

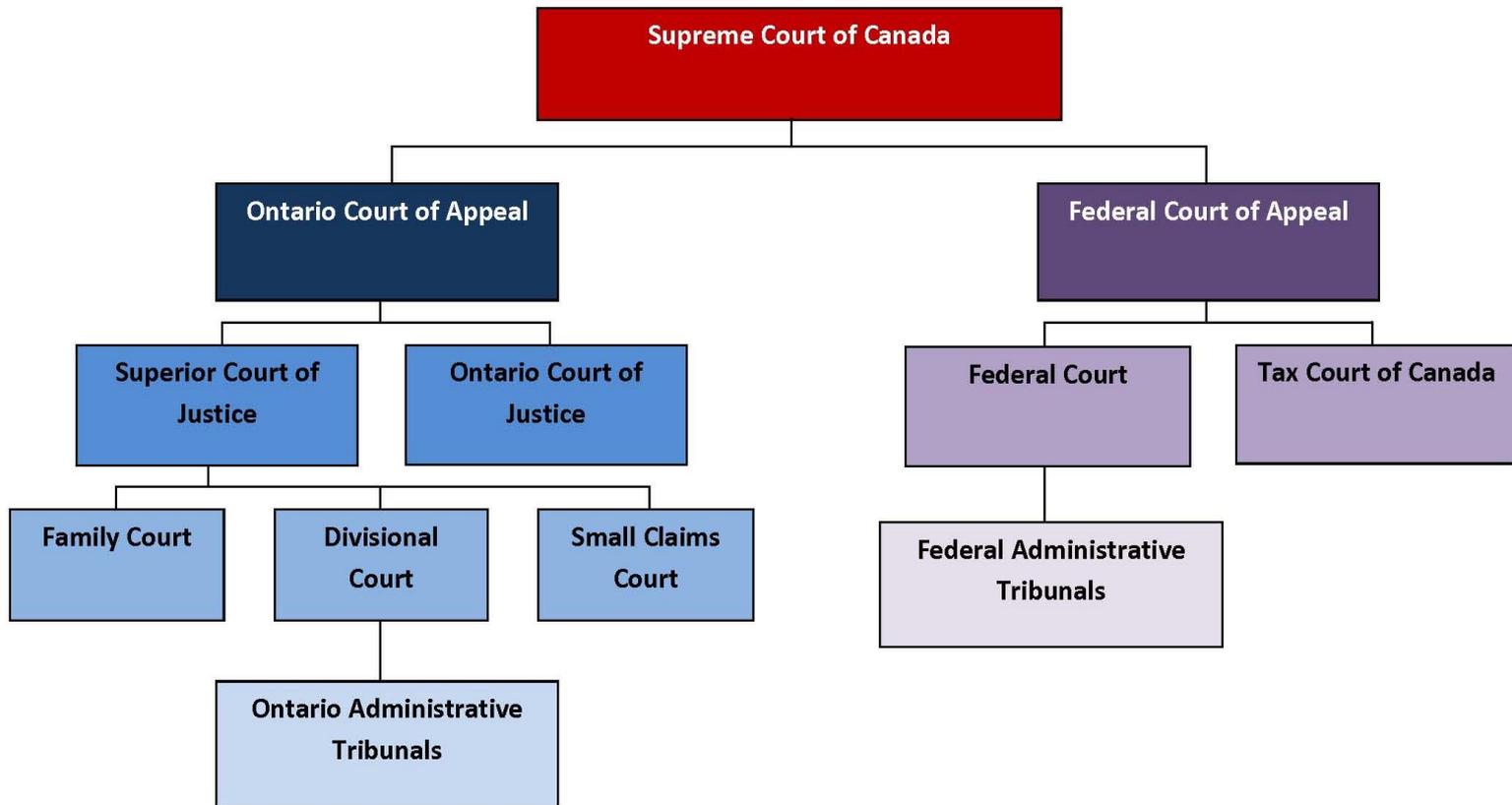


Canadian Court Structure

*The legal content of this presentation is accurate as
of August 11, 2014*

Basic Structure of Canadian Courts

This presentation focuses on the provincial and federal courts, as well as the Supreme Court of Canada. Although every province has their own provincial court structure, this presentation discusses the courts of the province of Ontario.



Determining Jurisdiction

Jurisdiction, def.

1. A government's power to exercise authority over persons and things within its territory
2. A court's power to decide a case
3. A geographic area in which judicial authority may be exercised

Determining Jurisdiction

- The *Constitution Act, 1867* divides court powers between federal government and provincial government

- Federal government powers:

Section 101: The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.

- Federal government has used these powers to create Supreme Court of Canada, and Federal Courts

Determining Jurisdiction

- Provincial government powers:

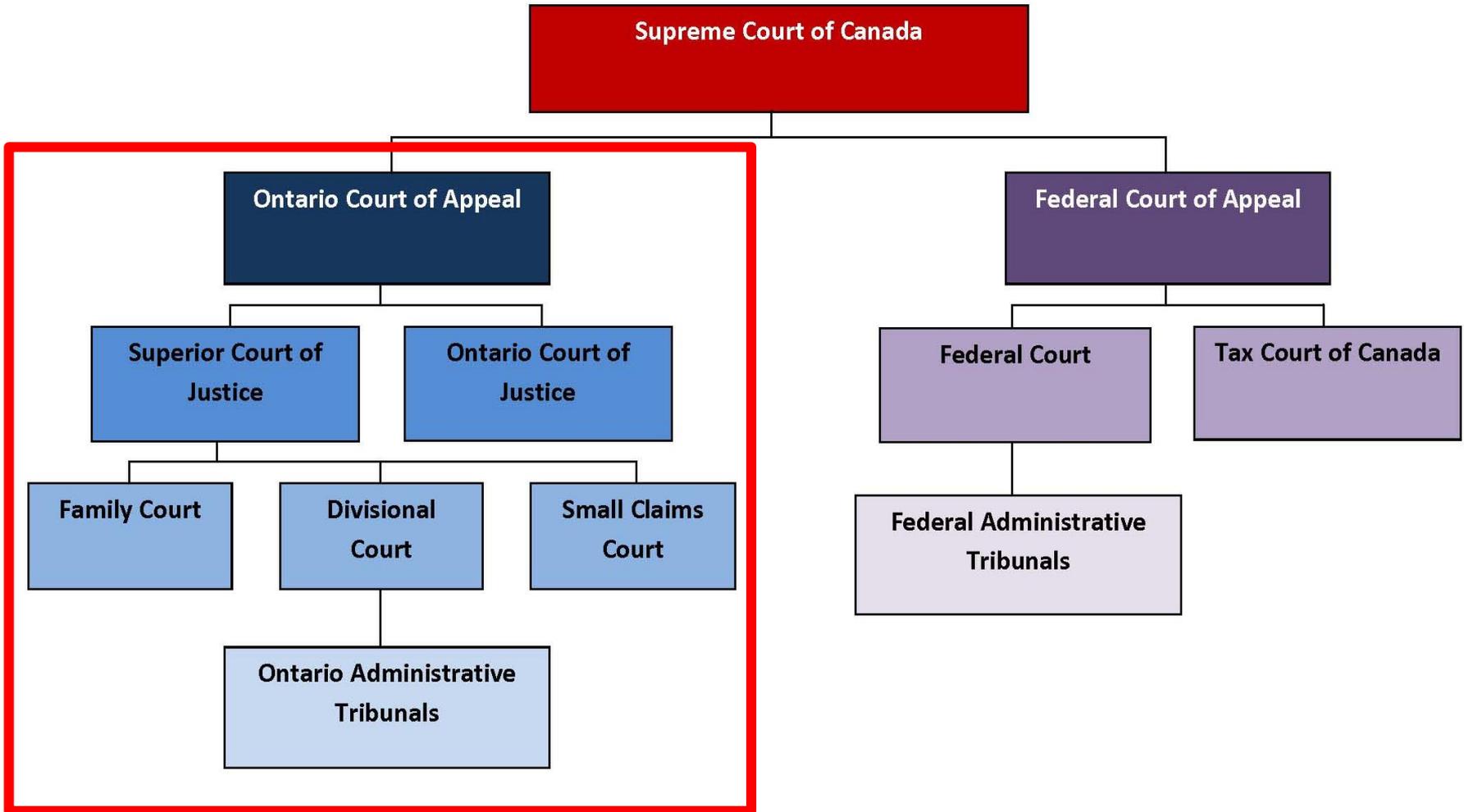
Section 92 (14): The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.

