



Sponsored by  
California Attorneys for Criminal Justice  
and California Public Defenders Association

# 2012

## Capital Case Defense Seminar

February 17<sup>th</sup> – 20<sup>th</sup> • Monterey, CA



KEYNOTE SPEAKER

Stephen B. Bright

**2012 CACJ/CPDA  
Capital Case Defense Seminar  
Planning Committee**

— **CO-CHAIRS** —

Russell Stetler  
Michael Ogul  
Andrew Love

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2012

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**Tim Brosnan**  
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Los Angeles, CA

**Richard Burr**  
Hugo, OK

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San Francisco, CA

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**Mark Donatelli**  
Santa Fe, NM

**Mark Drozdowski**  
Los Angeles, CA

**Jack Earley**  
Irvine, CA

**Carlos Escobedo**  
Sacramento, CA

**Tim Foley**  
Sacramento, CA

**Monica Foster**  
Indianapolis, IN

**Jennifer Friedman**  
Los Angeles, CA

**Susan Garvey**  
San Francisco, CA

**Larry Gibbs**  
Berkeley, CA

**Denise Gragg**  
Santa Ana, CA

**John Grele**  
San Francisco, CA

**Lois Heaney**  
Oakland, CA

**Scharlette Holdman**  
New Orleans, LA

**Allie Horevitz**  
San Francisco, CA

**Juliana Humphrey**  
Chula Vista, CA

**Kendra Ing**  
San Francisco, CA

**Rosette Isip**  
Los Angeles, CA

**Richard Jasper**  
New York, NY

**Denise Kendall**  
San Francisco, CA

**George Kendall**  
New York, NY

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**Sean O'Brien**  
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**Katy O'Donnell**  
Baltimore, MD

**Michael Ogul**  
San Jose, CA

**Mark Olive**  
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**Joe Parisi**  
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**Wendy Peoples**  
Tallahassee, FL

**John Philipsborn**  
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Arlington, VA

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**Gail Weinheimer**  
San Francisco, CA

**Evan Young**  
San Francisco, CA

## KEYNOTE SPEAKERS



*“The Capital Case Defense Seminar planning committee is proud to have Steve Bright as its keynote speaker in 2012. After honing his trial skills at the Public Defender Service of the District of Columbia, Steve began representing clients facing the death penalty in 1979, and he has had a remarkable career as a litigator, educator, and strategist in the realm of capital defense. He has handled cases at every stage of litigation from trial to the U.S. Supreme Court. Through his teaching and writing, he has also been a powerful voice for the right of all indigent clients to have effective representation in fair proceedings untainted by racial bias. Over the decades, we have been honored to have him on our faculty both at Monterey and at the Bryan R. Shechmeister Death Penalty College at Santa Clara. Steve Bright has been a giant in the struggle for human rights, social justice, and more humane conditions of incarceration.”*

— Andrew S. Love, Michael Ogul, & Russell Stetler, Seminar Co-chairs

**STEPHEN BRIGHT** is president and senior counsel of the Southern Center for Human Rights in Atlanta and a visiting lecturer at Yale Law School. He has also been a legal services attorney and public defender. Subjects of his litigation, teaching, and writings include legal representation of poor people accused of crimes, capital punishment, racial discrimination in the criminal justice system, conditions and practices in prisons and jails, and judicial independence. He argued *Snyder v. Louisiana*, 552 U.S. 472 (2008), and *Amadeo v. Zant*, 468 U.S. 214 (1988), winning Supreme Court reversals in both cases based on racial discrimination in jury selection. He received the American Bar Association’s Thurgood Marshall Award in 1988, and CACJ’s Award for Significant Contributions to Criminal Justice in 1999.

The Southern Center for Human Rights was founded more than three decades ago in response to the Supreme Court’s reinstatement of the death penalty that year and the horrendous conditions that prevailed in Southern jails and prisons. Steve Bright became its director in 1982. For its entire history, this nonprofit project has played a heroic role in providing legal representation to persons facing the death penalty and to prisoners challenging unconstitutional conditions in prisons and jails throughout the South. SCHR is also engaged in efforts to improve access to lawyers and the legal system for poor people accused of crimes and in prison, to bring about greater judicial independence, and to educate the public about these issues. SCHR relies on individual donations and a limited number of foundation grants to carry on its work. Its important work is fully described on its web site, [www.schr.org](http://www.schr.org).

