

Promoting Diversity in the Courts: Charlie Arrowood

John Caher: Welcome to Amici, news and insights from the New York Court. I'm John Caher.

I'd like to welcome to Diversity Dialogues Charlie Arrowood, Senior Counsel to the Richard C. Failla LGBTQ Commission. Charlie, who came on board just about a year ago, is a graduate of Tulane University and New York Law School. Before joining the court system, Charlie ran their own firm assisting transgender and non-binary clients with name and gender marker changes and transition-related legal needs. Charlie is non-binary, the meaning of which we will discuss later, as well as the use of "they" as a singular pronoun.

Charlie, thank you for joining us. I think to many people, and that certainly includes me, the trans world is a bit of a mystery, and I'm sure there are boat loads of misconceptions. So, I'm really eager to hear and share your story. But let's start at the very beginning. Where did you grow up?

Charlie Arrowood: I grew up in Woodmere on Long Island.

John Caher: And what did your parents do?

Charlie Arrowood: My mom was in banking and my dad is a labor attorney.

John Caher: And then what was your childhood like?

Charlie Arrowood: Pretty boring. I was a gymnast. I ran track. I did trapeze. I did circus stuff. Yeah, I hung out with my family and friends.

John Caher: I'm assuming you were a sprinter.

Charlie Arrowood: I was.

John Caher: And you told me offline it was pretty apparent early on that you were gay. How did you and your family initially come to terms with that?

Charlie Arrowood: All I knew at a young age was how I felt and what my own experience was. And I could tell that I was having a different experience than my friends were as far as wanting to date and having crushes. I was always a tomboy and I just kind of lived my life and eventually people got the memo.

John Caher: And then you indicated you came out as gay in middle school. What was that like coming out with your friends? Was that difficult?

Charlie Arrowood: When I was about 12, a friend asked if I would ever kiss a girl. And it didn't occur to me that most of my girlfriends would say no to that. So I said, "You wouldn't?" And that was kind of like how I realized I was gay. I was one of the only gay girls in my grade. So I think that it was a bit of a novelty to people. People were kind of fascinated and I never really had any trouble from my peers. Nobody really gave me a hard time. But dealing with the other parents was actually kind of tough because it was juicy gossip. So they were not always adults about it.

But in high school I went on a trip. And all these teachers and friends that I grew up with sat on one side of a table, and I sat on the other side of the table, and they just asked me a bunch of questions about being gay. And I think that was kind of where I got my start educating on this stuff. But it was actually very empowering to be able to correct misconceptions, and there was definitely less of an elephant in the room when we got back after that. So I felt like that was kind of the way that I would alleviate the tension.

John Caher: And one of the goals of today is to address some elephants in this room. So at some point you decided to follow your father's footsteps and become a lawyer, although I don't think he became a labor lawyer. What attracted you to the law?

Charlie Arrowood: It was just like, my mom was in banking, and my dad was a lawyer, and I knew numbers weren't for me. So I kind of thought law was my only other option. I guess it was kind of failure of imagination that sent me to law school. I knew going in that I did not want to be a litigator. That was not a good fit for my personality and the way that I operated. But I didn't really understand that there were other options. So I kind of just got through law school and figured I would figure out what I was going to do after I got the piece of paper.

John Caher: So you didn't go on the law school thinking, "I'm going to be a criminal defense lawyer. I'm going to be a prosecutor. I'm going to be a..."

Charlie Arrowood: Absolutely not.

John Caher: So you graduate from law school, you've got that sheepskin. And then what do you do?

Charlie Arrowood: I was at a private practice civil rights firm for a bit. I quickly realized that that was not going to be the setting that worked for me, but I was intrigued by the work. So I always kind of knew that I was interested in this kind of stuff. But I realized that it would not be in a private practice setting.

John Caher: And then at what point and how old were you when you first seriously considered transitioning?