- Ontario has the Superior Court of Justice and Ontario Court of Appeal with general jurisdiction over civil and criminal matters, as well as the Ontario Court of Justice and several divisional courts that are given the power to decide particular matters by statutes of the provincial government.

Doctrine of Precedent

- This concept is also referred to as **stare decisis**, which is latin for “to stand by things decided”.
- A precedent is a decided case that provides the basis for determining later cases with similar facts or legal issues.
- A binding precedent is a precedent that a court must follow – a lower court is bound by decisions of a higher court in the same geographical jurisdiction.
- It’s important to understand the concept or precedent or stare decisis, because by looking at previous decisions by higher courts we can determine how lower courts should decide current cases.

Ontario Courts

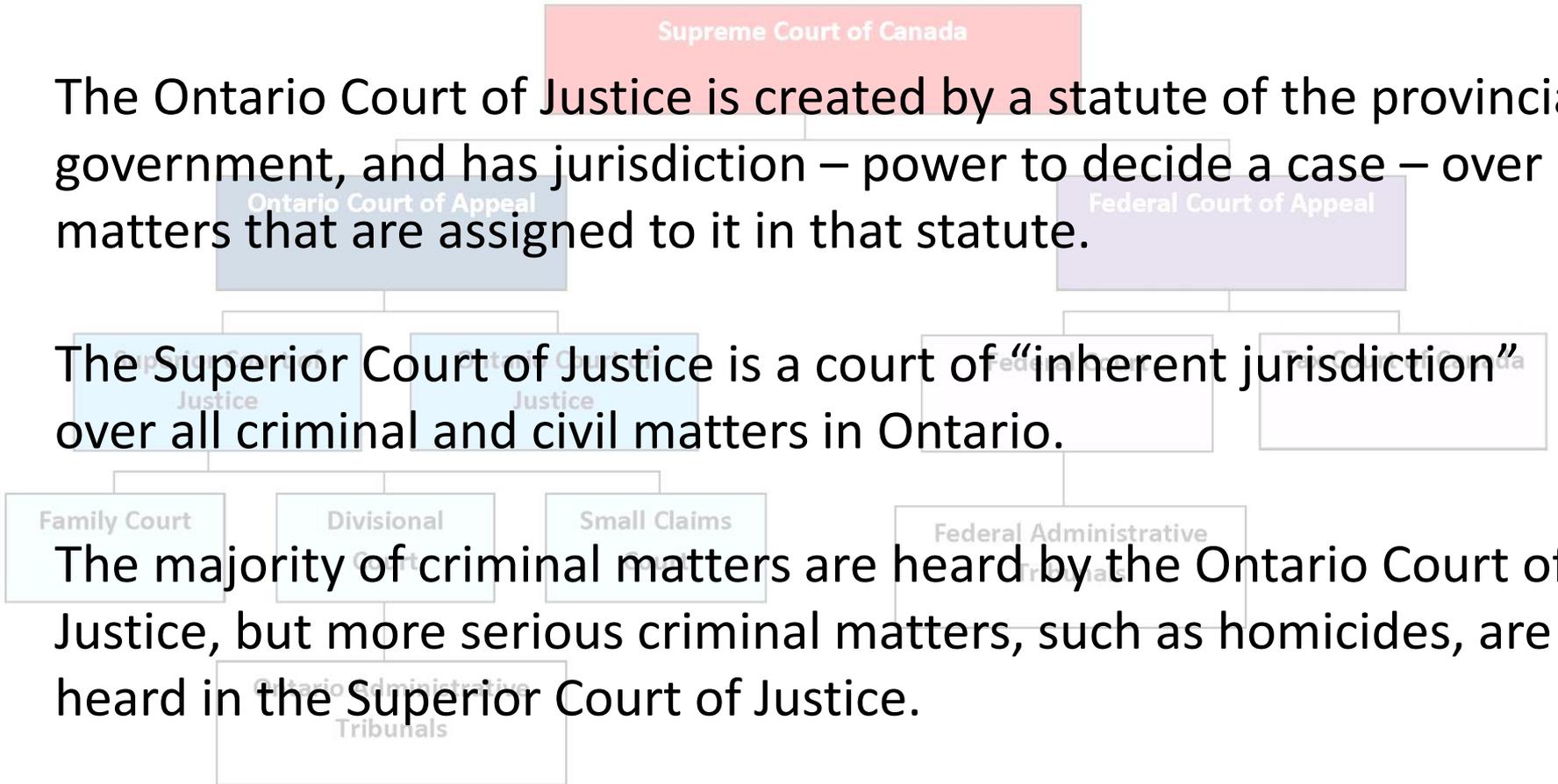


Ontario Trial Courts

The Ontario Court of Justice is created by a statute of the provincial government, and has jurisdiction – power to decide a case – over matters that are assigned to it in that statute.

The Superior Court of Justice is a court of “inherent jurisdiction” over all criminal and civil matters in Ontario.

The majority of criminal matters are heard by the Ontario Court of Justice, but more serious criminal matters, such as homicides, are heard in the Superior Court of Justice.



Ontario Trial Courts



Jurisdiction:

- Provincial offences
- 95% of criminal matters, including youth criminal justice
- Family matters – adoption, child protection, child support, custody, access

Procedure:

