“TEACHING THE ACADEMICALLY UNDERPREPARED LAW STUDENT”
Colonial Frontier Legal Writing Conference
Duquesne University School of Law
December 6, 2014

I. Context

A. The recent thread on the legal writing listserv about student attitudes

B. The attitudes we can anecdotally recognize

C. The arc of this presentation

1. Introduce Dunning-Kruger effect

2. Teaching the overconfident student (& perhaps picking up the pieces)

3. If we have time, institutional causes of student overconfidence

D. What this presentation cannot do on its own but will need audience participation

II. Introduction to Dunning-Kruger effect

A. The hazards of trying to collate information from psychological studies that have a narrow thesis & narrow perspective

B. Drawing broad conclusions as lawyers are wont to do

C. Overconfidence research has been conducted in the past, but went supernova after 1999 when social psychologists David Dunning & Justin Kruger conducted a landmark research project on Cornell students

D. Their overarching conclusions

1. overconfidence is inversely related to competence

2. overconfidence makes one unable to recognize her own incompetence and limits one’s ability to improve performance

3. therefore, the overconfident fail to learn from feedback
4. however, improving metacognitive skills made the incompetent better understand their incompetence

E. Let me explain

1. Overconfidence is a self-assessment of one’s abilities to perform tasks

2. Overconfidence studies typically have students assess their performance or their peers’ performance before or after the tasks

3. Overconfidence in one’s abilities make one unable—or perhaps unwilling—to assess one’s skills accurately

4. Those who are competent are better calibrated in their self-assessments because they know the materials better and even tend toward under-confidence

5. The problem arises because the overconfident persist in their incompetence because they disregard feedback, even when faced with the reality of their poor performance

6. This problem is especially acute in law schools where one of the professional requirements is that lawyers must self-assess constantly because so much of what they do is cognitive

7. Which winds back to Dunning & Kruger’s thesis that, improving metacognition in law students, make them better at self-assessing (although it may not necessarily lead to competence)

III. The students

A. Addressing students’ issues creates a two-fold dynamic

1. The underlying personal reasons for overconfidence

2. And improving their incompetence through teaching methods

B. Selected reasons for overconfidence

1. Gambler’s fallacy: I’m due for a good night
2. Decision consistency: if I have a rule, then I’ll continue to apply it no matter what—choices of rules are too confusing

3. The “better-than-average” effect
   a. especially for students who see their performance in relation to a norm of all students
   b. a self-protective device

4. Social currency in being overconfident: control over group decisions, access to scarce resources, reproductive success

5. Success at earlier educational endeavors

C. Selected strategies for the overconfident student

1. Some will be resistant to change no matter what we do because they don’t WANT to change
   a. Previous education strategies have worked so they have no incentive to change
   b. They’re OK with just getting by
   c. They’ll blame their professors so they don’t have to change

2. Address the personal reasons, if possible

3. Introduce more metacognitive strategies in ALL classes, not just the skills classes in which the resistance is greatest

4. Make them self-regulated learners who MUST self-monitor to succeed

5. Changing the student mindset: Praise student EFFORT rather than ability because effort can be changed

6. Encouraging them to be intentional learners rather than intuitive learners

IV. HOW THE INSTITUTION INSTILLS OVERCONFIDENCE
A. Learning has two components:

1. Retention

2. Transfer

B. Massed training: large lecture classes seduce students into thinking that understanding the concepts from the lecture is the same as retaining the information

C. Use of multiple-choice tests & gaming the system under NCLB

D. Need for more problem-solving & critical-thinking exercises as well as feedback in doctrinal classes: coverage isn’t the problem, using the knowledge is

E. Changing up the classroom & introducing desirable difficulties

V. DISCUSS