They are the people with the most authority in the court. They are referred to as "Your Honour," and people in the courtroom are expected to stand when the judge enters and leaves the courtroom.</p>
<p>No Unified Family Court</p> <p>If you do not have a Unified Family Court, you will have both a Superior Court of Justice (SCJ) and an Ontario Court of Justice (OCJ). Judges in the Ontario Court of Justice are provincially appointed and will wear a scarlet sash over their black robes while Superior Court of Justice (SCJ) judges wear a burgundy sash and are federally appointed.</p>	
<p>Matters related to divorce and division of property are heard by judges in the SCJ, and matters relating to child protection are heard by judges in the OCJ. All other family law matters can be heard by judges in either court.</p>	

DUTY COUNSEL

FAMILY COURT

In family court, duty counsel lawyers provide assistance to people who qualify financially in family court cases. They can help with parenting arrangements, support and child protection issues. The duty counsel lawyer can give you advice about your legal rights and responsibilities and the court process, help you and your ex-partner negotiate and settle issues and review or prepare court documents. Duty counsel can also help you ask for an adjournment and assist you with a motion or other hearings where the issues are not complicated.

Usually, there is only one duty counsel lawyer at the court. If you need the assistance of duty counsel, it is a good idea to get to court early, because duty counsel sees people on a first-come, first-served basis. If your ex-partner also needs to see duty counsel, the court may be able to find a second lawyer to see whomever is last in line, because there would be a conflict of interest if one lawyer spoke to both of you.

CRIMINAL COURT

Criminal court duty counsel lawyers provide assistance to accused people who qualify financially. Duty counsel can advise you about the charge(s) you are facing and give you basic information about criminal court procedure. They can assist you with your bail hearing and sentencing as well as with adjournments, guilty pleas and diversion.

If you need the assistance of duty counsel, get to court early on the day of your appearance, because people are seen on a first-come, first-served basis, and there is usually a high demand for duty counsel services.

NOTE: In criminal court, duty counsel services are available for accused people only. If you are the victim, you need to seek assistance from the Victim/Witness Assistance Program (see below).

FAMILY LAW INFORMATION CENTRE

FAMILY COURT

The Family Law Information Centre (FLIC) provides information about separation, divorce and related family law issues, including alternative dispute resolution (e.g., mediation), community resources and court processes. Depending on the size of your community, FLIC will be staffed at designated times by an Information and Referral Coordinator (IRC), who can make referrals for you to other services, and by an Advice Lawyer, who can provide you with summary legal advice and, where necessary and appropriate, refer you to Duty Counsel (see above). Staff in the FLIC office can also schedule your Mandatory Information Program session.

CRIMINAL COURT

N/A

FAMILY MEDIATION SERVICE

FAMILY COURT

Most family courts have family mediation services available, some of it on-site at the courthouse and some of it off-site in the mediators' office. User fees for off-site mediation are charged to clients on a sliding scale based on the client's income. You can get information about mediation services at your court from FLIC (see above).

CRIMINAL COURT

N/A

COURT SECURITY

FAMILY COURT

Most courts have police officers or other security guards present to ensure the safety of all those in the courthouse. If your courthouse has security at the entrance (including a metal detector), you can ask the people working there about how to access the assistance of security personnel should you need it while you are at court.

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FAMILY COURT SUPPORT WORKER

FAMILY COURT

Family Court Support Workers (FCSWs) are professionals, not lawyers, who provide support to survivors of family violence who are involved in the family court process. If you would like to meet with an FCSW, ask at the filing counter or FLIC for information about where and when you can find the worker at your court. You can also visit the following website for a list of FCSWs across Ontario at attorneygeneral.jus.gov.on.ca.

CRIMINAL COURT

N/A

COURT STAFF

FAMILY COURT

There are a number of court staff who have different responsibilities. Outside the courtroom, you will encounter clerks at the filing counter who can give you basic information about where you can find different services. They are responsible for issuing and filing court documents. In the courtroom, there is a court clerk, who is responsible for maintaining order in the courtroom, and the court reporter, who is responsible for recording the proceedings.

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CROWN ATTORNEY

FAMILY COURT

N/A

CRIMINAL COURT

The Crown Attorney is the person responsible for prosecuting a case in criminal court. This lawyer will work with the police and with the victim to prepare the case to go to court. If you are a victim/witness, most of your contact with the Crown Attorney will be facilitated by the V/WAP worker (see below).

DEFENCE LAWYER

FAMILY COURT

N/A

CRIMINAL COURT

The defence lawyer is the person who represents the accused in a criminal trial.

ABORIGINAL COURT WORKER

FAMILY COURT

N/A

CRIMINAL COURT

Aboriginal court workers explain legal rights and obligations to their clients, assist them in finding a lawyer and interpreter if one is needed, assist with pre-sentence reports and bail hearings and make referrals for other services.

SALVATION ARMY, ELIZABETH FRY SOCIETY, JOHN HOWARD SOCIETY

FAMILY COURT

N/A

CRIMINAL COURT

Depending on the size of your community, any or all of these organizations may have staff or volunteers available to assist accused people. They may be able to provide basic information about the process, assist with housing in a halfway house or other similar facility and make referrals to lawyers and other services and supports.

VICTIM/WITNESS ASSISTANCE PROGRAM

FAMILY COURT

N/A

CRIMINAL COURT

The Victim/Witness Assistance Program (V/WAP) provides support for vulnerable victims and witnesses of violent crimes, including domestic violence and sexual assault. Generally, the police or Crown make a referral to V/WAP at the time the file is handed from the police to the Crown, but you can contact V/WAP yourself for support. V/WAP can assist by providing information about the criminal court process, court dates, bail conditions and can set up meetings for you with the Crown. V/WAP can also assist you in getting an interpreter if you need one and help you prepare your Victim Impact Statement as well as make referrals for you to community services. All V/WAP services are free.

INTERPRETERS

FAMILY COURT

The Ministry of the Attorney General provides court interpretation services in more than 80 spoken languages, as well as American Sign Language and Langue des signes du Québec. In family court, these services are available in child protection matters and in family matters if you qualify for the Court Services Division fee waiver. French interpretation is available for all family court and child protection proceedings. You need to make arrangements with the Interpreter Coordinator at the courthouse before your court date to have an interpreter present. Duty counsel may be able to assist you with this.

CRIMINAL COURT

The Ministry of the Attorney General provides court interpretation services in more than 80 spoken languages, as well as American Sign Language and Langue des signes du Québec. In criminal court, interpreter services are available for all matters for the accused, sureties and lawyers. Duty counsel will make arrangements for interpretation if you do not have a lawyer. If you are a witness, V/WAP will make arrangements for an interpreter if you need one.

CAS LAWYER

FAMILY COURT

If you are going to court to deal with a child protection matter, the CAS will have a lawyer. You can ask your lawyer or duty counsel, if you do not have a lawyer, to point out who this person is.

CRIMINAL COURT

N/A

CAS WORKER

FAMILY COURT

If you are going to court to deal with a child protection matter, the worker who has been handling your file will likely be at court.

CRIMINAL COURT

N/A

JUSTICE OF THE PEACE

FAMILY COURT

N/A

CRIMINAL COURT

Justices of the Peace (JPs) are provincially appointed and wear a green sash over their black gown. They do not have to be lawyers. JPs are referred to as “Your Worship,” and people in the courtroom are expected to stand when the JP enters and leaves the courtroom.

JPs handle provincial offences, bail hearings, applications for search warrants and peace bonds as well as many administrative court appearances such as arraignments and set dates.