- Matters are heard by justice of the peace or by judge, depending on matter

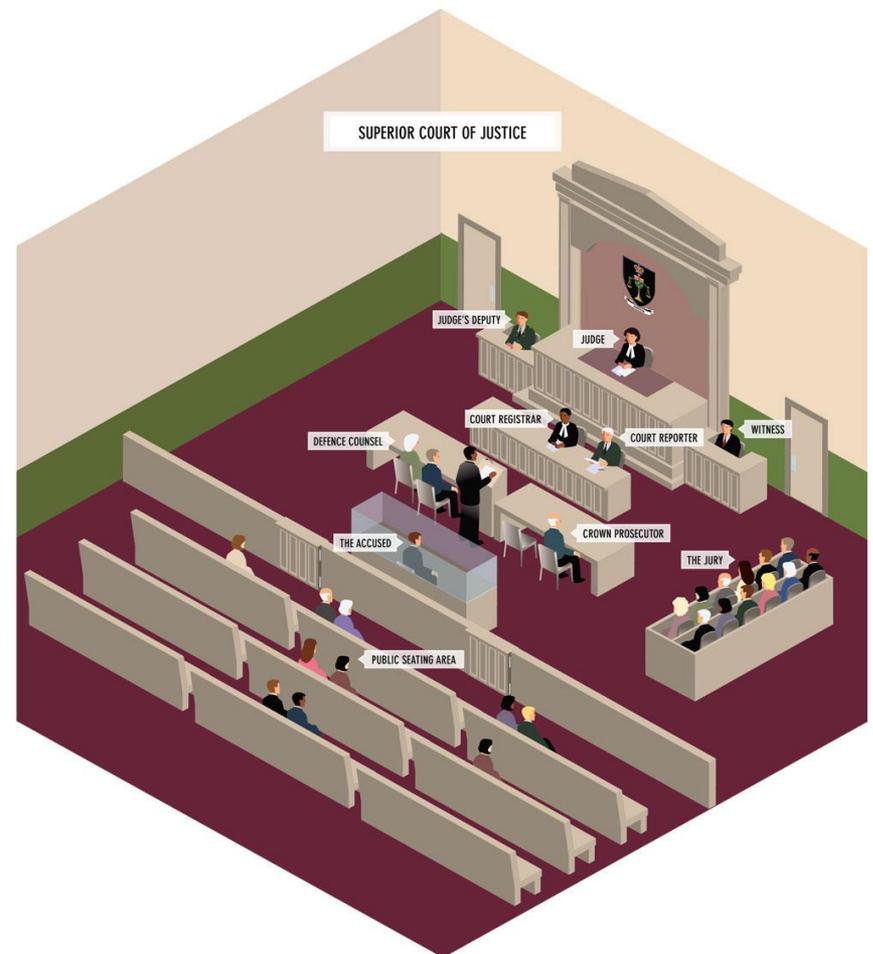
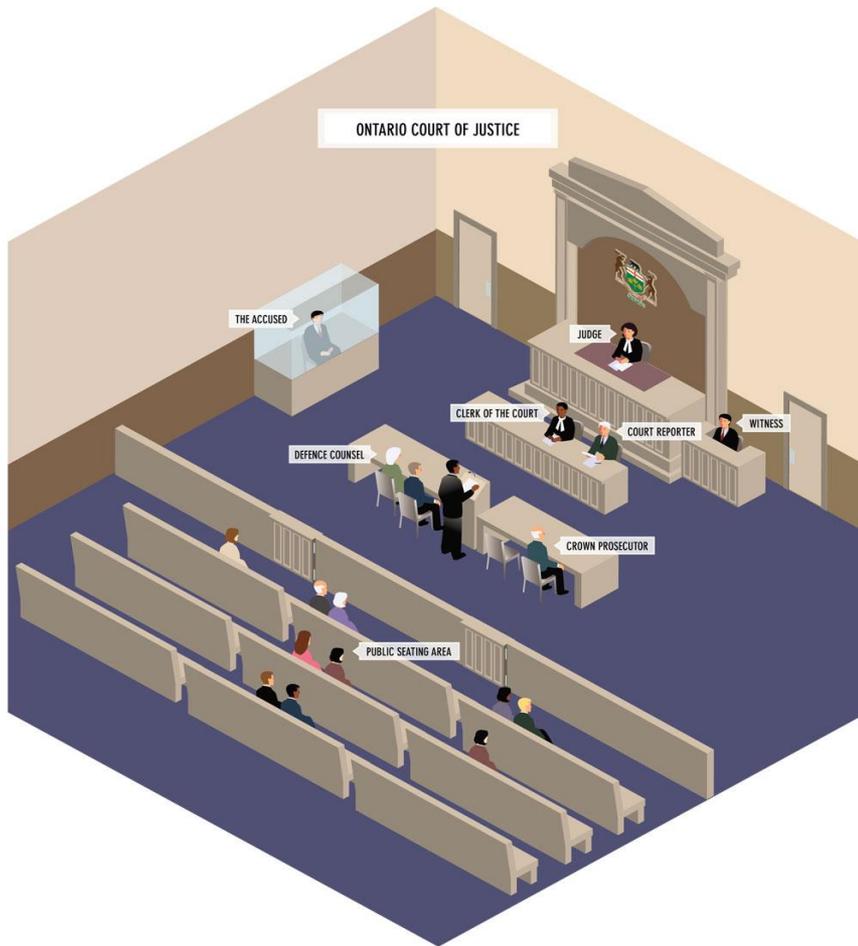
Jurisdiction:

- Serious criminal matters
- Family matters – divorce, division of property, spousal support, child support, custody, access
- Civil claims over \$25,000
- Appeals of adoption and child protection decisions from Ontario Court of Justice

Procedure:

- Matters are heard by judge alone or by judge and jury

Ontario Trial Courts



Ontario Special Courts

The Family Court and Small Claims Courts are also statutory courts, and have jurisdiction over matters assigned to them in a statute.

The Family Court, also called the Unified Family Court, are situated in 17 Ontario cities, including Hamilton. The Family Court can decide any family matter, whereas family matters usually have to be divided between the Ontario Court of Justice and the Superior Court of Justice. Because of the nature of family matters and the parties involved, the Family Court has special procedures set out in the Family Law Rules.

In Ontario, any civil claim where a person is claiming less than \$25,000 from the other party, must be heard in Small Claims Court. It is very common for parties to be unrepresented, which means that they represent themselves rather than being represented by a lawyer. The Small Claims Court Rules are simplified procedures that are easy for unrepresented parties to follow.

Ontario Special Courts

Family Court

Small Claims Court

Jurisdiction:

- All family matters – divorce, division of property, spousal support, adoption, child protection, child support, custody, access

Procedure:

- Matters are heard by judge alone
- Special rules for court procedure are set out in the Family Law Rules

Jurisdiction:

- Civil claims under \$25,000

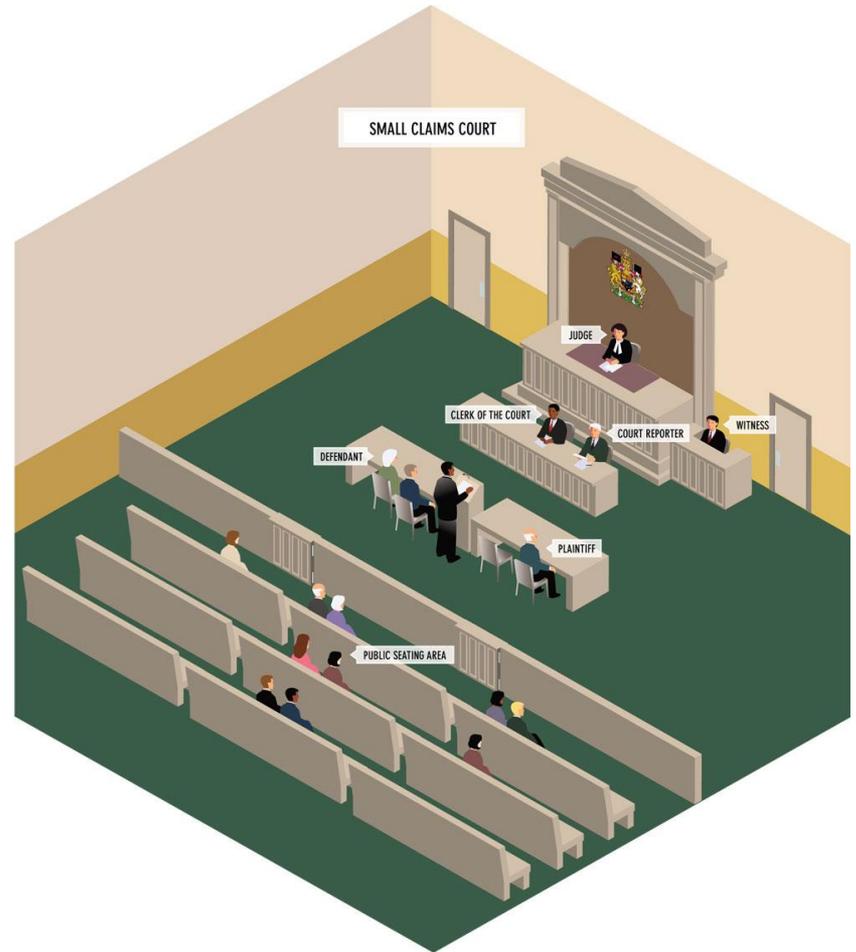
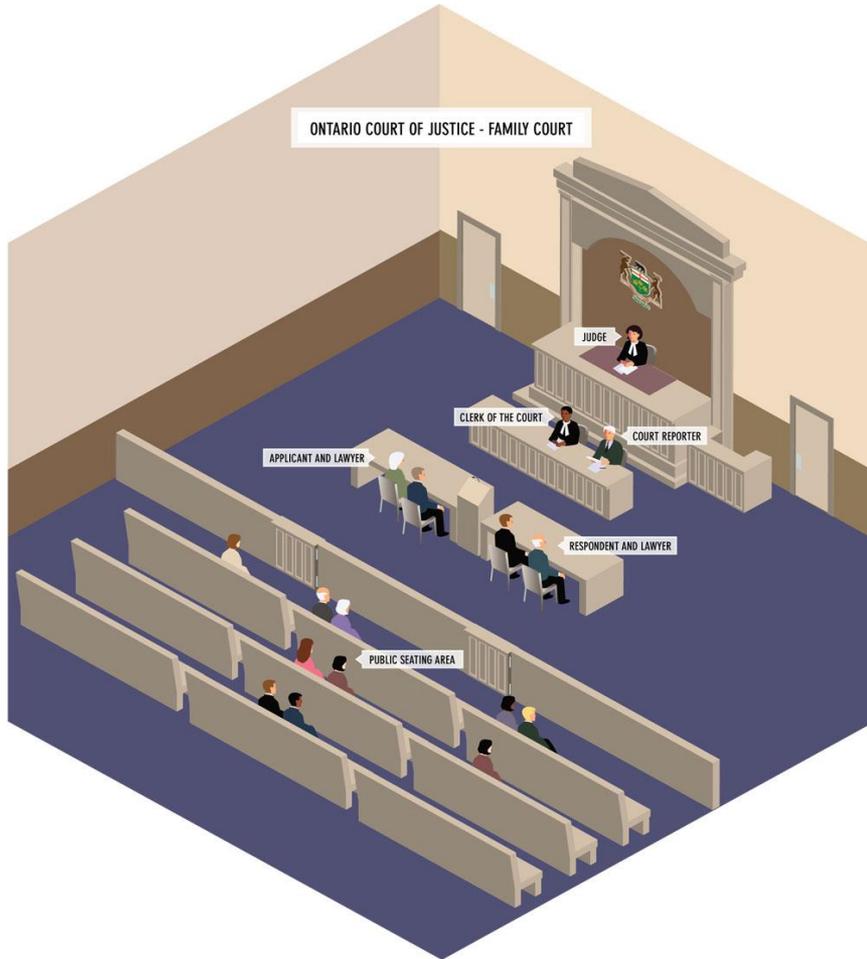
Procedure:

- Parties are usually unrepresented
- Matters are heard by deputy judge
- Special rules for court procedure are set out in the Small Claims Court Rules

Ontario Administrative
Tribunals

Federal Administrative
Tribunals

Ontario Special Courts



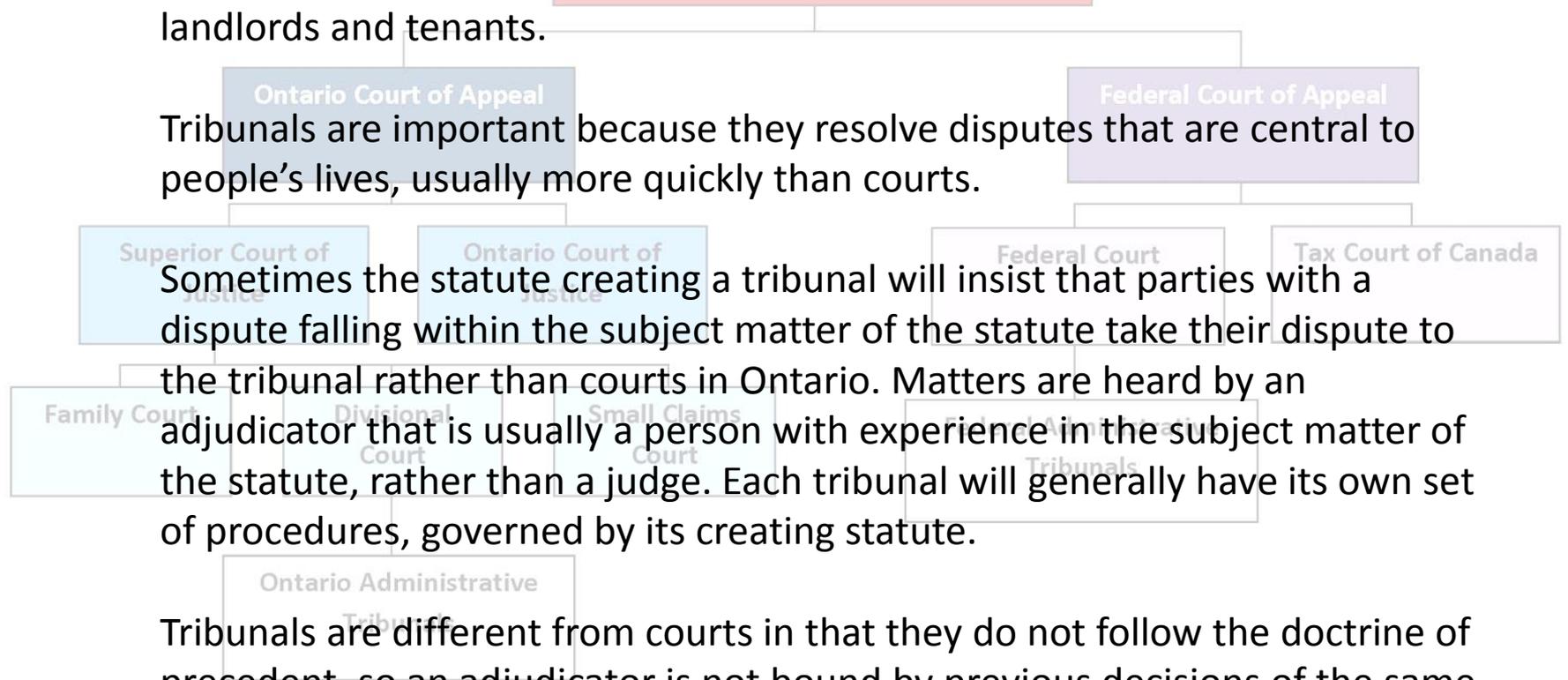
Administrative Tribunals

Tribunals are government agencies that implement and administer government statutes. For example, the Landlord and Tenant Act is a statute that governs the relationship between landlords and tenants in Ontario, and the Landlord and Tenant Board adjudicates complaints and disputes between landlords and tenants.