Charlie Arrowood: So I came out as gay when I was a kid, and it kind of resolved some problems, but not everything. I could feel that there was still something that was kind of amiss. And when I was in college, I met a trans man. And I thought, "Okay, that's kind of it, but I'm definitely not a man." But some of the interventions that this person had gotten were intriguing to me. And then shortly after that, I met a non-binary person -- someone who doesn't feel totally male or totally female. And I realized that just because I didn't feel like a woman, did not necessarily mean that I had to be a man in the world. And so I kind of filed that away for a while. I figured out law school and set myself up. And then once I realized that I wanted to leave a law firm, I started applying to jobs.

I've looked the way that I look now since senior year of high school, but I had not changed my name at that point. So I interviewed for three years and I couldn't get anything. I had a ton of very uncomfortable interactions about my appearance, what bathroom people should send me to, that kind of thing. And so I figured things would go more smoothly for me if I had a neutral name. I was supposed to be named Charlie anyway. I was named after my great-grandparents, Charlie and Hannah. So I decided to just change my name before I even considered that it was a gender thing, and before I even considered other aspects of transitioning.

As I was going through that process, I kind of realized that moving forward with that was going to be the right thing for me. At the time, I was teaching high schoolers at my congregation, and they always did pronouns at the beginning of class. So they would introduce themselves with their pronouns.

And that was the first time I realized that I could just ask people to call me something else. And so at first, I tried using "he" and "they," because I didn't want to complicate things for people. But that's never the right reason to do anything. So I immediately realized that people calling me "he" made me very uncomfortable.

Around 2017, I decided to just ask people to use they/them, which is the singular gender-neutral pronoun that we use in English. And around that time I met a trans woman who ran a nonprofit that did trans 101s, kind of intro to trans stuff across the state. I told her I was trans and interested in getting into advocacy work, and she connected me with a trans attorney who was starting a nonprofit that did name and gender marker changes, health insurance appeals for denials of trans care.

As I started working with him and kind of navigating this stuff for other people, it became less scary for me to consider doing this for myself. So February 2017, I started hormones. In July of 2017, I had top surgery. I just try to be mindful of the fact that gender, and transition and identity are a *journey*, and I just have to kind of meet myself where I am at any given time, do what feels right for me. And so that's kind of how I've been doing this. And there's no one-and-done transitioning or "I've done it all." Everyone does what's right for them at any given time, and that can change over time and it can grow and develop. And so you just have to stay in touch with yourself about what that looks like.

John Caher: I want to explore that a little bit more if you don't mind. Can you walk me through the process, not so much for you personally, but generally. I mean, what happens first? What happens second? How long does it take?

Charlie Arrowood: So, what transition looks like is going to be different for everyone, but there are three general facets: social, medical and legal. People can, to some extent, do them in any order. Sometimes with the medical, there's an order of operations. But as far as those three pieces are concerned, you can do them in any order. And you can do some or all of them depending on what's right for the individual person. So social transition may involve wearing different clothing, getting a different haircut, asking people to call you something else. Basically things that impact how the outside world sees you in social settings. So when people talk about toddlers or young children transitioning, this is what they're talking about. It's all reversible stuff, generally not a big deal when it's detached from someone's gender identity. But we kind of freak out when it has something to do with gender.

And then medical transition includes a lot of different available interventions. Some of them are permanent, some are temporary, some are reversible. But for young people, there's hormone blockers which kind of act as a pause button for puberty. So if the person stops taking the blockers, they'll just go through whatever puberty their body would've gone through. If they want to prevent, for example, a chest

from developing, or an Adam's apple, or facial hair, body hair, changing of the face structure, the bones, blockers will allow for that. And that can avoid unnecessary surgery later on. So if you develop an Adams apple because you have testosterone as you're going through puberty, you're going to have to get that surgically shaved down. If your face structure changes because of testosterone, that involves facial surgery, potentially. If your chest develops, you need to get your chest removed if that's how you feel.

