



Bridging the Scientific-Legal Divide in the Treatment of Trauma in Immigration

Friday, September 23 and Saturday, September 24, 2022

Location: Cornell Law School

Contact: realdana@ucdavis.edu and mb1235@cornell.edu

Co-Sponsors:

**Cornell Law School Berger International Legal Studies Program
Cornell University Mario Einaudi Center for International Studies
Cornell Law School Migration and Human Rights Program
Cornell University Migrations Initiative**

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Contact Information

During the conference, if you have any questions, concerns, or problems, please contact:
Michelle LoParco at (607) 255-5252 or (202) 577-8052, or Beth Lyon at (484) 802-3548.

Welcome

We are pleased to welcome you to Bridging the Scientific-Legal Divide in the Treatment of Trauma in Immigration. We are excited to have so many participants from across the United States, and we hope this event will provide valuable and insightful information while building new possibilities for collaboration. We encourage everyone who can attend in person to do so, in particular the presenters, to facilitate community-building and future collaboration. For those who cannot attend in person, remote participation will be available. The tentative schedule for the conference is as follows:

FRIDAY, September 23

8am to 9am—Continental Breakfast

9am to 9:10am – Welcome

9:15am to 10:30am

Panel I: Documenting the practice and impact of forensic Immigration Assessments

Moderator: Ian Kysel, Assistant Clinical Professor of Law, Director, Transnational Disputes Clinic, Cornell Law School

1. **Kathryn Hampton**, Head of Impact, Rainbow Railroad (formerly Asylum Program Deputy Director, Physicians for Human Rights and **Ranit Mishori**, MD MHS, Senior Medical Advisor at Physicians for Human Rights and Professor, Georgetown School of Medicine

What constitutes a high-quality, comprehensive medico-legal asylum affidavit? A Modified Delphi Exercise
The UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (known as the “Istanbul Protocol”) provides a framework of principles for clinical documentation of torture and ill treatment. Clinicians are increasingly applying these principles not only in torture investigations, but also as expert-generated evidence in asylum and non-refoulement cases, which have their own particular features in each domestic jurisdiction. Currently, due to a lack of standardization and specific guidelines which are validated through a multi-sectoral approach for the U.S. immigration context, evaluations tend to be inconsistent in terms of their format and structure, which can be confusing for practitioners. This study engaged a multi-disciplinary team of stakeholders in the asylum process, including clinical practitioners, attorneys, adjudicators, and other experts, using a modified Delphi Technique to generate updated common standards, with the goal of developing a new checklist to guide clinicians in writing affidavits and declarations with uniform quality and legal practitioners in evaluating and using expert medical evidence. Ultimately this study seeks to address the question of the probative value of forensic evaluations, as understood from multidisciplinary perspectives. We sought to review critical components of a medical asylum affidavit from the interdisciplinary perspective of key stakeholders and collected and synthesized expert opinions to reach a broad consensus on what constitutes a high-quality, comprehensive medical or psychological affidavit.

2. **Raquel Aldana**, Martin Luther King Professor of Law, UC Davis and **Alea Skwara**, Postdoctoral Scholar, University of California, Davis

What Constitutes “Credibility”? Documenting Current Practices and Perceptions in Immigration Forensic Assessments

The establishment of credibility is a key factor in the adjudication of asylum cases. However, legal and scientific understanding of what constitutes a credible story greatly diverge. This is particularly pronounced in cases where trauma, brain injury, or other mental health factors may influence an asylum seeker’s ability to tell their story. The forensic evaluation represents an existing leverage point in the legal process where

psychologists and attorneys can collaborate and co-educate to increase an immigration petitioner's chances of a successful claim. Currently, the procedures for conducting assessments of credibility are highly variable, and the legal standards for assessing credibility are not science informed. The legal demand for a cohesive, linear narrative is in opposition to psychological understanding of how trauma fractures narrative memory. This conflict can result in less accurate documentation of harm, hurting the petitioner's chances of success while re-traumatizing them in the process. In this presentation, we will report on a survey our interdisciplinary research group at UC Davis conducted of immigration attorneys and mental health professionals who conduct immigration forensic assessments to 1) document current practices in immigration forensic assessments; and 2) elucidate the factors that contribute to credibility determinations, and how understanding of these differ between assessors, advocates, and adjudicators. We will integrate what we have learned from this survey with current neuropsychological understanding of trauma, the brain, and narrative storytelling to create an initial framework for the co-development of best-practice recommendations for immigration forensic work.

