


# Former DCS bosses benefited from Bosasa corruption, Zondo finds

 By Valencia Talane

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Former national commissioner of the Department of Correctional Services (DCS) Linda Mti and former CFO Patrick Gillingham will have to face investigations under the Prevention and Combating of Corrupt Activities Act (Precca), as well as potential prosecution for their role in the corrupt contracts awarded irregularly to Bosasa from 2004.



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## Avoiding self-incrimination

The state capture commission recommended this in the third instalment of its report, having assessed the evidence against the pair, which both failed to defend when they refused to testify, citing fear of incriminating themselves. The commission issued Mti and Gillingham with subpoenas following the explosive evidence of Bosasa's former COO Angelo Agrizzi in January 2019. The two responded through their legal representatives that they had suffered undue prejudice from the commission's investigators, and wished to invoke the privilege of not giving evidence in order to not incriminate themselves in the criminal trial that followed shortly after Agrizzi's testimony.

Agrizzi revealed details of how Gillingham would help Bosasa by alerting the company to tenders that the DCS intended to advertise and later drawing up specifications for these tenders, to give Bosasa an advantage over competing bidders. In return for this, Bosasa advanced numerous favours towards him and his family, including property, cars, and holidays, in addition to regular cash payments.

## Tender rigging

"Concerning the first catering contract, the evidence of Mr Agrizzi and [the late former Bosasa executive] Mr [Frans] Vorster was that Mr Gillingham played an integral role assisting Bosasa in corruptly being given the opportunity of developing the tender specifications for this contract and tailoring them to suit and advantage Bosasa as one of the

tendering parties,” commission chairperson and Acting Chief Justice Raymond Zondo notes in the report.

“This evidence is corroborated by the findings in the SIU report which records that during a search and seizure operation at Mr Gillingham’s residence, a document containing the bid evaluation criteria and guidelines for evaluating this tender was found and this data was determined to have originated from Mr Agrizzi’s computer.”

Mti’s role, the commission found, was to oversee the corrupt practice, and to organise protection against detection and even prosecution from the National Prosecuting Authority.

“There is *prima facie* evidence that called for an answer from Mr Mti. The evidence is sufficient to make adverse findings against Mr Mti.

## Payments

“Cash payments were made to Mr Mti in exchange for his facilitation of the unlawful award of tenders to Bosasa. In addition, Mr Mti was provided with funding to purchase luxury clothing items. Mr Agrizzi’s evidence on the amounts paid to Mr Mti and the type of goods purchased for Mr Mti was not superficial, and the level of detail provided presents a compelling basis for establishing that Mr Mti received these benefits.”

Bosasa also paid for furnishings to Mti’s home, Zondo concluded, as well as security upgrades to his home. “Mr Vorster’s evidence regarding the purchase of a Volkswagen Touareg V8 for Mr Mti demonstrated that it coincided with the timing of the awards of the access control contract (in April 2005) and the fencing contract (in November 2005) to Bosasa. An inference can therefore reasonably be drawn that the vehicle was intended to be a quid pro quo for Mr Mti’s facilitation of the securing of these contracts.

“As a general observation in respect of the catering contracts, the undisputed evidence of Mr Agrizzi is that the benefits given to Mr Mti and Mr Gillingham ... were linked to the award of the catering tenders at the DCS. There is no evidence to suggest that there was a lawful basis for the benefits provided to Mr Mti and Mr Gillingham, nor did they come forward to offer one.”

## Corruption trial

Both Mti and Gillingham are currently on trial for fraud and corruption charges relating to the four contracts that Bosasa was awarded for different services. The accumulative value of the contracts in question is R1.8bn. Agrizzi is among the former Bosasa staff who are co-accused in the case.

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Valencia Talane is a senior journalist and editor with Corruption Watch in Johannesburg. Talane has followed the hearings of the state capture commission since their commencement in August 2018 with a view to documenting evidence shared therein.

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