

Cr213(revised) Motive

A defendant's "mental state" is not the same as "motive." Motive is *why* a person does something. Ordinarily, motive is not an element of a crime. As a result, the prosecutor generally does not have to prove why the defendant acted (or failed to act).

A motive or lack of motive may help you determine if the defendant did what [he][she] is charged with doing and, if so, what [his][her] mental state was at the time.

Note: There are a few offenses where motive is an element. *See e.g.*, Utah Code Ann. §§ 76-2-202(1)(g)(Aggravated Murder); 76-5-302(Aggravated Kidnaping) or 76-8-508.3(Retaliatiion Against a Witness, Victim or Informant). In those cases this instruction should not be given as it would likely cause jury confusion when later followed by an elements instruction that includes motive.