## SAFE CALIFORNIA ACT FUNDRAISING EVENT!

**Save the Date! Saturday, February 18<sup>th</sup> at 7:00pm**

Join the ACLU of Northern California for an Evening Social and Fundraiser to Support the Qualification of the SAFE California Act, a Ballot Initiative to Replace California’s Multi-Billion Dollar Death Penalty with Life Imprisonment Without Parole, for the November 2012 ballot.

More Details to be Announced  
on the Conference Website: [WWW.CACJ.ORG](http://WWW.CACJ.ORG)

# THE CAPITAL CASE DEFENSE SEMINAR SCHEDULE

California Attorneys for Criminal Justice (CACJ) and the California Public Defenders' Association (CPDA) are pleased to invite you to participate in the 2012 Capital Case Defense Seminar (CCDS). The CCDS is an intensive education opportunity for anyone involved in, or considering taking on, the defense of a capital case. It is designed not only for lawyers, but also for mitigation specialists, paralegals, investigators, and experts working in capital defense.

The CACJ/CPDA Capital Case Defense Seminar is the largest of its kind in the nation. CCDS is unique in that it offers lectures as well as specialized workshops that give participants the chance to brainstorm and exchange information with other participants. Experienced practitioners in any jurisdiction and those just entering the field can benefit from the lectures and workshops featuring experienced lawyers and experts, from both California and across the nation.

**CASE CONSULTATION WORKSHOPS:** There is one workshop set aside for Case Consultations. These are a bring-your-case type workshop, where members of the planning committee and other presenters will brainstorm your case with you. Space is very limited. If you want to participate, please indicate on the registration form and advise Gail Jones via email at [gjones@cacj.org](mailto:gjones@cacj.org) so that she can send you a case information form to complete.

Minimum Qualifications for Appointment of Trial Counsel in Capital Cases Require the Completion of Fifteen Hours of Capital Defense Training within the Preceding Two Years (Rule of Court 4.117(d)(6))

## FRIDAY, FEBRUARY 17, 2012

2:00- 5:00pm	<b>REGISTRATION</b>
2:00-3:15pm	<b>Case Consults</b> Jeri Polen, Jennifer Friedman
	<b>Funding: Brainstorming Pre-Trial Issues</b> John Grele
	<b>Publicity and Venue</b> Denise Gragg, Expert to be Named
	<b>Post-Conviction Workshop: Rees/Rohan and Beyond: The Right To Mental Competency During Capital §2254 Proceedings</b> Tim Brosnan, Margo Rocconi
3:30-5:00pm	<b>Institutional Mitigation and Adjustment Issues</b> Expert to be Named
7:30-8:30pm	<b>KEYNOTE</b> Stephen Bright
8:30pm	<b>RECEPTION</b>

## 10:45-12:15pm WORKSHOPS

- 1. Executive Functioning and Revisiting ADHD**  
Experts to be Named
  - 2. Selecting and Working with Mental Health Experts**  
John Cotsirilos, Russell Stetler
  - 3. Competency Issues in Capital Cases**  
John Philipsborn, Expert to be Named
  - 4. Forensics Overview—National Academy of Sciences Report Follow-up**  
Barry Scheck, Edward Ungvarsky
  - 5. Eyewitness Testimony**  
Expert to be Named, Kathy Cannon
  - 6. "Collateral Damage"**  
Sean O'Brien
  - 7. Gathering Mental Health Evidence**  
Expert to be Named, Danalynn Recer
  - 8. Social Media: Gold Mine or Toxic Dump**  
*1.5 Hours Criminal Law Legal Specialization, Ethics*  
Sean Broderick, Don Landis
  - 9. Victim Impact**  
Regina Laughney, David Ruhnke
  - 10. Future Dangerousness**  
Judy Clarke, Richard Jasper
  - 11. Post-Conviction Workshop: Legal Developments in Post-Conviction**  
Wendy Peoples, Gail Weinheimer
  - 12. Post-Conviction Workshop: Culture and Community**  
Morris Moon
- 12:15-1:15pm LUNCH**
- 1:15-2:45pm WORKSHOPS**
- 1. Adaptive Functioning**  
Michael Burt
  - 2. Issues Surrounding Male Sexual Abuse**  
Expert to be Named

