

Skyward Surveillance: Navigating the Privacy Concerns of Private Jet Tracking

Adava Jefferson

If you own an iPhone, you more than likely know about the popular Find My feature which allows users to share their location with others.¹ iPhone users can choose between (1) sharing their location once, (2) temporarily sharing their location while on the way to a specified destination, or (3) sharing their ongoing location for an hour, until the end of the day, or indefinitely.² Apple product owners have various reasons for using this feature, but one thing they have in common is the choice of who they are willing to share their location data with, and for how long. Now imagine your Find My data becoming publicly accessible through a few steps. For most people, this likely would not be cause for concern, but for a celebrity with a massive fan following, this could be a fear inducing thought. This hypothetical is not too different from social media user, Jack Sweeney, who used publicly available data to track the private jets of celebrities. In this article I will share a bit more about privacy law in this area, compare the availability of this kind of data outside the United States, and elaborate on the flight tracking social media user.

If you have ever tracked your flight data, or maybe the flight data of a loved one, you know that aircraft data is impressively accurate. In the United States, aircraft data is legally available for tracking in real-time.³ This is because experts believe it is necessary for safety and efficiency.⁴ While there are multiple websites you can use to track commercial flight data, this information is also available to virtually anyone willing to do the work.⁵ This same data that is available for commercial flights is also available for private planes owned by celebrities and other public figures.⁶ In order to track an aircraft, data must be pieced together from different publicly available sources like registration information from the Federal Aviation Administration (FAA), and broadcast signals known as Automatic Dependent Surveillance-Broadcast (ADS-B), which are required by the FAA.⁷ ADS-B is “an advanced surveillance technology that combines an aircraft’s positioning source, aircraft avionics, and a ground infrastructure to create an accurate surveillance interface between aircraft and ATC” (Air Traffic Control).⁸ The equipment needed to pick up this data is relatively cheap and available to practically anyone.⁹ With all these different sources of information, those dedicated to aviation have the ability to track private and commercial flights.

¹ *Share Your Location With iPhone*, APPLE (Nov. 17, 2023), <https://support.apple.com/en-us/105104>.

² *Id.*

³ Jeanine Santucci & Christopher Cann, *Taylor Swift Doesn't Want People Tracking Her Private Jet. Here's Why It's Legal*, USA TODAY (Feb. 7, 2024, 3:26 PM), <https://www.usatoday.com/story/news/nation/2024/02/07/tracking-data-for-taylor-swifts-jet-location-is-public-heres-why/72507706007/>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Automatic Dependent Surveillance - Broadcast (ADS-B)*, FED. AVIATION ADMIN., https://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afx/afs/afs400/afs410/ads-b (last updated Feb. 10, 2023).

⁹ Santucci, *supra* note 3.

ADS-B data is required in aircrafts operating in 48 states and within airspace at or above flight level 100.¹⁰ Flight level is an aircraft's altitude, at standard pressure, in hundreds of feet. For Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands, ADS-B is required at or above flight level 180.¹¹ While there are exemptions to this requirement, they are not very common.¹² This kind of data is required in the United States, however, that requirement is not the same for other countries. In Europe, ADS-B is mandated for all aircrafts that are instrument flight rule flights, between a certain weight, and at a certain airspeed.¹³ Conversely, countries like China and Colombia have broader requirements, at flight level 290 or above, and for all flights in the airspace, respectively.¹⁴ While requirements for ADS-B data vary from country to country, there are also differing opinions within the United States, with calls for preventing flight tracking for private aircrafts.

While there are requirements to provide ADS-B data, the FAA and Congress have made sure to provide jet owners with a way to opt-out of real-time data sharing if they have safety and privacy concerns.¹⁵ This alternative system assigns a temporary International Civil Aviation Organization (ICAO) aircraft address which is not assigned to the owner of the aircraft in the Civil Aircraft Registry (CAR).¹⁶ Private aircraft owners may also utilize a Limiting Aircraft Data Displayed (LADD) system provided by the FAA to minimize access to their flight data by internet subscribers.¹⁷ This method can be utilized by using the FAA website, by sending an email, or by sending a letter to the agency. While these systems may be enough for some, there are still more concerns from private aircraft owners.

