

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

DEWAYNE JOHNSON,

Plaintiff,

vs.

Case No. CGC-16-550128

MONSANTO COMPANY, et al.,

Defendants.

-----/

Proceedings held on Monday, July 30, 2018,
Volume 19, Afternoon Session, before the Honorable
Suzanne R. Bolanos, at 1:34 p.m.

REPORTED BY:

LESLIE ROCKWOOD ROSAS, RPR, CSR 3462

Job No. 2965337B

Pages 4126 - 4175

1 APPEARANCES:

2

3 FOR THE PLAINTIFF:

4 R. BRENT WISNER, ESQ.

5 BAUM, HEDLUND, ARISTEI, GOLDMAN PC

6 12100 Wilshire Boulevard, Suite 950

7 Los Angeles, California 90025

8 310-207-3233

9

10 DAVID DICKENS, ESQ.

11 THE MILLER FIRM, LLC

12 108 Railroad Avenue

13 Orange, Virginia 22960

14 540-672-4224

15

16 FOR THE DEFENDANT:

17 SANDRA A. EDWARDS, ESQ.

18 FARELLA BRAUN + MARTEL LLP

19 235 Montgomery Street

20 San Francisco, California 94104

21 415-954-4400

22

23

24

25

1 APPEARANCES (Continued):

2

3 FOR THE DEFENDANT:

4 GEORGE C. LOMBARDI, ESQ.

5 JAMES M. HILMERT, ESQ.

6 WINSTON & STRAWN LLP

7 35 West Wacker Drive

8 Chicago, Illinois 60601

9 312-558-5969

10

11 KIRBY T. GRIFFIS, ESQ.

12 HOLLINGSWORTH LLP

13 1350 I Street, N.W.

14 Washington, D.C. 20005

15 202-898-5800

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF PROCEEDINGS

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VIDEO
KASSIM AL-KHATIB		4130	4149	4152	
MATTHEW ROSS					4155
AARON BLAIR					4155

EXHIBITS ADMITTED

(None.)

1 Monday, July 30, 2018

2 1:34 p.m.

3 Volume 19

4 Afternoon Session

5 San Francisco, California

6 Department 504

7 Judge Suzanne Ramos Bolanos

8
9 PROCEEDINGS

10 13:28:15

11 THE COURT: Welcome back, Ladies and Gentlemen,
12 Counsel. Dr. Al-Khatib remains under oath, and,
13 Mr. Wisner, you may continue.

14 MR. WISNER: Thank you, your Honor.

15
16 CROSS-EXAMINATION (Continued)

17 BY MR. WISNER:

18 Q. Dr. Al-Khatib, did you have a good lunch?

19 A. Yes. Yes, I did.

20 13:34:08

20 Q. Did you go downstairs, or did you go out?

21 A. No, I stayed in the room.

22 Q. Pretty good sandwiches downstairs.

23 All right. You know, I asked you a question
24 just before lunch, and I'm going to read you back the

25 13:34:22

25 question and answer, and I want to see if you still stand

1 by your answer. Okay.

2 All right. The question was: "Okay. Sir, you
3 have a financial interest in the use of herbicides, don't
4 you?"

13:34:36

5 And you responded, "I don't really. I'm a weed
6 scientist. I got to give me students, the growers, the
7 best way to manage weeds, so you don't have financial
8 interest in that."

13:34:50

9 I said, "Well, you own two patents, don't you,"
10 and you said, "Well, but I own two patents, and those are
11 not about herbicides."

12 A. Yeah.

13 Q. Okay. Do you stand by that testimony?

13:35:02

14 A. Yes. These about sorghum plant that has ability
15 to resist herbicides.

16 Q. Okay. So the first sentence in Plaintiff's
17 Exhibit 1015 in front of you -- this is -- this is your
18 patent; right?

13:35:13

19 A. Yeah, this is -- I am the patentholder, not the
20 patent owner.

21 Q. Okay.

22 A. Yeah.

23 Q. But you do get royalties if this ever gets
24 licensed; right?

13:35:19

25 A. Well, the patent is not going to be

1 commercialized, so I don't know -- I'm not going to get
2 anything from this.

3 Q. Well, actually, it's been picked up by DuPont;
4 right?

13:35:30 5 A. Well, I think you're hitting the wrong patent.
6 This is not the patent you're talking about.

7 Q. Oh, this one's different than the other one?

8 A. Yeah, the other one's not patent yet.

9 Q. It's also about the same issue?

13:35:40 10 A. It's a different -- different technology.