3. **Nermeen Arastu**, Associate Professor, CUNY School of Law

Access to a Doctor, Access to Justice? An Empirical Study on the Impact of Forensic Medical Examinations in Preventing Deportations

The empirical study discussed in this Article—the largest-of-its-kind quantitative study of over 2,500 cases in which Physicians for Human Rights (“PHR”) facilitated medical evaluations on behalf of immigrants—found that 81.6% of individuals who received a forensic medical evaluation between 2008 and 2018 experienced some form of a positive immigration outcome. In comparison, immigration adjudicators only granted relief to asylum seekers an estimated 42.4% of the time overall during this same period.

The significant impact of forensic medical evaluations in contributing to a favorable immigration outcome raises questions about whether adjudicators are holding immigrants to overly stringent evidentiary standards by constructively creating norms that require immigrants to gain access to health professionals with the requisite training to evaluate them. To the extent such evaluations become essential to the successful outcome of the legal case, access to a medical evaluator may indeed translate into access to justice.

10:30am to 10:45am – Break

10:45am to Noon

Panel II: Children and Sexual Minorities and Forensic Immigration Assessments

Moderator: Alexandra Dufresne, Senior Lecturer, Cornell Jeb E. Brooks School of Public Policy

Rebecca Ford-Paz, Clinical Child Psychologist, Ann & Robert H. Lurie Children's Hospital of Chicago
Associate Professor of Psychiatry & Behavioral Sciences, Northwestern Feinberg School of Medicine

Intersection of Psychology & Law for Child Asylum Seekers

In contrast to the abundant literature available to guide the conduct of psychological asylum evaluations for adults, the literature on forensic evaluation of asylum-seeking minors is much sparser. The present mixed method exploratory pilot study aims to inform guidelines for pediatric providers conducting pediatric psychological asylum evaluations and document the stories and humanize children forced to flee their countries of origin. Surveys were completed by expert forensic psychological evaluators (n=6) from four different disciplines, qualitative interviews were completed with these same evaluators as well as immigration attorneys (n=2), and a directed content analysis of forensic psychological affidavits and medical records of minor asylum seekers (n=13) was conducted. Although respondents discussed some areas of consensus, results demonstrated significant variability in the conduct of forensic asylum evaluations with minors, including duration and number of sessions used to obtain data, use of evidence-based assessment methods, and the length of affidavits. In

addition, results show the powerful detrimental impact of recent immigration policies on the experiences of trauma and on the mental health of asylum-seeking children and adolescents. Despite premigration, migration, and post-migration trauma exposures, results revealed noteworthy strengths and protective factors that promote posttraumatic growth. It is critical that best practice guidelines for completing forensic psychological asylum evaluations with pediatric populations be developed to enhance attention to developmental considerations in the trauma-sensitive assessment of minors and standardize the training of the next generation of pediatric providers.

1. **Katie Annand**, Immigrant Legal Defense; **Christine Lin**, Director of Training & Technical Assistance, Center for Gender & Refugee Studies, UC Hastings; and **William Martinez**, Assistant Professor, Psychiatry and Behavioral Sciences, University of California, San Francisco

Medical-Legal Partnerships and the Utility of Universal Declarations

Immigrant youth may have profound histories of exposure to trauma and adversity that result in complex needs for medical, behavioral health, and legal services upon reception in the United States (McCabe & Kinney, 2010). These needs frequently go unmet, resulting in long-term consequences that constitute social determinants of health. A response to the complex needs of immigrant youth requires multidisciplinary collaboration. Medical-legal partnerships (MLPs) offer one model for multidisciplinary collaboration for eliminating health disparities through addressing the social determinants of health. The MLP model integrates lawyers into healthcare, and healthcare professionals into the legal system, to holistically advocate for immigrant children, particularly in the case of undocumented families (Sandel et al., 2010). Immigrant Health Equity and Legal Partnerships (ImmHELP) formed in 2017 with the following three objectives: 1) Empower healthcare and legal professionals to provide trauma-informed services to those seeking immigration protection; 2) Achieve better medical and legal outcomes for our immigrant communities; and 3) Advocate for systemic change. One ImmHELP member organization, the Center for Gender and Refugee Studies (CGRS) based at University of California Hastings College of the Law, had previously established initiatives to develop universal declarations, or topic expert reports, for asylum cases. The present proposal will present data on the dissemination of two separate reports focused on the impact of childhood trauma and adversity on youth decision-making and behavioral regulation. We will discuss the process of collaborating on these reports, as well as present summary data regarding its dissemination and use in immigration court proceedings.