So if you were assigned female at birth, you'll usually take testosterone if you're doing cross-sex hormones. So that would be after the puberty blockers or after you've gone through puberty. If you were assigned female at birth, you would take testosterone. If you were assigned male at birth, you'll usually take estrogen. And then there are the surgical interventions—chest surgery, genital surgery, facial feminization, which is a lot of different facial procedures that people can take, kind of a la carte. There's body sculpting.

So again, not everyone is going to need or be able to access even some of the things that people choose to do. But everything is going to depend on the person's medical needs. And the bottom line with medical intervention is that all the major medical associations have stated unequivocally that transition is the appropriate treatment for that discomfort around gender. And transition-related interventions are considered medically necessary as far as medical professionals are concerned.

And then legal transition is kind of the last piece. And that usually involves just a court ordered name change, updating the name and gender on your documents. Some documents or some states kind of require irreversible genital surgery. So you need to be sterilized in order to just change the gender marker on your driver's license or your birth certificate.

Luckily in New York, we haven't had to do that in some time, and it actually just got much easier to change your documents in New York. So now you just check off the appropriate box on the form you're submitting. You don't need a doctor's letter anymore, no court order around your gender marker. So you are the authority on who you are. You still need the name change order to change the name on most of your documents because the government kind of wants that paper trail. But as far as the gender marker is concerned, you get to determine who that is in New York and at the federal level at this point.

John Caher: Now, what made it easier in New York? Was it legislative, regulatory, or judicial?

Charlie Arrowood: In New York, we actually in 2021 passed the Gender Recognition Act. And that kind of overhauled the name change process and document change process. It got rid of the publication requirement in the name change process. It also made it possible to get a designation on your documents if you don't feel comfortable with male or female. And it got rid of that doctor's letter requirement. It made it possible for folks who were born in states that do require a court order to change your gender marker on your birth certificate to get that court order. Before in New York, judges would say, "We don't have the jurisdiction to acknowledge someone's gender." So there was no mechanism unless the person traveled back to the state they were born in and went through the court system there, which doesn't always have personal jurisdiction when the person doesn't reside there. So now folks who were born in states that do require that — Utah, Indiana, Texas—they're able to get those orders through the New York Court system.

John Caher: Well, that's great. That's fascinating. You strike me as someone who is very, very comfortable in their own skin. Would you say that's true and was that always true?

Charlie Arrowood: It's funny, when I was younger and my mom, when I first came out, she was very concerned that life would be harder for me, and that people wouldn't treat me well, and that kind of thing. And I remember my first thought being like, give me a little more credit than that. I can handle other people's expectations of me and assumptions about me and all that. I would hear people say anti-gay stuff and I'd be like, I know I'm not a bad person. They would say all the religious stuff and whatever people say about gay people. And I was thinking, I'm not a bad person. Nothing I'm doing is bad. I try to help. I try to be a helper. I try to make the world a better place.

And so I knew that that was an inaccurate and uninformed assessment of LGBTQ people. And so all I could do was kind of go from my own experience, and that helped me to be more comfortable in my skin, because I knew that I was just doing what I had to do to live. So at this point, I am much more comfortable in my own skin. There are things for me the same as there are for other people that I'm not thrilled about, about my body, and about the way people perceive me and all that. But I am certainly in a better place now than I was.

John Caher: That's wonderful to hear. What was the impact on your children, your spouse, your family?

Charlie Arrowood: So I met my now wife when I was about 20. And my appearance was always pretty... well, since the end of high school, it had been pretty masculine. I've kind of looked the way I look minus the scruff for quite some time. So my appearance was something that she liked about me. And as I got older and entered professional life, it became clear that something was off and it kind of felt like my soul needed a chiropractic adjustment. Something was just kind of uncomfortable all the time. And so, I'd been having conversations with her about changing my name for professional reasons for a while. And once I got into the work, and saw people transitioning, and came to understand what my options were and what the process looked like, I knew that it was necessary for me.