Tribunals are important because they resolve disputes that are central to people's lives, usually more quickly than courts.

Sometimes the statute creating a tribunal will insist that parties with a dispute falling within the subject matter of the statute take their dispute to the tribunal rather than courts in Ontario. Matters are heard by an adjudicator that is usually a person with experience in the subject matter of the statute, rather than a judge. Each tribunal will generally have its own set of procedures, governed by its creating statute.

Tribunals are different from courts in that they do not follow the doctrine of precedent, so an adjudicator is not bound by previous decisions of the same tribunal. Most tribunal decisions can be appealed to the Divisional Court.



Administrative Tribunals

- Administrative tribunals in Ontario:

- Landlord and Tenant Board
- Ontario Workplace Safety and Insurance Board
- Ontario Human Rights Commission

- Ontario Labour Relations Board

- Decisions made by tribunals in Ontario can be appealed to Divisional Court



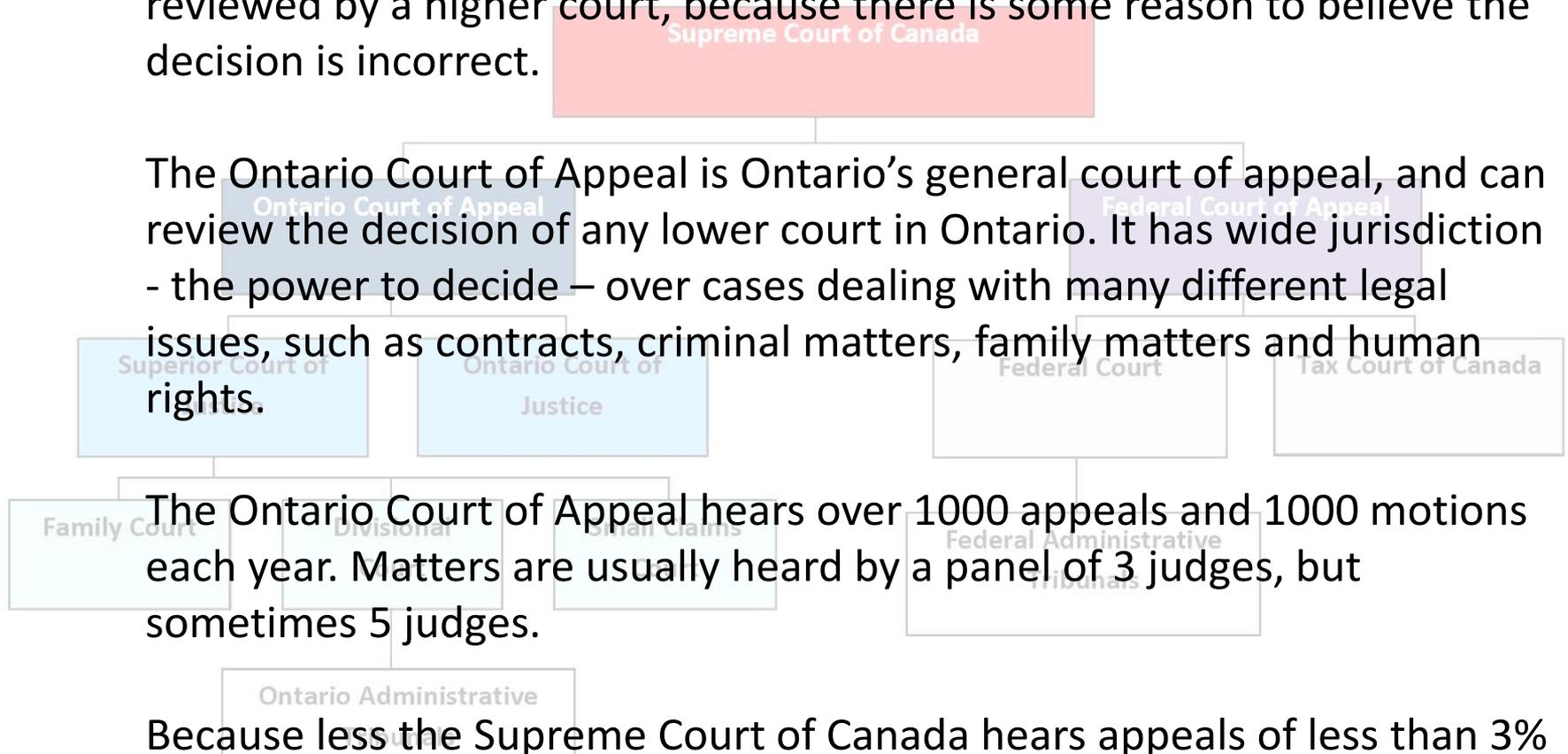
Ontario Court of Appeal

An appeal is an opportunity for a party to have the decision in their case reviewed by a higher court, because there is some reason to believe the decision is incorrect.

The Ontario Court of Appeal is Ontario's general court of appeal, and can review the decision of any lower court in Ontario. It has wide jurisdiction - the power to decide – over cases dealing with many different legal issues, such as contracts, criminal matters, family matters and human rights.

The Ontario Court of Appeal hears over 1000 appeals and 1000 motions each year. Matters are usually heard by a panel of 3 judges, but sometimes 5 judges.

Because less than 3% of the decisions made by the Ontario Court of Appeal are appealed to the Supreme Court of Canada, it is usually the last chance for appeal for most people in Ontario.



