WHY WOULD JEH JOHNSON SUGGEST THE DRONE AND/OR TARGETED KILLING COURT WOULD BE BIPARTISAN?

I'll have more to say about Jeh Johnson's skeptical speech on a drone and/or targeted killing court later.

But I wanted to point to this detail:

> Our government finds itself in a lose-lose proposition: it fails to officially confirm many of its counterterrorism successes, and fails to officially confirm, deny or clarify unsubstantiated reports of civilian casualties.
>
> Our government's good efforts for the safety of the people risks an erosion of support by the people.
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> It is in this atmosphere that the idea of a national security court as a solution to the problem — an idea that for a long time existed only on the margins of the debate about U.S. counterterrorism policy but is now entertained by more mainstream thinkers such as Senator Diane Feinstein and a man I respect greatly, my former client Robert Gates — has gained momentum.
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> **To be sure, a national security court composed of a bipartisan group of federal judges with life tenure**, to approve targeted lethal force, would bring some added levels of credibility, independence and rigor to the process, and those are worthy goals.
>
> In the eyes of the American public,

> judges are for the most part respected for their independence.
>
> In the eyes of the international community, a practice that is becoming increasingly controversial would be placed on a more credible footing. [my emphasis]

As I understand it, the model under discussion is simply to give the existing FISA Court the additional task of reviewing kill decisions, not creating a new court.Yet the FISA Court — whose judges are appointed by the Chief Justice of the Supreme Court (and therefore, for the entire life of the FISA Court, by a Republican appointee) — is in no way bipartisan.

Indeed, according to Secrecy News' Steven Aftergood, there is not only no mandate that FISC be peopled by judges appointed by Presidents of both parties, but it is not bipartisan in fact.

> No, there is no such mandate in FISA law or policy. (And I couldn't immediately identify any current FISC court members who were appointed to the bench by Dems.) In fact, in my layman's opinion, the notion of partisan or bipartisan judges is incoherent. Judges are not supposed to be partisan operatives, though they may have identifiably liberal or conservative tendencies.

Moreover, I'm not even sure why Johnson would suggest the Obama Administration would want a drone and/or targeted killing court to be bipartisan. It has done far, far better arguing its expansive understanding of the war on terror in front of mostly GOP nominees on the DC Circuit. The judges who have endorsed the Obama Administration view of its own power include quite a few — like Janice Rogers Brown or Laurence Silberman — who are not exactly "respected for their independence."

I mean, it might be nice to have people like Katherine Forrest or Susan Illston reviewing both targeted killing and wiretapping decisions. But that's not going to happen anytime soon.

So why suggest the existing FISA Court has partisan balance when it doesn't?

Update: bmaz notes that Clinton appointed Mary McGlauthlin, who is currently serving on the FISC.