

## FREQUENTLY ASKED QUESTIONS

### RIGHTS OF AMERICAN INDIANS BORN IN CANADA

**1. If I was born in Canada, am I a U.S. citizen?**

If you are an American Indian born in Canada you are *not* automatically considered a U.S. citizen. You may be able to derive citizenship from one of your parents if either was born in the United States and meets certain requirements.<sup>1</sup>

**2. I thought the Jay Treaty protected my rights?**

The Jay Treaty provides that “Indians dwelling on either side of the said Boundary Line [to] freely pass and repass by Land, or Inland Navigation, into the respective Territories and Countries of America . . . “ It was codified in the Immigration and Nationality Act (INA) (8 USC § 1359). The INA provides that American Indians born in Canada with at least 50 percent blood quantum of the American Indian race are entitled to work, study, and/or live in the U.S. The Saint Regis Mohawk Tribal Council, as a co-chair of the [Jay Treaty Border Alliance](#), have been advocating for over 10 years for legislation that would remove the blood quantum requirement from the INA.

**3. How can I access my rights?**

In order to access your rights through the Creation of Record process, you must provide:

- A copy of long form Canadian birth certificate;
- A copy of valid government issued photo identification;
- U.S. address that you are registered to receive mail at for purposes of receiving the LPR card;
- Four (4) passport style photos; and
- Documentation to establish membership, past or present in each Band or tribe for yourself and every lineal ancestor through whom you derived the required percentage of American Indian blood. This documentation must come from the official tribal government or from the Aboriginal Affairs and Northern Development Canada (formerly INAC). In Akwesasne, a letter from the Tribal Clerk with blood quantum is accepted.

If you wish for the date of the Creation of Record to be retroactive, you may also supply U.S. school records with your application.

**4. Will I receive a lawful permanent resident card?**

After an applicant completes the Creation of Record process, you will receive a lawful permanent resident card that has an “S-13” code that is specifically for American Indians. Once you receive the card you may apply for U.S. citizenship, there is no waiting period.

**5. What are the benefits to creating this record?**

You will be able to obtain REAL ID, a commercial driver’s license, be eligible for federal funding for post-secondary education. For the education component you are considered an “eligible non-citizen” of the United States.

**6. Who do I contact?**

You may visit the U.S. Customs and Border Protection (USCBP) Massena Port of Entry (POE), where the

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<sup>1</sup> For anyone who is under 18 years old, you may apply for a Consular Report of Birth Abroad. Find instructions here: <https://travel.state.gov/content/travel/en/international-travel/while-abroad/birth-abroad> For anyone under 18, you may find information here: <https://www.uscis.gov/citizenship/learn-about-citizenship/i-am-the-child-of-a-us-citizen#> For anyone over 18, you may find information here: <https://www.usa.gov/citizenship-to-us-parent#>

***Note:*** While the Creation of Record process is means to access your rights and privileges in the United States, it is not endorsed by the Saint Regis Mohawk Tribal Council.

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officers will assist you. There is no fee associated with it if you visit the Massena POE. The contact information for the USCBP Tribal Liaison is below. If you do not live locally the Tribal Liaison may arrange for you to meet with another officer.

Tracy S. Casey  
Chief Customs and Border Protection Officer/Tribal Liaison  
Massena Port of Entry  
30M Seaway International Bridge  
Rooseveltown, NY 13683  
Office: (315) 268-7430 ext. 7442

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