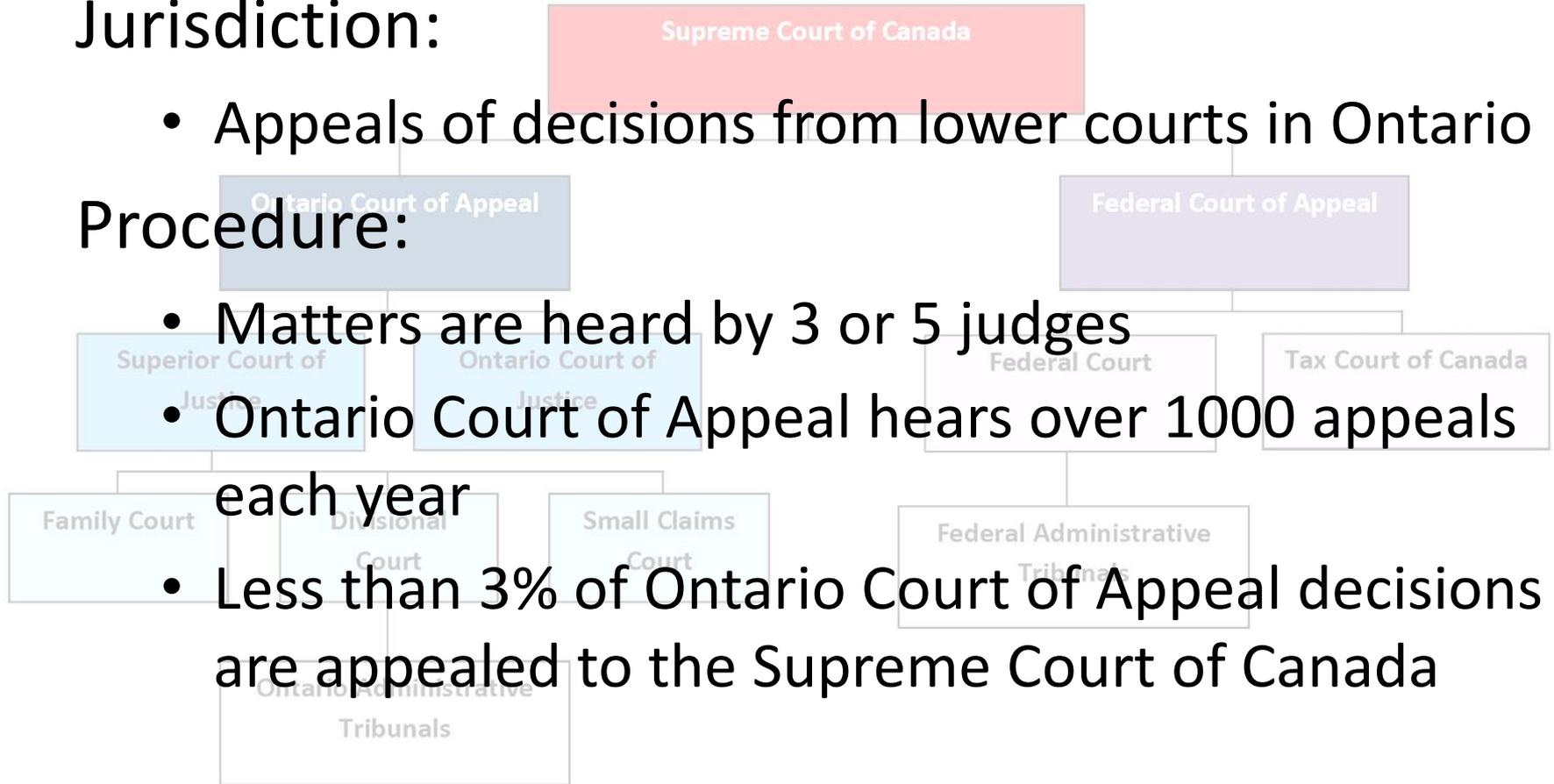
Ontario Court of Appeal

Jurisdiction:

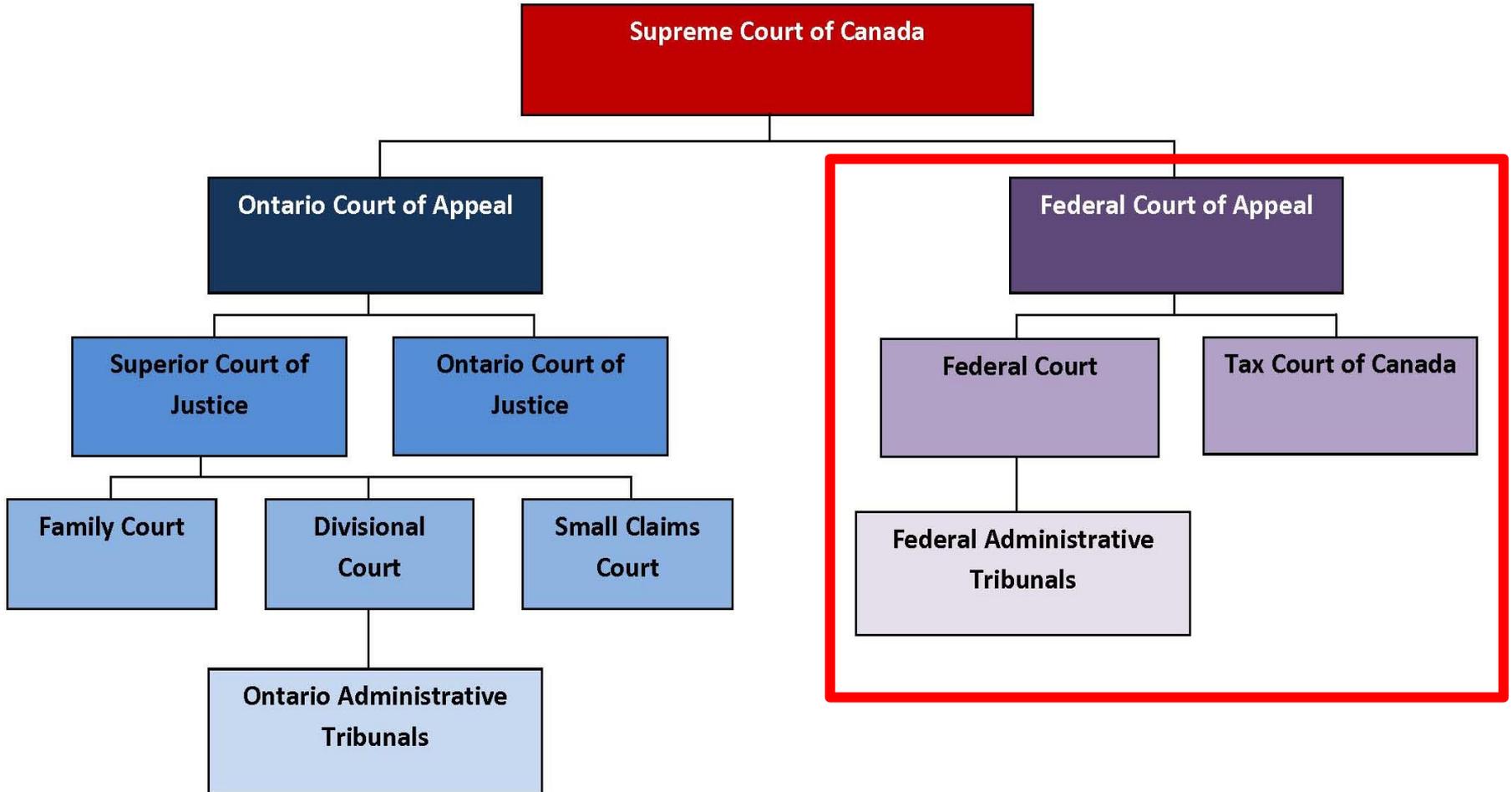
- Appeals of decisions from lower courts in Ontario

Procedure:

- Matters are heard by 3 or 5 judges
- Ontario Court of Appeal hears over 1000 appeals each year
- Less than 3% of Ontario Court of Appeal decisions are appealed to the Supreme Court of Canada



Federal Courts



Federal Trial Courts

The Federal Court and Tax Court are created by statutes of the federal government and has jurisdiction – power to decide – over matters that are assigned to them in those statutes.

The Federal Court has jurisdiction to decide matters which are governed by the federal government such as immigration, citizenship, elections, intellectual property, oceans and fisheries, and privacy. The Federal Government can also review decisions made by federal government offices and most federal tribunals. If a claim is made against the federal government, it will be heard in the Federal Court.

The Tax Court hears appeals of decisions by federal tax tribunals and other courts in Canada that deal with the Income Tax Act, Employment Insurance Act, Canada Pension Plan, goods and sales tax and other tax issues. The Tax Court can also hear references, which are questions from the government about the law, regarding tax law.