When I brought up top surgery, which is a mastectomy for transmasculine folks and hormones, she basically said, "This is the logical conclusion of things that you've been voicing for a really long time. And it totally makes sense that that would be the solution." I honestly probably would not have ever transitioned. I wouldn't have had it in me without her. And I don't know that it ever would've even occurred to me that I was trans.

When my kids were first born, we were a same sex couple and we had them calling me Eema, which is Hebrew for mom. And when I transitioned, we wanted something that wasn't dad because I don't feel like a man. And I didn't want people necessarily to assume I was dad. So we went with Abba, which is Hebrew for dad. And so now sometimes my kids call me "Gentleman Eema!" But the kids get it. They don't have trouble with this stuff unless an adult presents it as troublesome to them. They're very flexible, they're learning new information. And for my kids, this is just their life. This is their family. And frankly, it's taught them to be more empathetic, more self-reflexive. It has definitely impacted the way that we parent and the way that we answer questions.

The word "some" does a lot of work in our house. So *some* girls' bodies look like this, *some* look like that. *Some* families have a mom and a dad, *some* families have other configurations. And that actually also helps when I talk to adults. So that's been very helpful.

As for my parents and my family, ~~it's been complicated like everything is.~~ ~~But~~ their priority was my comfort and happiness, and they can see that I found that. So I think they're satisfied at this point. They may not understand all of my feelings, all of my decisions, but they know that I'm

going to do what I have to do to survive and keep going. So I think we're overall in a very good place right now.

John Caher: You seem to be incredibly blessed with an incredibly supportive spouse, children, and family. And I am sure that is not always the case.

Charlie Arrowood: It is not. And I am very lucky and I love you all if you're listening.

John Caher: And I certainly hope that they are!

Now I want to pursue something you mentioned earlier because it gives me some confusion, and that is a pronoun issue, and the "they." A lot of people, myself included, view the word "they" as third person plural. And using it to refer to a single person seems both grammatically incorrect and confusing. I mean, there have been times when, for me, it mattered how many people there were, and I didn't know if "they" meant one or more than one. So set me straight.

Charlie Arrowood: So singular "they" has actually been in the Oxford English Dictionary since 1375. And we use it every day in situations that are not related to gender. If someone has a gender-neutral first name or title, we use singular they. "The doctor left their phone on the table." "Did you order pizza for them?" "The judge said they'll be back soon." So we get hung up on this stuff when we think we know something about what's going on under a person's clothes. But if we just pretend we have no idea, which we really don't, it's much easier.

John Caher: Wouldn't it be simpler just to agree on a gender-neutral pronoun that applies to everyone?

Charlie Arrowood: That's what singular they is.

John Caher: Okay. But how does that work in, say, a court where it's imperative to create a clear and an unambiguous record?

Charlie Arrowood: There's actually an ethics opinion stating that judges cannot require someone to use he or she pronouns if they ask to use singular they. And attorney ethics rules also prohibit discrimination based on gender identity, which misgendering would fall under. Misgendering is when you use the wrong pronoun for someone.

There are plenty of ways to clarify the record. You can use a footnote and explain this is this person's documented name, but this is the name we'll be using throughout. You can use a motion to amend the caption to

reflect the name the person uses, and in the motion explain what the situation is. You can throw an extra word into a sentence if you mean more than one person. So you would say they “both” whatever, instead of just “they” whatever. I do this a lot. I have a child who uses singular they. And if we're talking about both of my children, we'll say they both X, Y, Z. So again, we do this when it's not related to gender all the time, and we just have to forget it's related to gender.

John Caher: So bottom line, it's a really, really, really easy workaround.

Charlie Arrowood: There are several easy workarounds. Yeah. And it takes practice. And I will say as a person who uses singular they myself, who does this work, who is trans, who my whole network and community is trans and uses singular they, a lot of them, I mess up all the time. We all misgender each other. And it's really about how you recover from that. So it's about intent. It's about how much effort you put forth. We can tell the difference between someone who is accidentally misgendering us because it's a new thing for them versus someone who is repeatedly... If you explain to someone multiple times what your pronouns are, and it's in your email signature, and they are continuing to email you back or email about you in a situation where they could have edited that email because it should be in their brain that he or she is not right, that's where it gets frustrating.