## 3. Psychotic Disorders

Jack Earley, Expert to be Named

## 4. Seeking Life after Hung Juries

Lois Heaney, Juliana Humphrey

## 5. Pathology

John Philipsborn, Expert to be Named

## 6. Computer Technology: Tools for Managing and Presenting Your Case

Sean Broderick, Mary Alice Burns

## 7. Interviewing about Mental Illness

Allie Horevitz, Expert to be Named

## 8. Working in Teams

David Andersen, Susan Marcus, Scarlet Nerad

## 9. Aggravating Evidence

Michael Ogul, Edward Ungvarsky

## 10. Jury Selection

Monica Foster, Matthew Rubenstein

## 11. Post-Conviction Workshop: Making Sense of Strickland

George Kendall, Wendy Peoples

## 12. Post-Conviction Workshop: Deconstructing Mental Health Evaluations

Expert to be Named, Gary Sowards

## 2:45-3:00pm BREAK

## 3:00-4:30pm WORKSHOPS

### 1. Basic Neuropsychology

Julie Brain, Expert to be Named

### 2. Interviewing about Male Sexual Abuse

Expert to be Named

### 3. Mood Disorders

Expert to be Named

### 4. DNA Cold Hits and Low Copy

Bicka Barlow, Rosette Isip

### 5. Penalty Opening

Bryan Stevenson

## SATURDAY, FEBRUARY 18, 2012

7:00-5:00pm	<b>REGISTRATION</b>
8:30-10:30am	<b>Plenary: Legal Developments</b> Allison Claire, George Kendall, Michael Ogul
	<b>Plenary: Legal Developments for Non-Lawyers</b> Ty Alper, Dana Cook
10:30-10:45	<b>BREAK</b>



**6. Epigenetics**

Expert to be Named

**7. Using Historical Experts**

Russell Stetler

**8. Child Victim Cases**

Susan Clemens, Katy O'Donnell

**9. First 100 Days**

David Andersen, Robert Sanger

**10. Post-Conviction Workshop: Presenting Claims in State Habeas**

Ty Alper, Denise Kendall

**11. Post-Conviction Workshop: San Quentin Issues**

Expert to be Named, Mary Jane Mona (Moderator)

**4:30-4:45pm BREAK**

**4:45-6:15pm Plenary: Race Issues**

*1.5 Hours Criminal Law Legal Specialization, Elimination of Bias in the Legal Profession*  
Bryan Stevenson

**SUNDAY, FEBRUARY 19, 2012**

**7:30-8:30am SWAP MEET**

Dorothy Strettker

**8:45-10:15am Plenary: Litigating Atkins Claims/ Extending Atkins**

Michael Burt, Mark Olive

**10:15-10:30am BREAK**

**10:30-12:00pm WORKSHOPS**

**1. Testing Issues**

Denise Gragg

**2. Neurotoxin Exposure**

Expert to be Named

**3. Preventing and Addressing Secondary Trauma**

Allison Claire, Expert to be Named

**4. Batson Rejuvenated**

*1.5 Hours Criminal Law Legal Specialization, Elimination of Bias in the Legal Profession*  
Eric Multhaup, Elisabeth Semel

**5. Teaching Jurors Mitigation**

Expert to be Named

**6. Cultural Issues Affecting Investigation**

*1.5 Hours Criminal Law Legal Specialization, Elimination of Bias in the Legal Profession*  
Carlos Escobedo, Scharlette Holdman

**7. Investigating Experts**

Erin Morris, Saor Stetler

**8. Representing Foreign Nationals**

*1.5 Hours Criminal Law Legal Specialization, Elimination of Bias in the Legal Profession*  
Sandra Babcock, Rebecca Liley