2. **Mark Silver**, Forensics and Mitigation

Sexual Orientation Asylum Petitions: Challenges in Forensic Psychosocial Immigration Evaluations

Asylum applications based on sexual orientation have risen in the United States and Canada in past decades. Mark Silver addresses the challenges of litigating an asylum petition based on sexual orientation and offers insight as a clinical expert who evaluates claims of persecution and harm. With a specific focus on psychiatric issues, he also discusses how to balance the experiences of the applicant in his or her country of origin with the experiences as a new immigrant. By virtue of its sensitive nature, the sexual orientation asylum petition comes with challenges and obstacles that require particular attention by both the lawyer and clinician during the application process.

NOON TO 1:15 PM – Lunch and Keynote Speaker: Juan E. Méndez, Professor of Human Rights Law in Residence and Faculty Director, Anti-Torture Initiative, Washington College of Law, American University

1:15pm to 2:30pm

Panel III: Innovations in Immigration Medical-Legal Collaborations

Moderator: Jaclyn Kelley-Widmer, Associate Clinical Professor of Law, Director, 1L Immigration Law and Advocacy Clinic, Cornell Law School

1. **Farah Shaheen**, Assistant Clinical Professor and Primary Care Internist; University of California, Davis

The UC Davis Human Rights Initiative

The UC Davis Human Rights Initiative (HRI) provides forensic documentation of the physical and psychological manifestations of torture and ill-treatment experienced by individuals applying for asylum in the United States. This is accomplished through a collaboration with local immigration lawyers. Dr. Shaheen will describe her and her colleagues' work with the creation of this clinic, the local impact, and its future direction.

2. **Christine Lin**, Director of Training & Technical Assistance, Center for Gender & Refugee Studies, UC Hastings; **J. Raul Gutierrez**, Clinical Professor, Pediatrics, University of California San Francisco; **Ryan Matlow**, Clinical Associate Professor, Stanford School of Medicine Department of Psychiatry and Behavioral Sciences

Developing Best Practices for Medical/Legal Collaboration to Support Immigrant Communities

Formed in 2018, the Immigrant Health Equity and Legal Partnerships (ImmHELP) is a coalition of legal services and healthcare providers dedicated to supporting the safety, stability, and health of individuals in immigration proceedings. Following ImmHELP efforts to promote system change across health and legal sectors, the current workshop will focus on advancing best practices for interdisciplinary collaboration and system of care development to empower immigrant communities. Within ImmHELP's focus on provider capacity-building, we have piloted a series of workshops to identify best practices for collaboration between attorneys and health experts conducting forensic medical or psychological evaluations of immigrants to support their applications for asylum, withholding of removal, and/or protection under the Convention Against Torture. This includes the development of a template lesson plan that may be used to replicate convenings of legal services providers and health experts, including application of real-life case scenarios of asylum seekers and a discussion of best practices. These convenings are a method to enhance cross-disciplinary collaborating and training as well as the development of resources on best practices. We will also share a proposed model for integrated care systems designed specifically for immigrant communities, and we will examine multi-step pathways for developing and sustaining such program models.

3. **Beth Lyon**, Clinical Professor of Law, Associate Dean for Experiential Learning, Clinical Program Director, Director, Farmworker Legal Assistance Clinic, Cornell Law School, **MacKenzi Preston**, MD, MHPE, Assistant Professor of Pediatrics, Department of Pediatrics, Weill Cornell Medicine (*invited*), **Faten Taki**, PhD, MS, Instructor of Pharmacology in Anesthesiology, Anesthesiology Global Health Initiative, Department of Anesthesiology, Weill Cornell Medicine

Improving Accurate Health Data Collection Among Child and Youth Farmworkers: A Pilot Qualitative Study

