Last winter, lawyers for a group of illegal immigrants who were bereaved or injured by the World Trade Center attack approached a federal prosecutor with an unusual proposition.

The lawyers knew the prosecutor was looking for compelling testimony from survivors to persuade a jury to choose the death penalty for Zacarias Moussaoui, the only defendant awaiting trial in an American court in connection with the attacks. And they were hoping for something in return for the immigrants: the prosecutor's certification that they were being helpful, the first legal step toward a little-known temporary U-visa for crime victims that could let them stay and work lawfully in the United States.

The prosecutor, assistant United States Attorney David Novak of the Eastern District of Virginia, made no promises but arranged to conduct two days of interviews with 14 immigrants at a suite in a Midtown Manhattan hotel.

Admitting to a federal official that they were here illegally was a difficult decision for the immigrants, some bereaved, like the three Mexican men who spoke of losing their youngest brother and roommate, a 22-year-old assistant cook at Windows on the World. Others were ailing workers who had escaped the towers' collapse, like a 50-year-old chef from Trinidad who told of being trampled in the stairs, choking on toxic ash and suffering health problems and mental anguish ever since.

But the lawyers' bold move may have backfired. In the end, the prosecutor named only 3 of the 14 as helpful. The others will not be able to apply for the special visa, and having exposed their illegal status to a federal official, fear deportation. And now advocates for battered women, who championed the special visa, worry that the episode could undermine it.

The prosecutor's actions have thrown new light on a little-known aspect of federal immigration law, enacted before 9/11 to protect immigrant victims of crime and to aid law enforcement. The law, passed by Congress in 2000, allows up to 10,000 three-year U-visas to be issued annually to victims of crimes in the United States like domestic violence, rape, sexual exploitation, involuntary servitude, murder, attempted murder and felonious assault.

But the law has never been carried out with regulations, and only recently have 530 of 868 visa
applicants even gotten past the first stage of approval, winning interim relief from deportation. Now lawyers for the Trade Center survivors, who thought their case would help advance the special visa process, charge that the prosecutor acted arbitrarily in deciding which of the 14 immigrants had suffered enough, undermining the law's purpose.

The lawyers, who work for the Urban Justice Center in Manhattan, contend that in withholding the certification needed to apply, Mr. Novak exceeded his authority and cherry-picked the witnesses who best suited his prosecution, contrary to the law's intent. "Under the law, being helpful is to come forward and give information to law enforcement -- it doesn't have to be the perfect information for the prosecutor's needs," said Andrew Kashyap, one of the Urban Justice Center lawyers.

Through a spokesman, Mr. Novak and the Justice Department said that there was a never a promise of a "quid pro quo" as a result of the interviews and that only a few of the immigrants qualified.

"The remaining claims did not meet the criteria set forth in the Victims of Trafficking and Violence Protection Act," said Richard Shults, the Justice Department spokesman, in a written statement, referring to the U-visa law. After consulting with the Homeland Security Department, Mr. Novak took on the responsibility of deciding whether the applicants satisfied all the criteria listed in an October 2003 department memo, the statement says.

That memo gave the job of evaluating applications to specially trained agents in its Citizenship and Immigration Services unit in Vermont. Besides certification that a crime victim "has been helpful, is being helpful or is likely to be helpful" to an official investigating or prosecuting the crime, applicants must show that the crime caused them to suffer "substantial physical or mental abuse," and felons are not eligible.

Leslye Orloff, an expert on immigrant victims of domestic violence who spent years working on the law with its bipartisan Senate sponsors, said judging whether the physical or mental abuse from the crime was substantial enough for a U-visa should be up to immigration authorities in the Vermont unit, not a federal prosecutor. In New York, local prosecutors and the police have used certification to encourage victims of domestic violence to come forward, leaving further evaluation to trained gatekeepers at Citizenship and Immigration, she said.

"What troubles me about this is having this prosecutor say he's supposed to decide the whole question," Ms. Orloff said. "If all the prosecutors take this position, lots of victims won't get helped, and lots of perpetrators won't get prosecuted."