11 Q. But it's about herbicides?

12 A. Yeah, yeah. But that -- another one is in the
13 pipeline. I don't think it's going to get patented as
14 well. It's not going to get commercialized as well.

13:35:52 15 Q. So I guess my point, though, Doctor, is you have
16 a financial interest in people using herbicides; right?

17 A. Well, what I having here is a patent to protect
18 the university. That's the university policy. If you
19 discovery something, you need to patent it, so that's why
13:36:06 20 it's patented.

21 Q. But the one you mentioned a second ago, I mean,
22 that -- that one could get licensed. It's been licensed
23 to DuPont. And if, in fact, it gets commercialized, you
24 could stand to make considerable money, couldn't you?

13:36:19 25 A. If it commercialized, but I don't think it's

1 going to get commercialized.

2 Q. Okay. Well, you'd agree with me that if there
3 were broad restrictions on herbicide use, that would
4 reduce likelihood of it being commercialized?

13:36:30

5 A. I don't understand your question.

6 Q. That's okay.

7 Doctor, I also had a chance to do a little
8 research during lunch.

9 MR. WISNER: Permission to approach, your Honor?

13:36:39

10 THE COURT: Yes.

11 Q. BY MR. WISNER: Sir, I'm handing you Plaintiff's
12 Exhibit 1057 and 1058. These are printouts related to
13 motorized pesticide applicators; right?

14 A. Yeah, that's what it looks like.

13:37:04

15 Q. And the pictures kind of look like the pictures
16 you saw with Mr. Johnson; right?

17 A. It's similar, but different pump. Different
18 machine.

13:37:15

19 Q. Okay. But it's the same thing. They're both
20 50-gallon reservoirs; right?

21 A. Yeah, yeah.

22 Q. And for the one that's 1057, it says that it can
23 spray at the rate of one to two gallons per minute,
24 doesn't it?

13:37:26

25 A. I have to read it. I -- and I don't know what

1 the purpose of this, because I know for herbicide
2 application, we don't use that high pressure. This could
3 be something for something else. I don't know.

13:37:39 4 Q. Okay. Well, let's look at it. Let's look at
5 the one that's 1057. It says, "Solution 50-gallon low
6 profile pesticide sprayer is the standard for rolled or
7 pump sprayers."

8 Do you see that?

9 A. Let me -- which one you looking to?

13:37:50 10 Q. 1057, the very first sentence.

11 A. Okay. Solution 50 gallons.

12 Q. Do you see that, sir?

13 A. Yes, I did see that.

14 Q. It says, "We use a hydro 65,000 CI roller pump
13:38:08 15 mated to a Honda GX 160 engine. Insures high volume and
16 pressure so you can use it for any application."

17 A. Sure.

18 Q. "Solutions, pesticides, spray rigs can be used
19 as tree sprayers, agricultural sprayers, insecticide
13:38:23 20 sprayers or weed spraying equipment."

21 Do you see that?

22 A. Sure.

23 Q. And then if you look at the application section,
24 the last sentence -- well, the last couple sentences. It
13:38:31 25 talks about getting up to 70 or 80 psi.

1 Do you see that?

2 A. Yes.

3 Q. At that rate, you'll get 1 to 2 gallons per
4 minute out of this sprayer?

13:38:42

5 A. Yeah, but that's not for herbicide application,
6 sir. That's -- that could be for tree treatment for
7 fungicide. That could be for aquatic weeding, aquatic
8 setting. It doesn't mean this -- this mean that's how
9 you need to spray it in the field for herbicide

13:38:57

10 application.

11 Q. Okay. Well, it does say "weed spraying
12 equipment"; right?

13 A. Yeah, but weeding -- aquatic weed is -- are
14 weeds.

13:39:05

15 Q. And so this machine -- let's turn to the next
16 page. You actually see a picture of it on the second
17 page.

18 A. The 1058?

19 Q. We're on 57 still.

13:39:14

20 A. Okay. All right.

21 Q. Do you see a picture of it?

22 A. Yeah, I do.

23 Q. It kind of looks a lot like Mr. Johnson's;
24 right?

13:39:20

25 A. Well, it looks like the tank. The -- I don't

1 know about the specification, but from appearance, it
2 looks similar.

3 MR. WISNER: Your Honor, may I publish the
4 photo?

13:39:34 5 MS. EDWARDS: I have objection to publication.

6 THE COURT: Yeah, sustained.

7 Q. BY MR. WISNER: Okay. So you agree that this
8 photo has a green hose just like Mr. Johnson's; right?

9 A. Yeah.

13:39:43 10 Q. 50-gallon reservoir; right?