Federal Trial Courts

Federal Court

Supreme Court of Canada

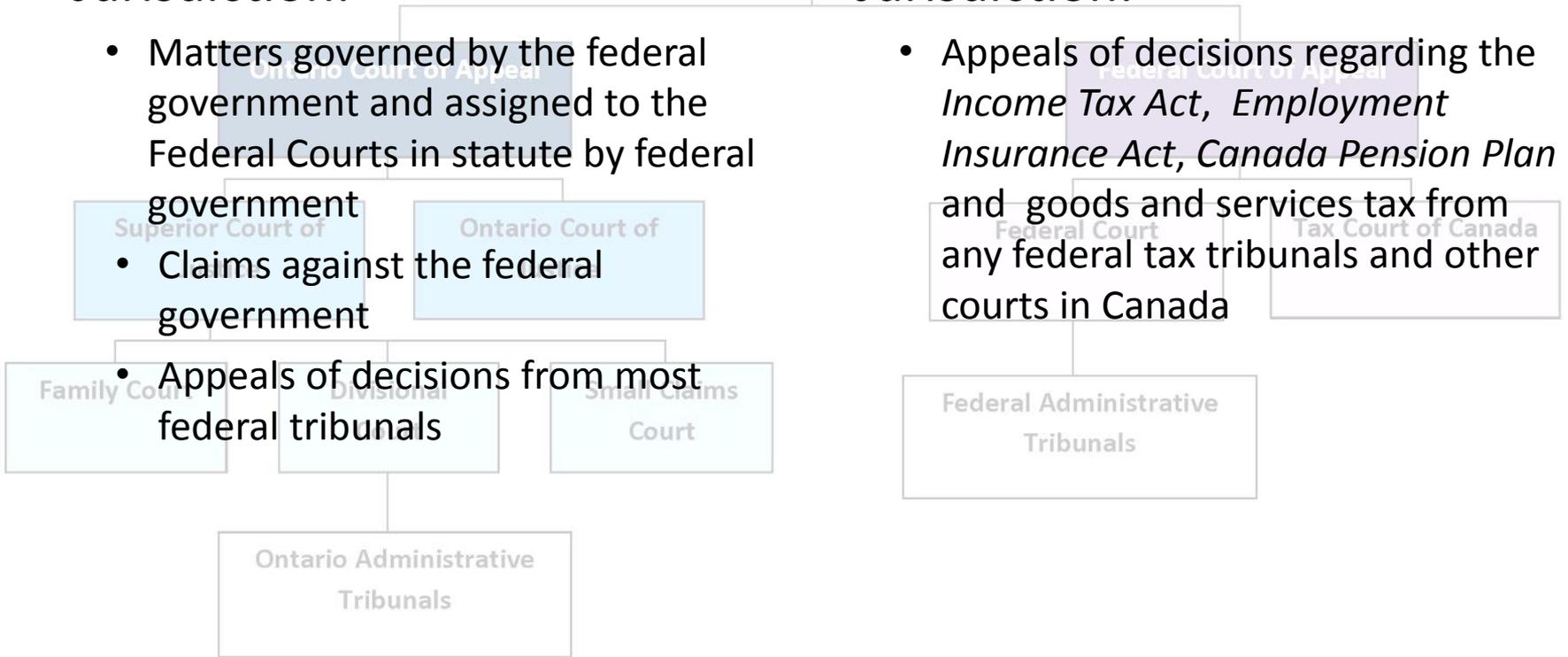
Tax Court

Jurisdiction:

- Matters governed by the federal government and assigned to the Federal Courts in statute by federal government
- Claims against the federal government
- Appeals of decisions from most federal tribunals

Jurisdiction:

- Appeals of decisions regarding the *Income Tax Act*, *Employment Insurance Act*, *Canada Pension Plan* and goods and services tax from any federal tax tribunals and other courts in Canada

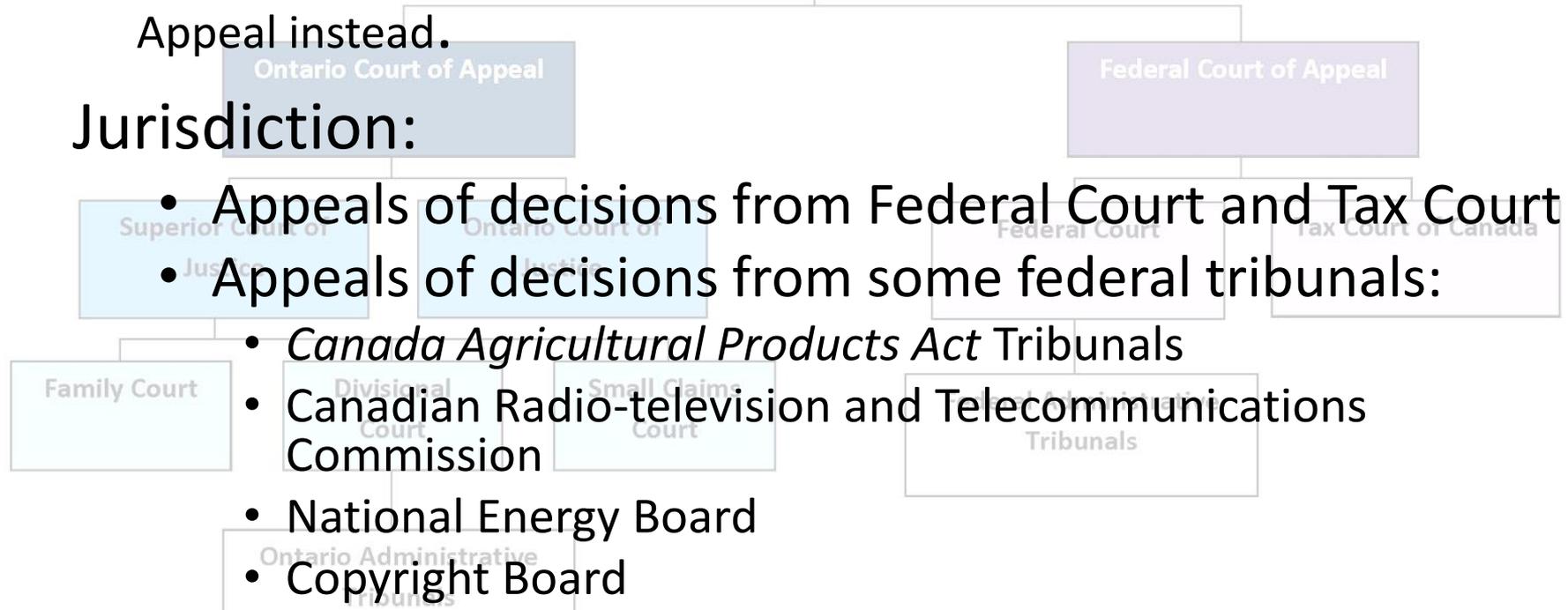


Federal Court of Appeal

The Federal Court of Appeal is also a statutory court, and can hear appeals of decisions from the Federal Court and the Tax Court. While the Federal Court hears appeals of decisions from most federal tribunals, some federal tribunals must be reviewed by the Federal Court of Appeal instead.