Millions of children are directly affected by conflict and human rights violations around the world and are forced to leave their homes. Many of these children are unaccompanied by parents, are extremely vulnerable and may suffer from various health conditions with limited access to primary care. Anecdotal evidence suggests that many of these children migrate to rural areas in countries of employment, working in agricultural sectors where they may be exposed to occupational hazards or human trafficking. However, there is a dearth of information on the number of rural migrant children and their living and health conditions. Without this information, we cannot estimate the prevalence of health disparities, nor can we develop tailored initiatives that

ensure access to basic services, such as vaccines. Deportation defense lawyers work with many displaced children and youth but are not trained in collecting health-related information. Similarly, pediatricians are experts in health evaluations, yet lack training on the unique needs of this population and are not readily accessible to child and youth farmworkers. The team is working to develop a novel health toolkit, grounded by perspectives of medical and human rights professionals to help lawyers and social workers collect health-related data in a standardized way.

2:30pm to 2:45pm – Break

2:45pm to 4:00pm

Panel IV: Effective Advocacy and Ethics of Collaboration

Moderator: Estelle Mckee, Clinical Professor of Law, Co-Director, Asylum and Convention Against Torture Appellate Clinic, Cornell Law School

1. Mark Silver, Forensics and Mitigation

Spousal Abuse Petitions in Immigration Cases: Criteria in Psychosocial Evaluations for I-360 and I-751 cases

There are specific criteria and considerations in psychosocial evaluations for spousal abuse cases, specifically when handling immigration petitions. Here, attorney Mark Silver discusses how such cases are evaluated from a clinical perspective with the consideration for the client's immigration petition. He examines the cycles of abuse and the challenges the victim faces in the context of their marriage to an American citizen, as well as the major types of abuse and characteristics of abusers.

2. Jon Bauer, Clinical Professor of Law and Richard D. Tulisano '69 Scholar in Human Rights, Director, Asylum and Human Rights Clinic, University of Connecticut School of Law

Examining why many immigration judges appear to accord little to no weight to mental health evaluations as evidence corroborating an asylum applicant's testimony concerning the trauma they experienced, and ways that evaluators and lawyers can try to proactively address that skepticism.

3. Sabi Ardalan, Clinical Professor, Harvard Law School; Director, Harvard Immigration and Refugee Clinical Program and **Katie Peeler**, MD, MA, Joint Fellow-in-Residence, Edmond J. Safra Center for Ethics and Center for Bioethics, Harvard University, Assistant Professor of Pediatrics and Medical Director of Harvard Medical School Asylum Clinic, Harvard Medical School

Competing Ethical Obligations and Mandatory Reporting in Asylum Cases with Forensic Evaluations

Forensic medical affidavits are often critical to the success of asylum claims. At the same time, however, given health care professionals' mandated reporting obligations, such evaluations may also raise complicated issues involving competing ethical duties that may inadvertently undermine the legal representation and case. Further dialogue about these competing duties and transparency at the outset about each professional's obligations is important to ensuring effective advocacy on behalf of asylum seekers.

4:00pm-4:15pm – Closing

5:00 pm-8:00pm – Hosted Dinner

If there is anything we can do to improve your experience please email Michelle LoParco at k.loparco@cornell.edu. Thank you again for attending and enjoy!

Participants

Raquel Aldana, Martin Luther King Professor of Law, UC Davis

Katie Annand, Immigrant Legal Defense; **Christine Lin**, Director of Training & Technical Assistance, Center for Gender & Refugee Studies, UC Hastings

Nermeen Arastu, Associate Professor, CUNY School of Law

Sabi Ardalan, Clinical Professor, Harvard Law School; Director, Harvard Immigration and Refugee Clinical Program (HIRC)

Jon Bauer, Clinical Professor of Law and Richard D. Tulisano '69 Scholar in Human Rights, Director, Asylum and Human Rights Clinic, University of Connecticut School of Law

Rebecca Ford-Paz, Clinical Child Psychologist, Ann & Robert H. Lurie Children's Hospital of Chicago Associate Professor of Psychiatry & Behavioral Sciences, Northwestern Feinberg School of Medicine

J. Raul Gutierrez, Clinical Professor, Pediatrics, University of California San Francisco

Kathryn Hampton, Head of Impact, Rainbow Railroad (formerly Asylum Program Deputy Director, Physicians for Human Rights)

Benjamin Lawrence, Professor, University of Arizona

Christine Lin, Director of Training & Technical Assistance, Center for Gender & Refugee Studies, UC Hastings

Beth Lyon, Clinical Professor of Law, Associate Dean for Experiential Learning, Clinical Program Director, Director, Farmworker Legal Assistance Clinic, Cornell Law School

