**§ 400.10 Pre-sentence conference.**

1. Authorization and purpose. Before pronouncing sentence, the court, in its discretion, may hold one or more pre-sentence conferences in open court or in chambers in order to (a) resolve any discrepancies between the pre-sentence report, or other information the court has received, and the defendant's or prosecutor's pre-sentence memorandum submitted pursuant to section 390.40, or (b) assist the court in its consideration of any matter relevant to the sentence to be pronounced.

2. Attendance. Such conference may be held with the prosecutor and defense counsel in the absence of the defendant, or the court may direct that the defendant attend. The court may also direct that any person who has furnished or who can furnish information to the court concerning sentence attend. Reasonable notice of the conference must be given to the prosecutor and the defense counsel, who must be afforded an opportunity to participate therein.

3. Procedure at conference. The court may advise the persons present at the conference of the factual contents of any report or memorandum it has received and afford any of the participants an opportunity to controvert or to comment upon any fact. The court may also conduct a summary hearing at the conference on any matter relevant to sentence and may take testimony under oath. In the discretion of the court, all or any part of the proceedings at the conference may be recorded by a court stenographer and the transcript made part of the pre-sentence report.

4. Pre-sentence conditions. After conviction and prior to sentencing the court may adjourn sentencing to a subsequent date and order the defendant to comply with any of the conditions contained in paragraphs (a) through (f) and paragraph (l) of subdivision two of section 65.10 of the penal law. In imposing sentence, the court shall take into consideration the defendant's record of compliance with pre-sentence conditions ordered by the court.