In recent news, a flight tracker, Jack Sweeney, received a cease and desist letter from Taylor Swift's legal team due to his tracking of her flights.¹⁸ In this letter, Swift's attorneys stated his conduct "poses an imminent threat to the safety and wellbeing of our client."¹⁹ While Sweeney's Instagram posts claim the tracking is done to track Swift's carbon footprint, her legal team says it has caused Swift to live in a constant state of fear.²⁰ Curiously, this is not Sweeney's first confrontation with a celebrity concerning his flight tracking. In 2022, Elon Musk offered Sweeney \$5,000 to stop posting his plane's location, to which Sweeney countered for \$50,000.²¹ When Musk bought X, formerly Twitter, he banned Sweeney's account from the platform.²² Sweeney then returned with a 24-hour delay on information which is allowed under the

¹⁰ Jason Davidson, *ADS-B Update 2023 – Where Are We Now?*, UNIVERSAL WEATHER & AVIATION, INC. (Apr. 10, 2023), <https://www.universalweather.com/blog/ads-b-update-2023/>.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Santucci, *supra* note 3.

¹⁶ *ADS-B Privacy*, FED. AVIATION ADMIN., https://www.faa.gov/air_traffic/technology/equipadsb/privacy (last updated Feb. 2, 2024).

¹⁷ Jeff Wieand, *How Private Jet Tracking Happens and How You Might Stop It*, BUS. JET TRAVELER, <https://www.bjtonline.com/business-jet-news/how-private-jet-tracking-happens-and-how-you-might-stop-it> (last visited Feb. 22, 2024).

¹⁸ Etan Vlessing, *Taylor Swift Lawyers Send Cease-and-Desist Letter to Jet Tracker*, HOLLYWOOD REP. (Feb. 7, 2024, 1:59 PM), <https://www.hollywoodreporter.com/news/music-news/taylor-swift-cease-and-desist-letter-jet-tracker-1235818800/>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Chris Isidore, *Elon Musk Jet-tracking Account Moves to Twitter Rival Threads*, CNN BUS. (July 10, 2023, 1:31 PM), <https://www.cnn.com/2023/07/10/tech/elon-musk-jet-twitter-threads/index.html>.

²² *Id.*

guidelines of X.²³ After receiving the cease and desist letter from Swift's attorneys, Sweeney responded with attorneys of his own, who said their client "is 'not going to buckle.'"²⁴ Legal experts have chimed in to say nothing Sweeney is doing with the information is illegal, and that the way for Swift's legal team to win is by prevailing on stalking charges.²⁵ While there is no clear case law to demonstrate what will happen in this case, keeping an eye on headlines will likely produce an answer.

Flight tracking capabilities, while impressive, also pose a risk to those who own private aircrafts. Aviation experts believe this ability is necessary for safety, but that poses the question of whose safety is most important, public figures, or citizens who need access to flight data. Some may argue celebrities chose a life of fame which involves being watched and tracked all the time, while others may believe that fame is no excuse for a lack of privacy. If the Swift cease and desist letter leads to further legal action against Sweeney, this may result in a change in availability of flight data for privately owned aircrafts. If not, there may be an emergence of more flight tracking accounts, like Sweeney's.

²³ *Id.*

²⁴ Shafiq Najib, *Lawyer of Student Who Tracks Taylor Swift's Private Jet Says His Client is 'not going to buckle'*, ABC NEWS (Feb. 21, 2024, 7:34 AM), <https://abcnews.go.com/GMA/Culture/lawyer-student-tracks-taylor-swifts-private-jet-client/story?id=107390249>.

²⁵ *See Id.*