Jurisdiction:

- Appeals of decisions from Federal Court and Tax Court
- Appeals of decisions from some federal tribunals:
 - *Canada Agricultural Products Act* Tribunals
 - Canadian Radio-television and Telecommunications Commission
 - National Energy Board
 - Copyright Board
 - Canadian Transportation Agency



Supreme Court of Canada



Supreme Court of Canada

The Supreme Court of Canada is the highest court in the country, and has jurisdiction over matters in all areas of law. The decisions of the Supreme Court of Canada are final and binding, and must be followed by every other court in Canada. The Supreme Court also hears references, which are questions from the government about the law, from the federal government, usually asking for the court's opinion on a constitutional matter.

The Supreme Court of Canada only hears about 80 appeals per year, and is able to choose the cases it wishes to hear. A party who wants to appeal to the Supreme Court must first apply in writing for leave – permission – to appeal. Leave to appeal is generally given to cases that the court feels have a novel or legal issue of public importance that needs clarification.

Appeals are usually heard by a panel of 7 or 9 judges, but can be heard by a panel of 5 judges if necessary. Parties are only given a short time, usually 2 hours, to argue their case before the judges. The decision can be given at the end of the hearing, but usually the judges reserve their decision to take the time to research and write their reasons. Decisions of the Supreme Court sometimes take long time because judges do extensive research into the law and other areas to ensure they are correct.

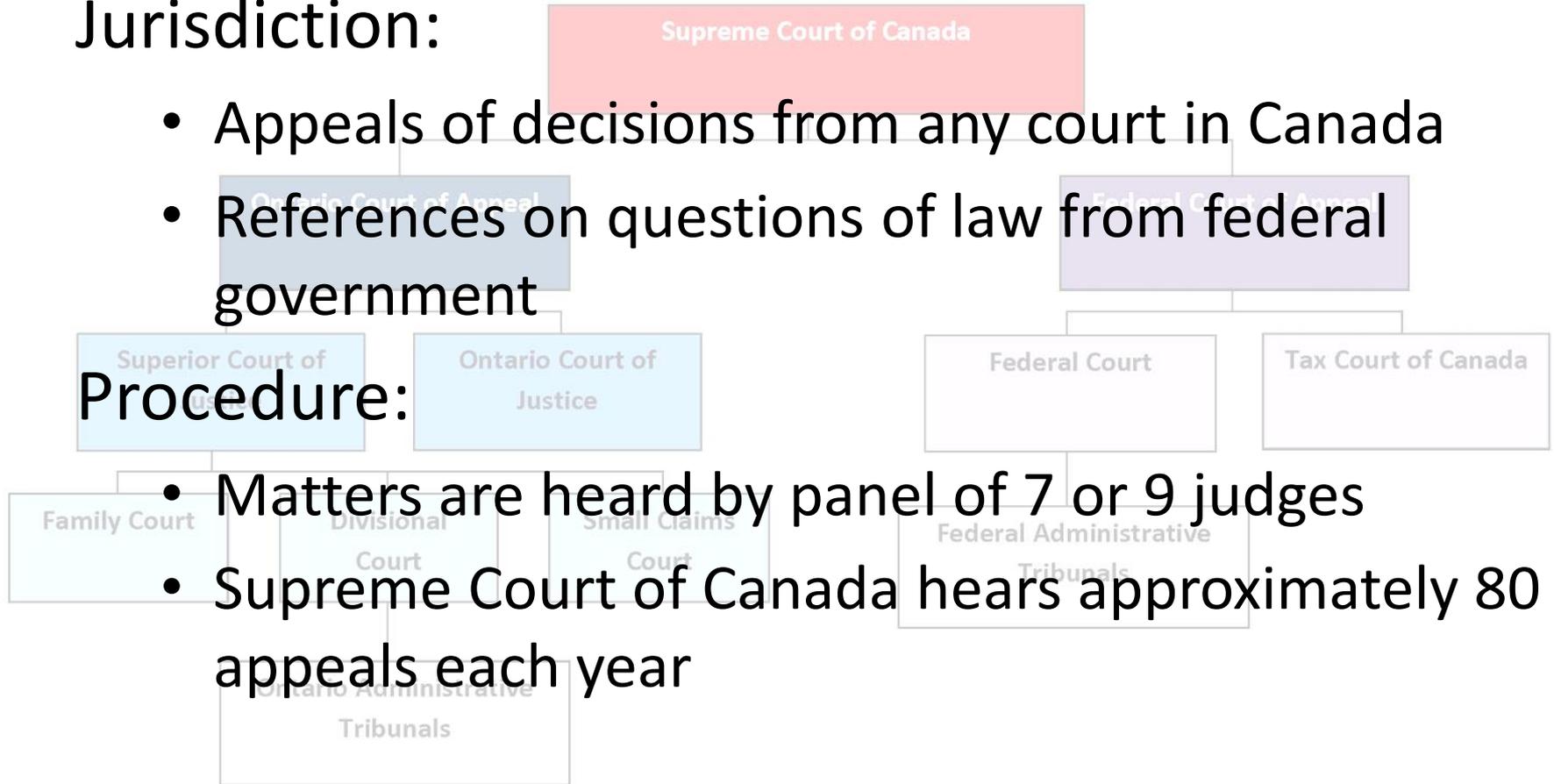
Supreme Court of Canada

Jurisdiction:

- Appeals of decisions from any court in Canada
- References on questions of law from federal government

Procedure:

- Matters are heard by panel of 7 or 9 judges
- Supreme Court of Canada hears approximately 80 appeals each year



You be the judge....

1. Marnie and Joshua have been married for 15 years. Marnie has spent most of their marriage working in their home, caring for their 2 children. Marnie wants to get divorced, and knows she is entitled to spousal support.

To which court should Marnie take her matter ?



Answer: The Superior Court of Justice or the Family Court

You be the judge....

2. Jane is 14 years old and was apprehended by the police for spraying graffiti on her next-door-neighbour's house. Because Jane is under 18, she will be tried under the *Youth Criminal Justice Act*.

Which court can decide Jane's matter?



Answer: The Ontario Court of Justice

You be the judge....

3. After a trial, Ramone was convicted of second degree murder by the Superior Court of Justice in Ontario. Ramone's lawyer thinks the Court considered evidence that should have been inadmissible because police found the evidence during an illegal search. Ramone wants to appeal the decision.

Which court can review the decision of the Superior Court of Justice?



*Answer: The Ontario
Court of Appeals*

You be the judge....

4. Lola is renting an apartment in downtown Hamilton. Her landlord, Rick, raises her rent by 15% every month, which she knows is not allowed under the *Landlord and Tenant Act*. Lola has tried talking to Rick, but Rick laughs and says there is nothing Lola can do about it.

Where can Lola take her matter?



*Answer: The Landlord
and Tenant Board*

You be the judge....

5. Thabo sold exercise equipment to Maria for \$17,000. Maria was supposed to pay 30 days after receiving the equipment. Thabo delivered the equipment 6 months ago, but Maria still has not paid. Maria says she will keep the equipment but only pay \$2,000 for it.

To which court should Thabo take his matter?



*Answer: Small Claims
Court*

You be the judge....

6. John is married to Catherine and to Pandora. John was convicted of polygamy by the Superior Court of Justice, and appealed to the Ontario Court of Appeal but the Court of Appeal upheld the previous decision. John wants to appeal further, because he thinks that the issue is novel and important to people across Canada.

Which court can review the decision of the Ontario Court of Appeal?



*Answer: The Supreme
Court of Canada*