11 A. Sure.

12 Q. And it says it can spray up to 1 to 2 gallons
13 per minute, so you could get 50 gallons in an hour with
14 this machine, couldn't you?

13:39:54 15 A. Yeah, if you -- you could.

16 Q. So earlier when you said maximum 12 gallons an
17 hour, that wasn't inaccurate, was it?

18 A. No. I think I'm accurate. I stand by it. I've
19 been doing weed control for 40 years, and 12 to 15 is
20 what we use for weed control. You can have a sprayer
21 deliver 50, but it's different type of sprayer -- for
22 different purpose, I mean.

23 Q. Sir, do you have a copy of your report up there
24 or no?

13:40:25 25 A. I don't have it. I'm sorry.

1 Q. Okay.

2 MR. WISNER: Permission to approach?

3 THE COURT: Yes.

13:40:33

4 Q. BY MR. WISNER: I'm handing you a copy of your
5 report. It's Plaintiff's Exhibit 736.

6 A. Sure.

7 Q. That's a copy of the report you prepared in this
8 case; right?

9 A. Yes, sir.

13:40:40

10 Q. And nowhere in that report do you mention the
11 volume of spray for Mr. Johnson's truck spray?

12 A. I don't -- I need to read it, but I don't think
13 I got to that point, no.

13:40:53

14 Q. In fact, anywhere in this report do you talk
15 about your patents?

16 A. I'm sorry?

17 Q. Your patents, do you talk about your patents in
18 that report?

19 A. Yeah, yeah.

13:40:58

20 Q. You do?

21 A. I don't know. I need to read it. I wrote it
22 long time ago.

23 Q. Okay. If I were to tell you you don't mention
24 your patents in there, would you disagree with me?

13:41:09

25 A. I don't know why I mention it, but it may be

1 there. It may be not. I need to read it.

2 Q. Well, sir, most of your report talks about the
3 benefits of controlling weeds; right?

13:41:21

4 A. Yeah, part of -- the benefit of controlling
5 weeds.

6 Q. That's almost all of it; right?

7 A. Yeah, yeah.

8 Q. Okay.

9 A. But I did talk about mode of action.

13:41:31

10 Q. And you talk about how herbicides have changed
11 our agricultural system in there; right?

12 MS. EDWARDS: Beyond the scope of my direct,
13 your Honor.

14 MR. WISNER: Impeachment.

13:41:41

15 THE COURT: Overruled.

16 You may answer.

17 THE WITNESS: Yeah, I did.

18 Q. BY MR. WISNER: You did talk about how it
19 affects global warming, don't you?

13:41:48

20 A. Correct, sir.

21 Q. But you didn't one time decide to tell the
22 reader that you own patents related to herbicide use?

23 A. Yeah. But, you know, my patents related to
24 develop a system to control weed sorghum, and I don't

13:42:03

25 need to write it here, because it's irrelevant to that --

1 to the case here. And as I said earlier, the university
2 policy, if you have a new discovery, you have to patent
3 it. So it's nothing to do with this. I don't know.

13:42:21 4 MR. WISNER: Okay. Your Honor, permission to
5 approach?

6 THE COURT: Yes.

7 Q. BY MR. WISNER: I'm handing you Plaintiff's
8 Exhibit 1059. This is proceedings from the 70th Annual
9 California Weed Society.

13:42:38 10 Do you see that, sir?

11 A. Sure. Sure.

12 Q. And you actually mentioned on your direct that
13 you received an award; right?

14 A. Yes.

13:42:45 15 Q. From them?

16 A. Yeah, from them. You're right, sir.

17 Q. And you were at this conference; right?

18 A. Yeah, I've been there.

19 Q. And if you actually turn, there's actually a
13:42:53 20 picture of you in here. On page 4.

21 Do you see that?

22 A. Yeah, maybe. Yeah, that's me.

23 Q. Yeah. And I think you're wearing the same tie
24 and suit, aren't you?

13:43:02 25 A. Probably. That's the only suit I wear.

1 Q. I have the same problem. I hear you. I don't
2 mean that as a criticism. It's just, like, that's you;
3 right?

4 And you were given an award for your work as a
13:43:18 5 weed scientist?

6 A. Correct, sir.

7 Q. And so you were there for all the presentations
8 that were given there?

9 A. Not all of them, no.

13:43:24 10 Q. Okay. Well, please turn to page 31.

11 A. Which one?

12 Q. Page 31 on the bottom. Page 31.

13 A. Yeah.

14 Q. Were you there for this presentation from the
13:43:36 15 CDPR? What does that stand for?

16 A. That's California Department of Pest Regulation.

17 Q. Okay. And that's actually who you work with;
18 right?

19 A. I'm sorry?

13:43:45 20 Q. That's who you work with?