**9. Investigating Crime Labs**

Kate Philpott, Jennifer Friedman

**10. Pleas and Preauthorization Strategies**

Judy Clarke, Regina Laughney

**11. Critical Issues in Early Childhood**

Expert to be Named

**12. Funding: Federal Habeas Budgeting**

Wesley Van Winkle, Joe Schlesinger

**13. Post-Conviction Workshop: AEDPA for the Uninitiated**

Tim Foley, Sean O'Brien

**12:00-1:00pm LUNCH**

**1:00-2:30pm WORKSHOPS**

**1. Psychopathy/Anti- Social Personality Disorder**

Sean O'Brien

**2. Prosecution Mental Health Experts and Evaluations**

Jennifer Friedman, Michael McMahon, John Philipsborn

**3. Firearms and Toolmarks Comparisons**

Kate Philpott, David Ruhnke

**4. Computer Forensics/GPS**

Expert to be Named, Robert Sanger

**5. Framing Mitigation Findings/ Red Flags, etc.**

Scharlette Holdman, Denise LeBoeuf

**6. Investigating Prison Issues**

Mark Donatelli, Tom Quinn

**7. State Co- Defendant Cases**

John Cotsirilos, Elizbaeth Missakian

**8. Frontloading Mental Health Evidence**

Monica Foster, Danalynn Recer

**9. Preventing Capital Retrials**

Marc Bookman, George Kendall

**10. Presenting Evidence of Trauma**

Geoffrey Carr, Gary Sowards

**11. Post-Conviction Workshop: How to Approach Capital Appeals in the California Supreme Court**

Larry Gibbs, Evan Young

**12. Post-Conviction Workshop: Litigating Discovery and Evidentiary Hearing Motions in Federal Court**

Mark Drozdowski, Jennifer Mann

**2:30-2:45 BREAK**

**2:45-4:15pm WORKSHOPS**

**1. Use of Narratives**

Denny LeBoeuf, Mark Olive

**2. False Confessions**

Mary Ellen Attridge, Expert to be Named

**3. DNA 101: The Basics**

Expert to be Named

**4. Gangs (Mitigating Gangs)**

Ellen Barry, Terry Rearick

**5. Gathering and Analyzing Life-History Records**

Susan Garvey

**6. Victim Outreach**

Kelly Branham, Dick Burr

**7. Funding**

Marc Bookman, Jack Earley

**8. Record Preservation**

Michael McMahon, Gail Weinheimer

**9. Foundations of Mental Health Assessments**

Dana Cook, Allie Horevitz

**10. Post-Conviction Workshop: Litigating 2254(d) after Richter & Pinholster**

Alison Claire, Tivon Schardl

**11. Post-Conviction Workshop: Investigating and Presenting MR in Post-Conviction**

Eric Mason, Joe Parisi, James Thomson

**4:15-4:30pm BREAK**

**4:30-6:00pm Plenary: Trauma, Co-Occuring Conditions and Other Key Mental Health Issues**

Michael Laurence, Expert to be Named

**MONDAY, FEBRUARY 20, 2012**

**9:00-10:15am Plenary: Closing Demo**  
Richard Jasper

**10:15-10:30am BREAK**

**10:30-12:00pm WORKSHOP**

**1. Addiction**

Expert to be Named

**2. Discovery Obligations and Issues, From the Prosecution and Defense**

Jason Cox, Bart Sheela

**3. Empirical Research**

Scott Sundby

**4. Political Issues Re: California Death Penalty**

Natasha Minsker

**5. Mitigation Investigations in Foreign Countries**

Kendra Ing, Susan Marcus



## MCLE CREDITS

### **Minimum Qualifications for Appointment of Trial Counsel in Capital Cases Requires the Completion of Fifteen hours of Capital Defense Training within the Preceding Two Years (Rule of Court 4.117(d)(6))**

The Capital Case Defense Seminar is co-sponsored by the California Attorneys for Criminal Justice and the California Public Defenders Association, approved by the State Bar of California and the Board of Behavior Sciences as providers of MCLE, Legal Specialization in Appellate and Criminal Law. This is an organized program of learning that has significant current intellectual and practical content related to legal subjects and the legal profession. Each year's program is unique. All required written materials, course evaluation forms and certificates of attendance are provided upon registration and attendance. Signatures are required on forms provided at each individual workshop to obtain the related Legal Specialization credits for that workshop. **Individual attendees are responsible for keeping track of their own MCLE totals.** The following is a breakdown of credits available, depending on the sessions attended.