William Martinez, Assistant Professor, Psychiatry and Behavioral Sciences, University of California, San Francisco

Ranit Mishori, MD MHS, Senior Medical Advisor at Physicians for Human Rights and Professor, Georgetown School of Medicine

MacKenzi Preston, MD, MHPE, Assistant Professor of Pediatrics, Department of Pediatrics, Weill Cornell Medicine

Ryan Matlow, Clinical Associate Professor, Stanford School of Medicine Department of Psychiatry and Behavioral Sciences

Juan E. Méndez, Professor of Human Rights Law in Residence and Faculty Director, Anti-Torture Initiative, Washington College of Law, American University

Katie Peeler, MD, MA, Joint Fellow-in-Residence, Edmond J. Safra Center for Ethics and Center for Bioethics, Harvard University

Mark Silver, Forensics and Mitigation

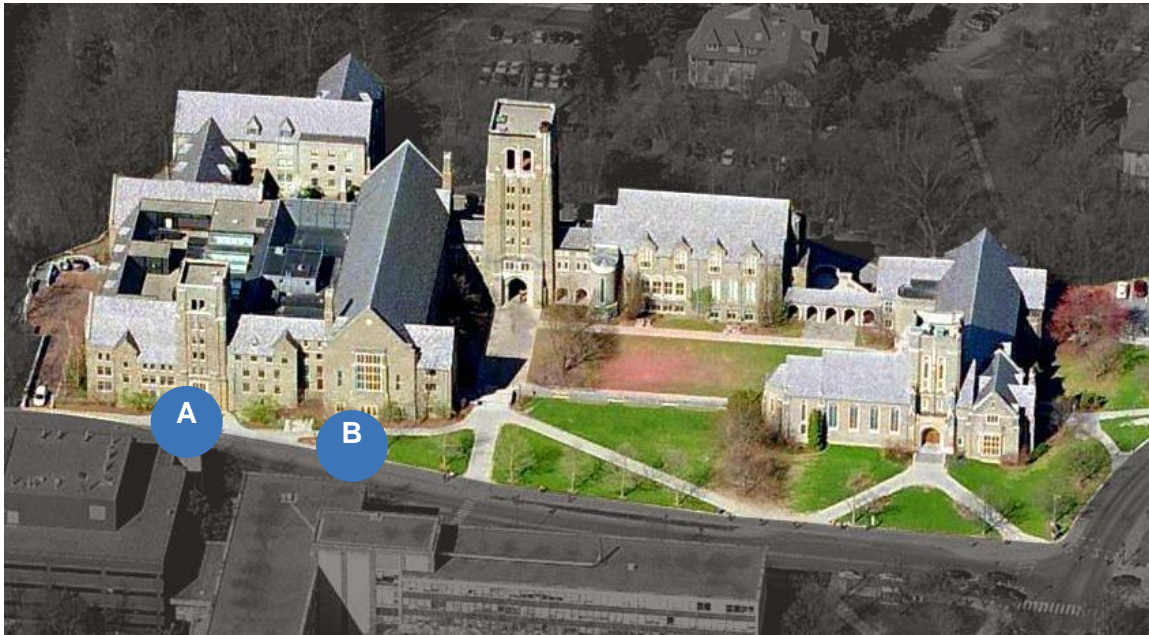
Farah Shaheen, Assistant Clinical Professor and Primary Care Internist; University of California, Davis

Alea Skwara, Postdoctoral Scholar, University of California, Davis

Faten Taki, PhD, MS, Instructor of Pharmacology in Anesthesiology, Anesthesiology Global Health Initiative, Department of Anesthesiology, Weill Cornell Medicine

Location & Parking

Our program will take place in **L28 Hughes Hall**, home to the Cornell Law School.



Atrium Entrance: A – follow signs to L28 (elevator down to level B, turn right and room is ahead on left)

Main Entrance: B – brings you in on the 2nd floor follow signs to L28

There is a parking garage on campus where you may park for a fee. The garage is located on Campus Road with an entrance on Hoy Road as well and can be found on the map within this packet. If you need help with directions while on campus, you can stop at any Cornell Visitor Information booth (clearly marked on all campus maps), or you can ask someone on campus. You may also stop at any Information Booth on campus to secure parking permits and campus maps.

