

INVESTIGATIVE REPORT

Date: June 30, 2020

To: Phyllis Vetter
General Counsel and Vice President

Mark Harlan
Athletics Director

From: Husch Blackwell LLP

Re: Report of Independent Investigation of Misconduct Allegations

The University of Utah (the “University”) retained Husch Blackwell LLP to conduct an independent investigation into the use of a racial slur in 2013 by Defensive Coordinator Morgan Scalley (“Scalley”).

SCOPE OF INVESTIGATION

Husch Blackwell investigators conducted interviews with 35 individuals, including 23 current and former members of the football team and 15 current and former employees and football program consultants. The investigators also contacted nine current and former players and one former employee who did not respond to requests or declined to participate in the process.

During the investigation, an email communication was sent to all former and current defensive backs associated with the football program notifying them of the investigation and providing them with an opportunity to report concerns and speak with the investigators.

In addition to conducting interviews, the investigators reviewed records provided by the Full Circle Group regarding team leadership retreats.

The investigation focused on the nature and extent of Scalley’s potential misconduct, including whether the racial slur used in 2013 was an isolated incident or part of a broader pattern of racially offensive comments or conduct. The investigators also asked all investigation participants about the culture within the football program.

SUMMARY OF INFORMATION GATHERED

The following is a summary of information provided to the investigators.

Allegations Regarding Scalley

- Scalley acknowledged that he inadvertently texted a racial slur to a recruit in 2013 while exchanging texts with another coach. The coach’s recollection of that event is consistent with Scalley’s.

- Almost all the current and former student-athletes interviewed described being “shocked” when they learned about Scalley’s use of the racial slur from media reports. Most of the current and former student-athletes interviewed did not report ever hearing Scalley or any of the other coaches use racial slurs or make derogatory comments. Numerous student-athletes explained that they do not view Scalley as racist.
- Two former student-athletes reported that, prior to 2013, Scalley used the words “Black ass” when addressing a player during practice. The former player was interviewed and confirmed the use of the words during the 2012 football season but described a different fact pattern than described by the other two student-athletes. Scalley denied this allegation.
- Several former student-athletes reported Scalley making comments about their hair, appearance, or clothing that they believe implicated racial stereotypes and demonstrated a lack of interest in understanding them. Scalley denied treating any of his players differently due to race.
- Most of the student-athletes interviewed described having a positive relationship with Scalley. He was characterized as a tough coach who pushes players hard on the field. Student-athletes also described him as aggressive, emotional, and someone who cares about his players.
- The employees interviewed agreed that Scalley is known for being a tough coach who holds players accountable. Members of the coaching staff described him as direct, loving, smart, firm, knowledgeable, and intense. He was also described as someone who jokes around and likes having fun.
- Several coaches and former and current players said Scalley can be intimidating and intense in his coaching style. It was reported that Scalley yells frequently and may verbally attack the players before apologizing. Scalley denies that he verbally attacks players.
- One former student-athlete alleged that, prior to 2013, Scalley used the N-word toward him at practice. Three former student-athletes stated that the former student-athlete informed them of this allegation while they were on the football team. None of the former student-athletes interviewed about the alleged incident said they observed it. None of the coaching staff, including Head Coach Kyle Whittingham, or leadership consultants were previously aware of or could corroborate this allegation. Scalley denied the allegation.
- One employee alleged during his interview, and two other employees corroborated, that Scalley made a racist “joke” regarding Polynesians and Native Americans at practice in 2018. Scalley admitted telling the “joke.”

- Scalley stated that his players are not just names to him. He provided numerous examples of players from all backgrounds with whom he has had a close relationship and whom he has mentored athletically, academically, and personally.

Information Regarding Football Program Culture

- The current and former student-athletes interviewed were uniform in their praise of the culture within the football program. Multiple student-athletes remarked on the team's diversity and said there have been no racial issues or tensions. Numerous student-athletes described the team as being a "family environment," praised their strong bonds and friendships, and said the players were like brothers to one another.
- One former student-athlete observed that even though the team's diversity was the best part of being on the team, the coaches had a "learning curve" because they "were not used to a lot of minority players." One employee shared his belief that some players had difficulty adjusting to the culture, whether it was the coaches or Utah in general.
- A diverse group of coaches and administrators praised the program's culture, describing it as very positive and something about which they take great pride. Several individuals commented on the diversity of the program, noting that it is one of the most diverse in the country.