

# Keith Foster's criminal case roils Fresno city government

By George  
Hostetter

- *Union chief Jacky Parks says Fresno Police Auditor Rick Rasmussen missed a golden opportunity by failing to interview rank-and-file cops before writing a report on the Police Department.*
- *Rasmussen says Parks isn't his boss, adding that the report was vetted through proper channels.*
- *This is the latest but not the only twist in events surrounding former Deputy Police Chief Keith Foster.*

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Fresno officials are busy trying to turn the police auditor's ideas for improving the Fresno Police Department into deeds.

But just about everything else at City Hall connected to the arrest of former Deputy Chief Keith Foster on federal drug-trafficking charges is turning into political theater.

Foster was arrested March 26 and subsequently pleaded not guilty. He is among seven people named in the federal indictment.

Tuesday, Police Auditor Rick Rasmussen jumped in the middle of the issue with the release of his quarterly report. It included a heavy dose of perspective on the Foster case and seven recommendations designed to restore public trust in Fresno police.

Jacky Parks, head of the cops union, says Rasmussen's report is very nearly a failure because it makes no mention of the Police Department's need for more cops and new equipment.

Parks even suggests the Foster trouble never would have happened if Rasmussen had been on the ball.

Rasmussen says Parks isn't the boss.

Chief Jerry Dyer says any suggestion lacking sufficient prudence that the arrest of the city's No. 2 cop reflects poorly on the department only harms the fragile bond between police and citizens.

The chief at the same time says he's acting on Rasmussen's suggestions.

E. Marshall Hodgkins, Foster's lawyer, says he knows for a fact that federal agents are focused big time on the Fresno Police Department.

As to details of what exactly that means, Hodgkins says only that they will soon emerge.

City Council members for the most part said they haven't had enough time to closely read the police auditor's report. There's been no council meeting since April 9.

Here's a brief look at several of the Foster-related events of the past week.

Parks: Call us

Parks, president of the powerful Fresno Police Officers Association, says there are big problems with Rasmussen's report.

“There is nothing in his report that references us,” Parks says. “There’s no point of view from the FPOA. He’s supposed to meet with us, but he doesn’t. We could be providing a lot of information that is extremely important to our members.”

Rasmussen’s report, among other things, recommends a review of hiring practices, an inspection of department units by an outside expert and more training on ethics.

The recommendations are designed to reassure the public that everything possible is being done to ensure the Foster incident doesn’t happen again.

Parks says he and his members were shocked by the allegations (conspiracy to distribute marijuana, oxycodone and heroin) against Foster. But, Parks adds, Rasmussen’s recommendations are largely irrelevant if the goal is to nudge City Hall bureaucracy toward improved public safety.

If the department is struggling, Parks says, it’s “because of the position we’re currently in. We’ve been trying to get people’s attention for years. We have old equipment. I’m driving a patrol car with 199,000 miles. We have no money for bullet-proof vests — I have an expired bullet-proof vest. We have no money for ammunition. These are basic functions of every police department.”

Parks says a department with nearly 850 sworn officers in 2008 now has barely 700. Officers face constant pressure to improve response times in spite of fewer resources. He says officers have challenges as they weave new technologies, such as body cameras, into their duties.

Parks says Rasmussen’s report should have focused on these issues, not things like a review of the department’s alcohol/drugs policy.

He notes that several officers besides Foster have gotten in trouble with the law since Rasmussen became police auditor in 2012.

Rasmussen’s job “is to provide recommendations to prevent incidents before they happen, not after,” Parks says.

Parks has two suggestions of his own.

He says Rasmussen should call FPOA.

“We’ve always said we’d be available to him,” Parks says.

And, Parks adds, city officials need to evaluate whether Fresno really needs a police auditor.

“We still feel the money is better spent someplace else,” Parks says.

Rasmussen: Know your role

Rasmussen was a man of few words when he was introduced as Fresno’s second police auditor in September 2012.

“I’m honored to be here,” he said.

Rasmussen again embraces the power of brevity in responding to Parks.

“Jacky is not in my chain of command,” Rasmussen says.

Rudd and Mayor Ashley Swearingin, the only two in that chain, promised Fresno at a news conference last month that Rasmussen would address the Foster incident within two to three weeks.

Rasmussen’s report was full of props for a Police Department that is consistently improving. For example, he praised the department for efforts to reduce officer-involved shootings. The last such incident was Oct. 20, 2014. Rasmussen

noted that the department for several years had been averaging about one per month.

Rasmussen says the report was vetted through proper channels, including Dyer's office, before being released to the public.

He would be happy to meet with Parks, adding that he hasn't made the first call because the public might view that action with skepticism since the police auditor is to be independent.

But, Rasmussen says, "phones work in both directions."

Rasmussen served nearly 22 years with the FBI. He was in the Air Force for nine years. He is a graduate of the Air Force Academy. He says he has the highest respect for the men and women of the Fresno Police Department.

Rasmussen says these are tough times for law enforcement throughout America. The trust between officers and citizens is fraying in many places. The Foster incident, if left unattended, could do the same in Fresno.

"I'm trying to fix that," Rasmussen said. "I'm sorry if Jacky thinks I'm taking a poke at him."

Dyer: Lots of excellence

Dyer is moving fast on Rasmussen's recommendations where he can.

Several involve labor-contract issues. For example, Rasmussen suggested it might be wise if Fresno officers applying to become supervisors were to fill out a financial disclosure form. FPOA would need to weigh in on this.

These recommendations will take time if they are to be implemented, Dyer says.

Other recommendations are easier. For example, Dyer says he has contacted an expert in the law-enforcement world to create a comprehensive training course on the importance of character as well as ethics. Dyer says sworn and non-sworn employees would be required to take the course.