From Parking Garage to Myron Taylor Hall

1. Exit the north end of the garage and turn left on Campus Road (heading west).
2. Turn at the first left onto College Avenue (there will be a traffic light and a crosswalk). Myron Taylor Hall (Cornell Law School) will be on your right.

Driving Directions

From New York City

1. Take George Washington Bridge to Route 80 West Bear right onto Route 380 North toward Scranton Merge onto I-81 North toward Binghamton
2. Take Exit 8 (past Binghamton) for Route 79 (Ithaca)
3. Make a right at the ramp and a left at the end of the road (onto Route 79) Rte 79 W will enter Ithaca on State Street
4. From State Street, turn right onto Mitchell Street
5. Follow Mitchell Road up the hill
6. Bear left onto Ithaca Road
7. Ithaca Road will become Dryden Road at the stoplight
8. From Dryden Road, turn left onto Hoy Road at the blinking light
9. Follow Hoy Road to the entrance to campus
10. The parking garage entrance will be on the right

From Syracuse, New York

1. Take I-81 South for about 35 miles
At exit 12, turn right at exit for US-11 towards Homer and Cortland
2. Turn left and proceed South onto SR-281 (W Homer Rd)
3. Keep straight onto SR-13 and follow signs for SR-13 through town of Dryden
4. Bear left onto RT 366
5. After blinking stoplight, continue straight onto Hoy Road
6. Follow Hoy Road to the entrance to campus
7. The parking garage entrance will be on the right

From Philadelphia, Pennsylvania

1. Take 476 North to Scranton and I-81 North
2. Take I-81 North to Exit 8 for State Rte. 79 at Whitney Point, NY Take State Rte. 79 West for approximately 35 miles to Ithaca, NY From State Street, turn right onto Mitchell Street
3. Follow Mitchell Road up the hill
4. Bear left onto Ithaca Road
5. Ithaca Road will become Dryden Road at the stoplight
6. From Dryden Road, turn left onto Hoy Road at the blinking light
7. Follow Hoy Road to the entrance to campus
8. The parking garage entrance will be on the right

From Boston, Massachusetts

1. I-90W to I-88 W (Exit 25A in Schenectady, NY) I-88W to Rte. 206 W (Exit 8, at Bainbridge, NY)
2. Rte. 206W to Rte. 79 W (Junction. in Whitney Pt, NY) Rte. 79 W will enter Ithaca on State Street
3. From State Street, turn right onto Mitchell Street
4. Follow Mitchell Road up the hill
5. Bear left onto Ithaca Road
6. Ithaca Road will become Dryden Road at the stoplight
7. From Dryden Road, turn left onto Hoy Road at the blinking light
8. Follow Hoy Road to the entrance to campus
9. The parking garage entrance will be on the right

