FOREWORD

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The decision of the Supreme Court of Canada in *R.* v. *Stinchcombe* was delivered just over ten years ago. Justice Sopinka, writing for the Court, articulated a process for criminal pretrial disclosure — a process that had previously lacked any formality or uniformity in criminal proceedings. In some measure, *Stinchcombe* represented the judiciary's response to various failings in the criminal justice system, exemplified and documented by the *Royal Commission on the Prosecution of Donald Marshall, Jr.* and criticized in various Law Reform Commission reports preceding the decision. In Alberta and Ontario, the decision certainly revolutionized the Crown's disclosure practices.

In the ten years since the decision was rendered, *Stinchcombe* has been the subject of extensive judicial scrutiny, consideration and gloss. This edition of the *Alberta Law Review* is designed to identify some of the more significant developments and to consider the impact of those developments on the original vision of Sopinka J. Both of the guest editors were, at various stages, involved in the defence of Stinchcombe, from the appeal of the original trial at the Supreme Court of Canada through the third trial. Since Stinchcombe's acquittal on his third trial — following a complicated procedural history surrounding disclosure issues — the guest editors have thought it necessary and desirable that the full story of the facts of the case be told. We have been especially interested in the progress of Sopinka J.'s vision of criminal disclosure as it has been modified, criticized, expanded upon and limited by subsequent decisions and academic commentary.

In the view of the guest editors, the subsequent judicial treatment of *Stinchcombe* has strayed significantly from what was intended and has greatly detracted from the fairness of criminal pretrial disclosure. Rather than rectify the problems that *Stinchcombe* attempted to redress, the subsequent judicial treatment has failed to take *Stinchcombe* seriously and has simply restored many of the original failings in the system. In our opinion, the current state of criminal disclosure enables, rather than prevents, more travesties — as seen in *Marshall*, *Milgaard* and *Stinchcombe*.

Our opinion is not shared by all — in the view of some of the authors in this edition, *Stinchcombe*'s principles are overly broad and have necessitated judicial decisions designed to limit the application of those principles to avoid crippling the criminal justice system and to ensure fair treatment of complainants and witnesses. This issue is intended to identify and promote debate on the key issues separating those competing views. Debate has continued on the desirability of mandated defence disclosure — a question left for future analysis in *Stinchcombe* itself. As well, the law of privilege has come to the fore in recent and current litigation, most notably in Alberta and Quebec. Further, this issue suggests the value of the dialogue and feedback between criminal, civil and administrative procedures. *Stinchcombe*'s impact has not been limited to criminal procedure, but has informed and can continue to inform other aspects of the law. Similarly, the experience and structure of civil and administrative procedures may inform the criminal law and enhance the vision of Sopinka J.