Mr. Novak granted certification to Kumar and Amish Sattaluri, the ailing husband and traumatized 10-year-old son of a computer systems analyst from India who died on the 99th floor of the north tower. But he denied it to the Trinidadian chef, who fled from a breakfast room on the seventh floor and who says the lasting effects have left him unable to work to support his three children.

The prosecutor certified Hadidjatou Karamoko Traore, the widow of a chef from Ivory Coast, who breaks down when she repeats her 5-year-old son's question, "Why did the bad guys kill my daddy?" But he denied certification to Gonzalo M., who chokes up when he describes his frantic rush to the burning tower where Martin, his youngest brother, had reported for work that morning.

"We feel like we lost part of us in this country," said Mr. M., the oldest of the three surviving brothers working in New York, who spoke on condition that his last name not be published. "If we leave from this country, we are never going to feel O.K."
Mr. Sattaluri echoed the sentiment. "If I go back, I feel like I'm leaving my wife here alone," he said. "My personal opinion is everybody affected by the tragedy is the same. I think a legal status should be given to everyone."

Among the displaced workers denied certification by Mr. Novak were several whose stories would probably be less compelling to a jury weighing the death penalty than that of a widowed father and little boy. They included a Peruvian cashier who has received a diagnosis of depression since her terrified flight from the basement of the south tower, and a traumatized Mexican deliveryman who saw the first plane hit as he emerged from the trade center, and suffered back injuries when a mob escaping the debris pushed into the deli where he worked.

But Veronica Gimenez, a coordinator at the Restaurant Opportunities Center, an immigrant labor organizing group that gathered the survivors and sought legal help, said such distinctions were wrong.

"It isn't fair for him to use his own definition of victims," she said, "or to feel that someone who has a traumatized disorder isn't as much of a victim as someone who lost his arm, say."

Ms. Orloff, who directs the Immigrant Women Project of Legal Momentum, said the law's intent was to help bring to justice those who victimized illegal immigrants and silenced them with threats of deportation.

"There are a lot of good people in the Department of Homeland Security who are working on this and understand the issues," she said. "I'm concerned that this one case could reframe the regulation discussion in a way that could harm other victims -- the victims the law was first designed to help."

Ms. Orloff blamed the reorganization of immigration under Homeland Security as well as the anti-immigrant political climate after 9/11 for the delay in issuing U-visa regulations. But she said the special unit handling interim relief was doing a good job in the meantime.

The Vermont immigration unit has not been a rubber stamp. It rejects about 25 percent of certified applications for interim relief, Ms. Orloff estimated. At the same time, given the high profile of a 9/11 prosecution, she added, she understands why the Moussaoui prosecutor might have assumed more responsibility than the law intended for vetting the 14 would-be applicants up front.

Perhaps the most skeptical view of the jockeying by and for victims is that of Frank W. Dunham Jr., the chief federal defender in eastern Virginia, who represents Mr. Moussaoui.

"The judge who is the gatekeeper on this kind of stuff is not going to let every victim on the face of God's green's earth testify in this case, even if they wanted to," Mr. Dunham said. "The prosecutors have spent a fortune, a king's ransom, in an effort to determine which would be the most effective."

Yet whether any victim will get to testify in the Moussaoui case remains uncertain. Such testimony could only be used in the sentencing phase of a death penalty trial, Mr. Dunham said. No trial date has been set because of conflicting court rulings on whether the government would be allowed to seek the death penalty while barring the defense from questioning witnesses who have been determined to be illegal combatants against the United States.

Photos: Hadidjatou Karamoko Traore, whose husband died on Sept. 11, at home in the Bronx with two of her children, Souleymane, left, and Siaka Hassan. She has taken the first legal step toward a special visa to let her stay in the country. (Photo by Nicole Bengiveno/The New York Times)(pg. B1); Kumar
Sattaluri, who lost his wife, Deepika, a computer systems analyst with Marsh McLennan who died in the north tower, with his son, Amish. (Photo by Dith Pran/The New York Times)(pg. B8)