John Caher: They're trying to make a point.

Charlie Arrowood: I don't know that they're trying to make a point. I think that it's more just that they're showing that it's not something important to them, and they're not showing you the respect to just take the extra second to go back and change he to they, or something like that.

John Caher: Yeah. Now I want to pursue something that may be a little more difficult. I have heard it argued that gender is an unalterable biological fact, and that if someone has two X chromosomes, they're female, and if they have an X and a Y, they're a male, and that's that. What's your response to that?

Charlie Arrowood: So I think that people, first of all, conflate sex and gender. So sex is what we think about as the biological piece of it. And gender is kind of like how you feel about yourself. Gender is kind of your internal sense of yourself and how you want the world to perceive you, how you want yourself to be out there. And there's actually a fundamental misunderstanding of just general human variation.

About 2% of the population, which is the same percentage as Jewish people or redheads, actually has some sort of variation, whether it's chromosomal, hormonal, structural. So that would be considered an intersex condition. So nothing is as black and white as people think it is. And that being said, being trans and being intersex are two separate things, though some intersex people do identify as trans. But we all have the same hormones in our body and it's just a question of levels.

And so when people get worked up, for example, about trans women in sports, those women have the same hormone levels as their cis counterparts. So they're actually performing comparably. And if you're interested in learning more about intersex conditions, Interact is a really great organization with a ton of resources.

But the bottom line is nothing is as black and white as the folks who make those arguments think it is. And there are people who actually study this in the medical context, in the sociological context. There are people whose perspective maybe should be given more weight than other people.

John Caher: Thank you for that. I was a journalism major and took biology only when there was a gun to my head, so I appreciated that you informed me on that. Let's turn back to your position with a Failla Commission. Well, what does the commission do? What do *you* do?

Charlie Arrowood: The commission is made up of just over 20 judges and legal professionals. And our mission is to increase LGBTQ diversity and representation in the courts and the legal profession. We do a lot of policy development, public and internal education. We build tools and materials. And we serve as kind of the liaison between LGBTQ court users in the system, so troubleshooting, triaging, if people are finding forms that are not inclusive or policies that are an issue, we're kind of the go between.

John Caher: I believe the Failla Commission was the first of its type in the nation.

Charlie Arrowood: Yeah, I think we still are the only commission that's a part of the judiciary. New Jersey has a devoted diversity inclusion department program that they have in their court system. And some other states do have that, and it's becoming more common. But we're the only, I believe, the only commission.

John Caher: Do you have any idea how many trans people work in the court system?

Charlie Arrowood: I actually really don't. I don't think it's a ton, but we are here. We are beginning to collect and analyze that data to better prioritize resources. The issue really is that the federal government doesn't collect that data yet, so we mostly collect what the federal government wants. But we're working on expanding that.

John Caher: What about trans judges, to your knowledge, are there any?

Charlie Arrowood: Not in New York as far as I know yet. But there are a handful across the country.

John Caher: What are your long and short term goals with the Commission?

Charlie Arrowood: So short term, we just launched our judicial mentorship program, and we're working on pairing judges with mentees as we speak. And I'm personally really excited to build our relationships with law students. The students that I've been working with are really fired up to make change, and I can't wait to see what they do as they enter the profession. There is more structural support now than it has ever existed before. The fact that this position that I'm in even exists is really a new thing. And I would love to convene trans law students to develop a trans law student Bill of Rights, a trans lawyer Bill of Rights, so that as we're entering the profession and growing in the profession, we have the supports we need.

And frankly, to make the employers clear on what the expectations are as well. To establish a court wide transition policy for when people transition on the job within the court system, or when a party transitions, a litigant, a court user, an attorney who's before the courts. And then just to continue to bring information to people to make the court system in the legal industry more inclusive.

John Caher: That's quite an agenda. Now, the Failla Commission cannot be effective without support from the very highest levels of the court system. Are you getting that?

