

## **BARR battle: Obama administration to make more corporate jet data public despite flak**

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### **No more exemptions, says Transportation Department; Chamber of Commerce, jet owners and even ACLU protest**

In the ongoing battle over deficits and the debt ceiling, President Barack Obama has singled out **corporate jet owners** by calling for an end to their [relatively small tax perk](#). But that's not all he's doing to bring highflying executives down to earth: In a move opposed by some traditional allies, the administration is planning to restrict access to a little known program that allows private jets to fly beyond the reach of public scrutiny.

The roots of the initiative go back to the late 1990s, when the **Federal Aviation Administration began releasing air traffic data to the airline industry in hopes of improving management of planes and crews**. Websites soon started posting the flight patterns of commercial planes and private jets using U.S. airspace and federally subsidized airports.

The availability of this data concerned the National Business Aviation Association and other corporate jet lobbies. In consultation with the NBAA, the **FAA created the Block Aircraft Registration Request (BARR) program, which since 2000 has enabled private jets to avoid having their movements tracked – in real-time or after the fact – on commercial websites like [FlightAware.com](#)**. The Obama administration is now planning to severely restrict access to the BARR program, which currently allows 7,000 of the estimated 223,900 active jets to obscure their movements, according to the most recent figures provided by the Federal Aviation Administration.

In a June 3 *Federal Register* notice, the [Department of Transportation announced](#) that the FAA will begin releasing after-the-fact flight data on jet travel on Aug. 2, unless the plane's owner can provide the agency with a "Certified Security Concern" memo explaining why the aircraft's flight patterns should be excluded from the public databases. The application deadline for this designation was Thursday, although jet owners or operators can still have their flight data blocked if they can convince the FAA 30 days in advance of a given trip that there is a "verifiable threat" against the jet. As of earlier this week, the FAA had received some 400 applications.

"A generalized security concern or privacy interest will no longer suffice," the administration explained in the BARR program rule change notice. Citing Obama's Federal Open Government Act,

the Freedom of Information Act, and the lack of a right to corporate privacy, it said the BARR program restrictions would be “in the best interests of the Government and the public.”

Not surprisingly, the change is opposed by NBAA, the General Aviation Manufacturers Association and the Chamber of Commerce. Also objecting, however, are members of the president’s own party and the American Civil Liberties Union (ACLU).

On June 29, Sen. Jon Tester (D-Mont.) [sent a letter](#) to Transportation Secretary Ray LaHood to protest the planned restriction. Six other Democratic members of the Senate’s General Aviation Caucus signed onto the letter, along with Sens. Mark Warner (D-Va.) and Amy Klobuchar (D-Minn.), who are not affiliated with the group. The senators – all from large states with many small airports or states that are hotbeds of aircraft manufacturing – said the BARR program “is essential” to protect business competitiveness and individual privacy and security.

The ACLU agrees that the program “raises privacy concerns,” said Chris Calabrese, its privacy lobbyist, in a phone interview. But he went one step further than the senators: “If you no longer need the data for the reason it was collected, then it should be deleted,” he said, adding that no plane’s flight history should be released to the public.

Journalists are frequent users of the data. Last month, for instance, the *Wall Street Journal* published a story about how corporate executives might be [illegally using private jets](#). By comparing four years’ worth of flight data on jets with the locations of executives’ vacation homes, the paper found that many companies could be misleading investors and the Securities and Exchange Commission about the extent to which the jets were being used for private purposes. Because many of these potentially offending corporations were enrolled in the BARR program, the *Journal* had to file a Freedom of Information Act request to obtain the flight data.

While fighting tax fraud might be a “countervailing interest” in favor of retaining corporate jet flight data, Calabrese of the ACLU said the government shouldn’t just collect info on companies or individuals with “the assumption that it might be useful someday to prove that they’re doing something wrong.”

The Obama administration’s change may still not come to pass, if the NBAA and the Aircraft Owners and Pilots Association have their way. The two jet lobbies have filed a petition for review in the U.S. Court of Appeals in Washington. They claim the restrictions are “unlawful, arbitrary, capricious, an abuse of discretion, and not otherwise in accordance with law.”

The FAA is undeterred. The agency confirmed in an email Thursday that it plans to “proceed with the changes to the BARR Program as scheduled.”

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