**California MCLE Credits:** This activity provides 22.00 hours of California MCLE credits, including a maximum of 3.0 in Elimination of Bias in the Legal Profession and 3.0 hours in Legal Ethics.

**California Criminal Law Legal Specialization Credits:** This activity also provides 22.00 hours in Criminal Law Legal Specialization credits including a maximum of 12.0 hours in Evidence; 11.5 hours in Trial Advocacy; 3.5 hours in Substantive Criminal Law & Procedure; 1.5 Hours Detection/Prevention of Substance Abuse; 10.25 hours in Writs, Appeals and Ancillary Proceedings, and 13.0 hours in Other Subjects Related to Criminal Law.

**California Appellate Law Specialization Credits:** This activity also provides a maximum of 10.25 of Appellate Law Legal Specialization credits in Appeals and Writs.

## CACJ/CPDA California Death Penalty Defense Manual 2012 Edition

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Jack Weedon, CD Rom Creator/Producer

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**Applies Only When Purchased On-Site at the Capital Case Defense Seminar 2/17-2/20/2012**

**California Death Penalty Defense Manual CD \$99.00 (\$91.33 + \$7.67 sales tax)**

**After CCDS, the Manual will be \$129.00 (\$117.72 + \$11.28 sales tax) for members of CACJ and/or CPDA, or \$149 (\$135.97 + \$13.03 sales tax) for nonmembers.**

# SEMINAR REGISTRATION FORM

This form must be fully completed and payment included before CACJ/CPDA is able to process your registration. If you register online and plan to attend the Case Consultation Session(s) — this form must be completed designating the session(s) you will be attending and faxed or mailed to the CACJ office — and the box must be checked indicating that you registered/paid online. The deadline for preregistration is Friday, February 3<sup>rd</sup>. **Make check payable to CACJ/CPDA and return form to address listed below.**

## MAILING ADDRESS

Name: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
New Address?  yes  no Registered online?  yes  no

Date Admitted to Bar: \_\_\_\_\_  
Bar Number: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email Address: \_\_\_\_\_

## SCHEDULE OF FEES

	Preregistration (Friday, February 3 <sup>rd</sup> )	On-Site Registration
Attorney	\$295	\$320
Investigator/Other	\$180	\$205

Check Enclosed\*\* Charge my:  Visa  Mastercard  
Account Number: \_\_\_\_\_ Exp. Date: \_\_\_\_\_  
3 Digit Security Code \_\_\_\_\_  
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Reserve Your Copy of the 2012 Death Penalty Manual CD at the Conference rate of \$99.

Donation to Death Penalty Focus \$ \_\_\_\_\_  
*in addition to event registration*

Total amount enclosed: \$ \_\_\_\_\_

## CONFIDENTIALITY PLEDGE

\*\*There is a \$35 fee for checks returned for insufficient funds or credit cards declined.

\*\*\*Billing address required for all credit card purchases.

## CASE CONSULTATION SESSIONS

One Case Consultation Workshops are available. **Registration is Required – Space is Limited**

General Case Consultation (Friday) *Deadline to register: Friday, February 3<sup>rd</sup>.*



## REGISTER ON-LINE AT WWW.CACJ.ORG\*

*\*(Please refer to instructions to register for special sessions)*

This pledge **MUST** be read and signed before CACJ is able to process your registration!

I hereby acknowledge that materials and information provided in this packet, at the seminar, and syllabus materials, are confidential information and may not be distributed or disclosed except to other defense practitioners. This information reflects thoughts, opinions, impressions and strategies with regard to previous and ongoing cases and, as such, is protected under the attorney-client privilege and work product doctrine. The materials provided at the seminar are licensed to participants for use in defense of criminal cases only, and any other use or distribution is a violation of copyright laws and the attorney's ethical obligation. By signing this pledge, I agree to abide by this understanding and to keep all information privileged. My signature also indicates that I am involved exclusively in the defense of persons accused in criminal cases.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

NOTE: 2012 CCDS syllabus materials will be available online after your registration is received/processed and on CD on site at the registration counter.