Accommodations

Argos Inn

408 E State St, Ithaca, NY 14850-4410

1.4 miles from Cornell University

Best Western University Inn

1020 Ellis Hollow Rd, East Hill Plaza, Ithaca, NY 14850-2808

1.3 miles from Cornell University

The Hotel Ithaca

222 S Cayuga St, Ithaca, NY 14850-5510

1.7 miles from Cornell University

Hilton Garden Inn Ithaca

130 E Seneca St, Ithaca, NY 14850-4356

1.5 miles from Cornell University

Ithaca Marriott Downtown

120 S Aurora St, Ithaca, NY 14850-5712

1.5 miles from Cornell University

Statler Hotel

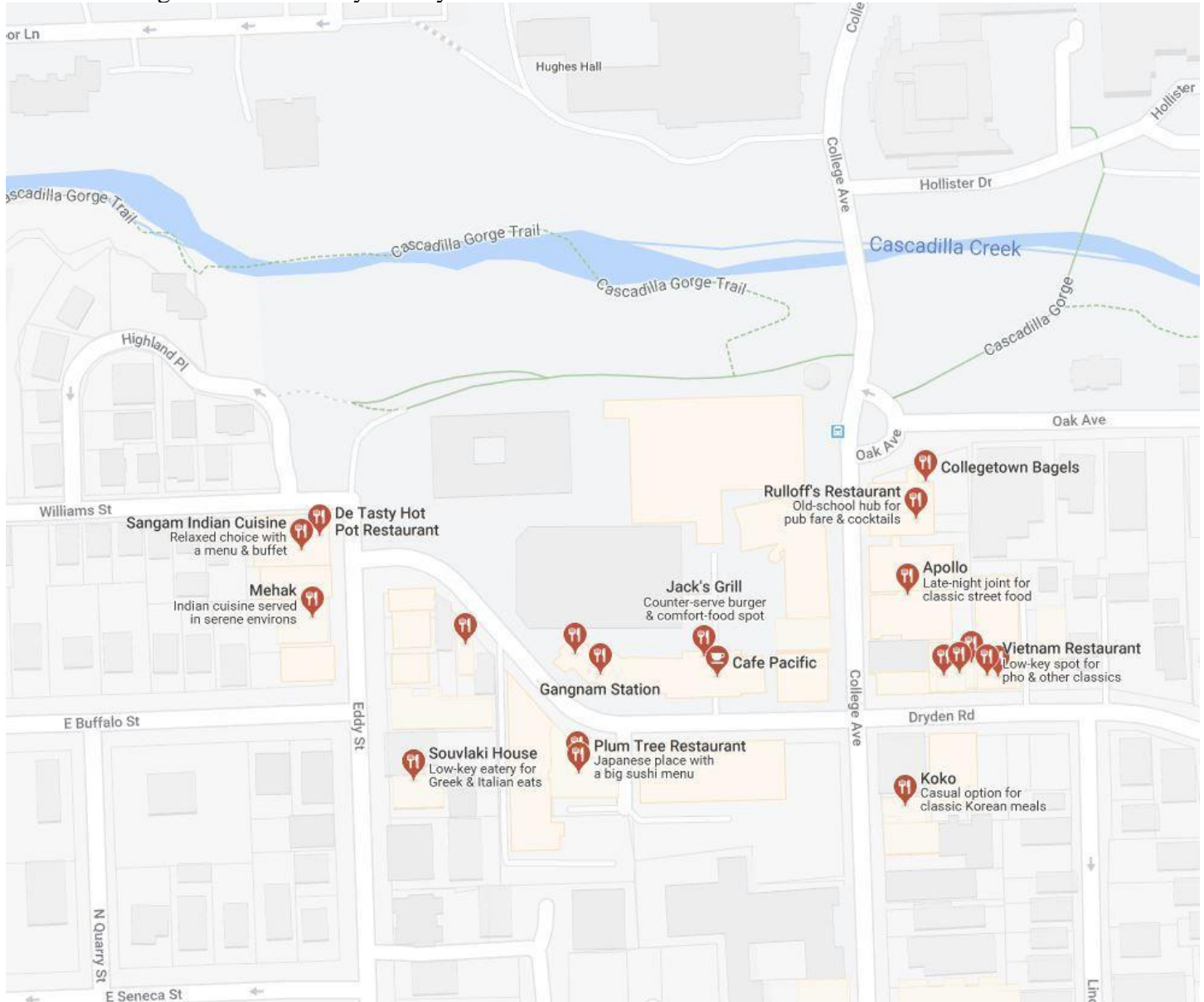
130 Statler Dr, Ithaca, NY 14853-6901

0.7 miles from Cornell University

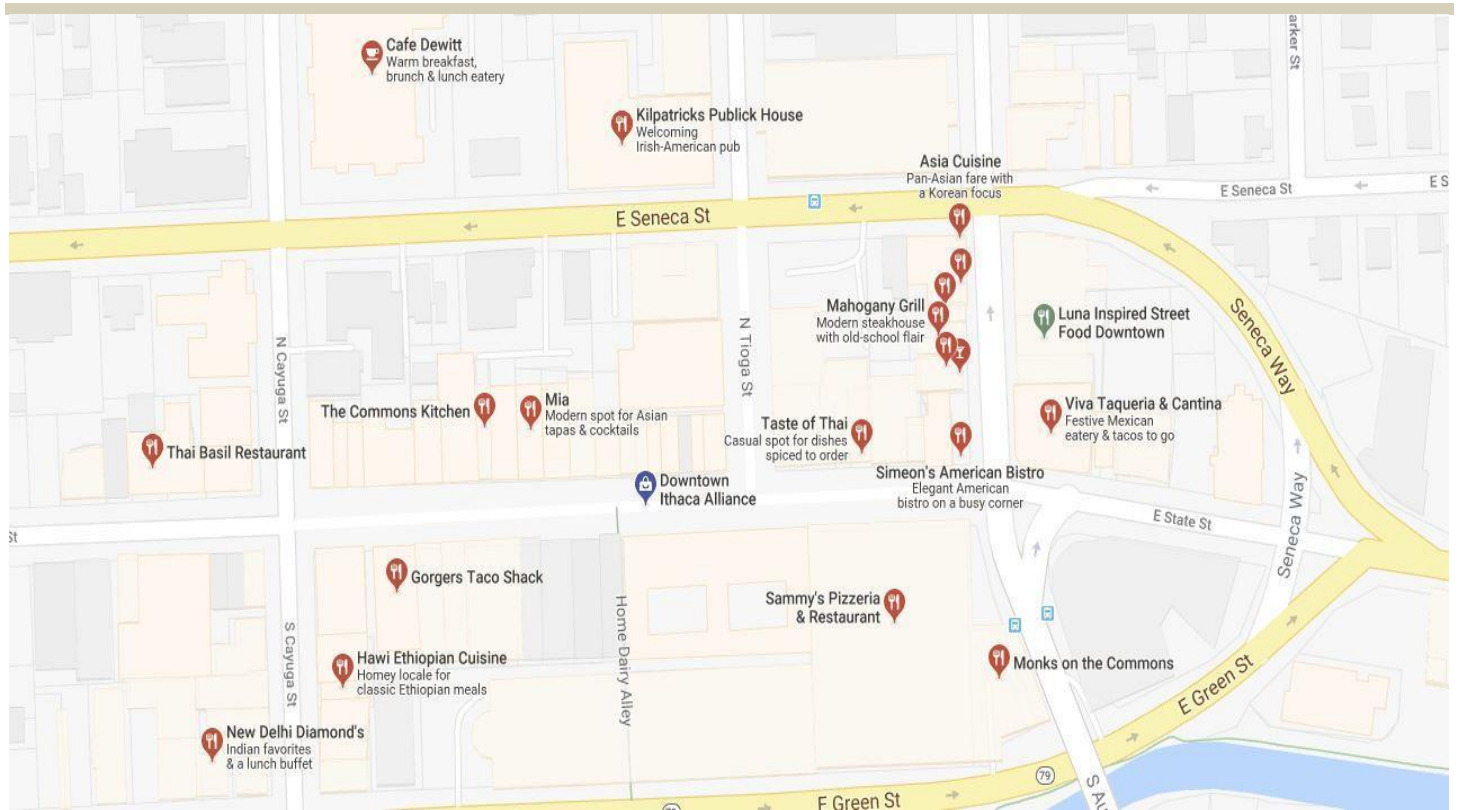
Dining – Walking Distance

Ithaca offers a variety of dining options. Collegetown, which is immediately adjacent to the law school, has its fair share of restaurants. For more information, please visit <http://www.14850.com/category/dining/>, and feel free to ask any Cornell participant or organizer for recommendations.

Within walking distance from Myron Taylor Hall:



Dining – Dinner Recommendations



Other Travel Information

For information regarding Travel to Ithaca, please visit the following website:

<http://www.cornell.edu/visiting/ithaca/visiting.cfm>

[Cornell Campus-to-Campus Bus Service](#)

[Transportation from Syracuse Airport](#)

[Lyft](#) and [Uber](#) are now available at SYR!

App-based ridesharing pickups are in the overflow parking lot outside of the Terminal B baggage claim. Follow signs inside and outside the terminal. You will need to cross the roadway outside of the Terminal B baggage claim (please use crosswalks) and enter the overflow parking lot. The pickup area is about halfway into the parking lot and is marked with signage.

Taxi pickup and drop-off locations are located on both ends of the terminal, just outside the baggage claim areas.

Greater Binghamton Limo <https://www.greaterbinghamtonlimo.com/>

Ithaca Airline Limo • 800-273-9197

Requires 2-day minimum advance reservation. Phone reservations only.

Scheduled service leaves the airport 1, 5, and 10:30 a.m. as well as 1, 3:30, 5:30, 8, and 10 p.m.

Car Rentals

Avis: 800-331-1212

<http://www.avis.com/>

Budget: 800-218-7992

<http://www.budget.com/>

Enterprise: 800-261-7331

<http://www.enterprise.com/>

Hertz: 800-654-3131

<http://www.hertz.com/>

National: 800-227-7368

<http://www.nationalcar.com/>