But, Dyer adds, his big worry is that the Foster incident will be sensationalized by the media to the detriment of his department and its relationship with Fresnoans.

"I feel, as police chief, energized, optimistic and proud of the accomplishments of the Fresno Police Department," Dyer says. "I want to make sure that this agency is not defined by the actions of one individual who chose to violate the law."

Dyer points to statistics in the department's 2014 annual report. He notes that violent crimes dropped from 3,897 in 2005 to 2,382 in 2014. The number of total crimes fell from 29,691 in 2005 to 23,742 in 2014. Traffic collisions dropped more than 40% from 2002 to 2014.

The department did all this while surviving the Great Recession and moving aggressively into the digital age, Dyer says.

Dyer is critical of a Bee article on the Rasmussen report that described Foster's situation as a "spectacular fall" and a goal of the seven recommendations to right a department that is "badly listing."

Dyer says Foster's fall is self-evident. He says there's no "listing" in his department.

"I believe the citizens of this community have every right to question how this occurred, why it occurred and what's going to be done to make sure it doesn't occur again," Dyer says. "But at the same time, I do get concerned that if the accounting of this in the media is given a certain tone, it could serve to unfairly taint the entire organization to where we lose the support and confidence and trust of our citizens, which is what we have to have if we're going to operate. There is a balance I'm hoping for. I don't fault anybody for the reporting on Foster. I do question at times how it's

reported.”

Hodgkins: Outside looking in

Hodgkins, the criminal defense attorney in Foster’s corner, has been fighting legal battles for nearly 40 years.

“I have never seen anything like the media fever that is around this case,” Hodgkins says. “Different parties are apparently fighting for their political life. So, you never know what’s going to come out of them. This is a new realm for me. I’ve never dealt with this before.”

The last statement might be a bit of poetic license. Hodgkins made his considerable reputation by defending cops in sticky situations.

The case against Foster (who has resigned from the Police Department) is complex. There are 32 counts in the indictment. There are six other defendants. Foster is free, but four defendants are still behind bars. Two of them reportedly are Foster’s nephews.

The criminal complaint says the feds conducted an investigation “into the Foster drug trafficking organization.”

Hodgkins is cautious with his comments, saying he’ll do nothing to undermine Foster’s case. Hodgkins also notes that he admires Dyer.

But Hodgkins pulls no punches when discussing the general lay of the land that is the Keith Foster drama:

- “I’m perhaps the only person in this entire situation who is not a politician. There is a tendency from those people who are politicians to want to control the way certain things come out. They are much more learned than I am in how to do something like that. Their purpose is, before the media even asks the questions, to cut them off at the legs and say, ‘But we’re OK. Everything is OK within the department.’ It’s not OK in the department. I’ve been around that department and representing police officers for 30 years. For anybody to suggest that there are not issues that need to be dealt with in that department is wrong.”
- “When he (Rasmussen) says we need need to look at the promotion process, my answer to that is: “You bet. Good for you.’ Because there is a tendency generally in law enforcement, not just in the Fresno Police Department, to promote those that you grew up with in the department.”
- “The feds, they’re a cherry-picking system. That’s not a derogatory term. They decide what they want to put their resources on, and they go for it. I’ll tell you right now, the resources are being focused on the Fresno Police Department by the FBI. It’s as simple as that.” Details “will come out relatively soon.”

Rudd: Support for auditor

City Manager Bruce Rudd says the police union has it wrong about Rasmussen and the office he heads.

“I don’t by any stretch of the imagination see the Office of Independent Review as a failure,” Rudd says. “Rick’s work will continue to support the goal, which is improvement of the Fresno Police Department.”

Rudd says improvement means change. He says that’s nothing new for officers in a department that has excelled during very tough times.

“Change is going to happen,” Rudd said. “They have been able to adapt very well.”

The Foster incident and the Rasmussen report don’t immediately affect the City Council. That could change if Foster goes to trial. It almost certainly will change when budget hearings begin in June.

Several council members said they’ve read the report.

“Trust is fundamental for public safety,” Council Member Esmeralda Soria said. “Restoring that trust for our community is very important. These recommendations are part of rebuilding that confidence.”

Council Member Lee Brand says he values Rasmussen’s opinion.

“He’s been there,” Brand said

People’s views: 2 sides

What do the people think of the Foster incident and the Rasmussen report?

Ellie Bluestein is a member of the Central California Criminal Justice Committee. Al Smith is chief executive of the Fresno Chamber of Commerce.

Both are longtime activists in Fresno’s civic society. They and their organizations have been known to see public issues very differently.

“Why wasn’t this done years ago?” Bluestein says of Rasmussen’s recommendations. “What was the chief doing all that time? Isn’t that what an administrator does?”

Dyer has said he had no idea Foster was in any sort of personal difficulty.

“It’s totally unbelievable that he didn’t know,” Bluestein says.

Smith says the business community is proud of the police department and its leadership. At the same time, he says, the Foster arrest “shook to the core a lot of us.”

Smith says reports of Foster’s rather lavish lifestyle at a point in his life are perplexing.

“It is interesting to me how Mr. Foster lived so high and mighty, luxuriously it seemed to be, without that being thought of by those who were close to him,” Smith says. “I don’t know the answer. I don’t know if any charges should be made against anybody.

“But the idea that that existed is something that has confounded me since this thing began.”

Contact George Hostetter: [ghostetter@fresnobee.com](mailto:ghostetter@fresnobee.com), (559) 441-6272 or [@GeorgeHostetter](https://twitter.com/GeorgeHostetter) on Twitter.