**Send Registration Form to: 2012 CACJ/CPDA CAPITAL CASE DEFENSE SEMINAR • CACJ • 1540 River Park Dr Suite 224A • Sacramento, CA 95815 • (916) 643-1800 • (916) 643-1836 fax • [www.cacj.org](http://www.cacj.org)**

## DISCOUNTS

Groups of five (5) or more from the same office or organization who preregister AS A GROUP by Friday, February 3<sup>rd</sup>, 2012, are eligible for a 15% discount. The discounted tuition is \$250 for attorneys and \$153 for associated professionals. Preregistration forms must be received together.

CACJ and CPDA are also offering a 15% discount to first-time Capital Case Defense Seminar participants. If you will be taking advantage of this discount, your registration cannot be processed unless you enclose a signed statement attesting to your first-timer status.

Participants cannot combine discounts.

Law students who volunteer for this seminar may be eligible for seminar tuition assistance. For additional information contact Gail Jones at [gjones@cacj.org](mailto:gjones@cacj.org).

California Attorneys for Criminal Justice  
California Public Defenders Association  
1540 River Park Dr Suite 224A  
Sacramento, CA 95815  
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## 2012 Capital Case Defense Seminar

ANNOUNCING THE  
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DEFENSE MANUAL  
  
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**SEMINAR REGISTRATION** — The Deadline for Prepaid Seminar Registrations is **Friday, February 3<sup>rd</sup>, 2012, at 5:00 pm**; online seminar registration will not be available after this date. Registrations postmarked by this date will be accepted. **After February 4<sup>th</sup>, all registrations must be made onsite** and will be charged an additional \$25.00. **On-site Registration opens at 2:00 pm, Friday, February 17<sup>th</sup>, 2012, and again Saturday, February 18<sup>th</sup>, 2012, at 7:00 am.** On-site registrants MUST bring proof that they work exclusively for the defense of criminal law.

**CANCELLATIONS** — Refunds, less a \$30 processing fee, will be sent only for those cancellations received by **Friday, February 3<sup>rd</sup>, 2012, at 5:00 pm**. No refunds will be sent after that date. Substitutions, however, are permitted.

**LODGING AT CONFERENCE HOTELS** — Guest Rooms have been reserved for our conference with the Monterey Marriott and Portola Hotel and Spa; to make online reservations at the conference rate of **\$223** for the Marriott Hotel or **\$221** for the Portola Hotel and Spa go to: <https://resweb.passkey.com/go/2012CACJ> ; or to make phone reservations with the Marriott Hotel call 800/266-9432, or for the Portola Hotel and Spa call 888/222-5851. The reservation deadline is Thursday, January 26<sup>th</sup>, 2012. Please note: the conference hotels are known to sell out before this – *Make Your Reservations Early!!!*

**PLEASE MAKE YOUR RESERVATIONS EARLY!!! THE CONFERENCE RATE CANNOT BE GUARANTEED AT THE MARRIOTT OR PORTOLA HOTELS ONCE OUR ROOM BLOCK IS SOLD OUT. THE RESERVATION DEADLINE IS THURSDAY, JANUARY 26<sup>TH</sup>, 2012.**

All reservations must be accompanied by a first night room and tax advance payment. All reservation modifications or cancellations must occur on or before January 26<sup>th</sup>, 2012, to obtain a full refund. Modifications at (1) one or more nights &/or complete cancellation of reservation(s) after this date, will result in one night's room & tax automatically charged to the credit card on file.

**OTHER LODGING IN MONTEREY AREA** — For assistance in locating lodging at other hotels in the Monterey area go to: [www.resort2me.com](http://www.resort2me.com) or call **800/757-5646**. They will be happy to assist you – and also have information on their website for services in the Monterey area including VIP licensed babysitting and activities in the area for families and children.

**THE MONTEREY AIRPORT** — If you intend to fly into the Monterey Airport, you are encouraged to make reservations as far in advance as possible. A taxi from the Monterey Airport to the convention center costs approximately \$20.

**PARKING** — Parking at the Marriott Hotel is \$20 per day, valet only with in/out privileges; parking at the Portola Hotel and Spa is \$17/day for self-parking and \$20/day for valet parking. Public parking structures are also available in the surrounding area for those staying at a non-conference hotel.