Charlie Arrowood: I've been here almost a year, and I've seen a ton of support and energy for this work. There are obviously structural issues that are as old as the profession and as old as society that we'll need to address long term. But I'm really excited to work with management to navigate that. That's great. And I think we do get the support.

John Caher: That's comforting to hear. Now, how can the legal system better foster mentorship and growth among law students and trans legal professionals, whether they're attorneys, paralegals, clerks, judges,

whatever. How can the court system facilitate that and build a more inclusive and representative industry?

Charlie Arrowood: A huge first step is to remember that trans people exist and sometimes we enter the legal profession. So we need to foster people from before they enter law school or get into this work throughout their entire career, and show them what their options are, connect them with trans mentors, look at school policies, and work with administrators to make sure their trans students are supported. We need to acknowledge that, especially right now, there's an added layer of stress and trauma just existing in the world as a trans person. And so even if you're not otherwise marginalized, things are very hard right now. ~~If you're like a white, trans-masculine person who people perceive as a white man, you're going to have maybe less going on than other folks might have going on. But it still is a very difficult, it can be a slog every day.~~

But trans law students and legal professionals end up taking on a lot of uncompensated extra “emotional labor” outside the scope of their actual role just because they exist and they are in the workplace. So we need to make it possible for them to safely get through the door and then not burn out as they continue professionally. We need to make sure to compensate people appropriately for any extra work that they're doing based on their identity.

But the law is a very binary and traditional kind of universe. And we need to think about how we can make it more inclusive and representative for the benefit of people who work within the system and the benefit of people who utilize the system. If we're supposed to appear to be fair and equitable, we need to expect that trans people exist, basically.

So, do forms and procedures allow for people to represent themselves authentically? Can they use their chosen name? Can they indicate their pronouns? Are people actually respecting that once it's been indicated? Is there a mechanism for people to update things when they transition? Is there a network of similarly situated people to lean on for advice, commiseration, capital and sponsorship?

We want sponsorship so that people who are more advanced in their career are helping the newer folks through the door and helping them build their professional life. Are people responding appropriately when something harmful happens? Are they listening to trans people and valuing the input of people with lived experience? So, we want to make sure that the folks who are actually experiencing these things are at the table and determining what the direction is.

John Caher: So we have a long way to go. But I'm also struck by how far we've come. I mean, not long ago, this conversation would not have been possible.

Charlie Arrowood: Yeah, definitely. I graduated law school in 2013, and even since then, we're in a completely different place now. And there is that backlash because we have made so much progress. But I'm really heartened by the number of trans folks who are getting into the profession. And I think that we will be able to tackle this stuff in such a different way as people who have "lived experience" and have different perspectives on how to be on the offensive.

John Caher: Charlie, I want to for your time and especially for your openness. And I also want to give you the last word. So in closing, what one thing do you really wish people better understood about trans siblings?

Charlie Arrowood: We're just trying to live our lives, and our transness is just one thing about us. While it informs our worldview and our experiences, it really has nothing to do with anyone else.

If you go about the world being a respectful person, you'll be okay. Think about the things that you know about yourself, and imagine if someone walked up to you and disputed any of those things. You would be infuriated. That's what we experience every day in our personal interactions in the law, in society. So just consider the fact that trans people exist and that will make things much safer and easier for us.

We're very tired. Legislatures and governors are literally trying to legislate us out of existence right now and prevent us from accessing healthcare, dressing the way we want, teaching in schools, keeping our families safe. So if you can make one small move on the rare occasion you interact with a trans person—calling them "them," the name they want to be called, or coming to their defense if something is harmful that's going on, that helps us survive. The things like suicide, anxiety, depression that trans people experience are not inherent to being trans. They're a result of the way that the world treats us and thinks about trans people, the way that everything is structured. So if you just kind of account for the fact that we may pop up, that removes a lot of barriers for us.

John Caher: What a wonderful way to end. Thank you so much, Charlie.