21 A. No, no, sir. I work with the University of
22 California. This is a state organization.

23 Q. Okay. Did you have a chance to review this?

24 A. No. And I haven't been in that presentation as
13:43:56 25 well.

1 Q. Okay. So you haven't seen this one?

2 A. No.

3 Q. All right. But it was done at the conference
4 where you received an award; right?

13:44:03 5 A. Yeah, maybe.

6 Q. You'd agree that, you know, that conference and
7 the science that's presented there is pretty reliable;
8 right?

9 A. You know, everybody can submit a paper and
13:44:14 10 present it.

11 Q. Okay. And in this, they're talking about --

12 MS. EDWARDS: Your Honor, objection. The
13 witness just testified he's ever seen this, and he wasn't
14 there for the presentation.

13:44:22 15 MR. WISNER: He said it was reliable. That
16 worked with Sawyer.

17 THE COURT: Sustained.

18 You may ask a different question.

19 MR. WISNER: Okay.

13:44:30 20 Q. Are you aware of school districts in California
21 restricting the use of Roundup?

22 A. I think it's on the school IPM. It's still
23 used. Roundup can be used.

24 Q. Okay. So it's your understanding it's still
13:44:43 25 being used in school districts?

1 A. Yeah, I think so.

2 Q. Do you have any knowledge if Irvine School
3 District is?

4 A. No, I don't. I'm talking about DPR, Department
13:44:54 5 of Pesticide Regulation, and the school IPM.

6 Q. Okay.

7 A. I don't know about local politics, no.

8 Q. Okay. So you're not familiar with other school
9 ducts, Irvine, Bay Area, San Francisco? You don't know?

10 A. No, I don't know. I know it's in the -- in the
13:45:03 11 school IPM. Roundup is one of the herbicides that you
12 can use.

13 Q. Now, this is specifically talking about the IPM;
14 right?

13:45:14 15 MS. EDWARDS: Your Honor, same objection.

16 THE COURT: Sustained.

17 Please ask a different question, Mr. Wisner.

18 Q. BY MR. WISNER: Now, sir, there are alternatives
19 to spray Roundup for weed control; right?

13:45:24 20 A. There are other herbicides, but they are
21 difficult. Sometimes not safe to use them, too.

22 Q. But there's also non-chemical solutions like
23 steam; right?

24 A. Well, you can use steam, but steam is not
13:45:37 25 effective. It's difficult to use. It's dangerous when

1 the hose blew up. I mean, people tried 20 years ago to
2 use the steam, but then they stopped because of the
3 liability, the big boiler you're going to carry. And,
4 also, it's not effective. It's just going to burn the
13:45:56 5 tissue on top of the soil. But there are perennial
6 weeds, that they have ribosomes, they have deep root.
7 They're going to come and grow out of it again, and then
8 you're going to need to do multiple steaming for a small
9 piece of ground.

13:46:13 10 Q. Doctor, page 31 -- do you still have it open?

11 A. Yeah, I do.

12 Q. Okay.

13 MS. EDWARDS: Your Honor, same objection.

14 May we approach?

13:46:20 15 MR. WISNER: Your Honor, I haven't asked for any
16 document yet, your Honor.

17 THE COURT: Please approach.

18 (Sidebar.)

19 [REDACTED]

13:46:34 20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

13:46:47 25 [REDACTED]

1 [REDACTED] [REDACTED]
2 [REDACTED] [REDACTED]
3 [REDACTED] [REDACTED] [REDACTED]
4 [REDACTED]
5 [REDACTED] [REDACTED]
6 [REDACTED] [REDACTED] [REDACTED]
7 [REDACTED]
8 [REDACTED] [REDACTED] [REDACTED]
9 [REDACTED] [REDACTED]

13:46:59

13:47:17

10 (End sidebar.)

11 THE COURT: Do you have anything further,
12 Mr. Wisner?

13 MR. WISNER: Yes, I do, your Honor.

13:47:26

14 Q. So to be clear, it's your testimony to this jury
15 that the use of steam to control weeds has not been
16 reliable and effective?

13:47:44

17 A. It's not been used. We tried many times back in
18 the days. And then as I said, they don't control
19 perennial weeds, which is -- mostly they are the
20 troublemaker weeds. There are risk of danger. Think
21 liability. I mean, if the hose blew up, it would cook
22 everyone around it. So people don't like to use the
23 steam for that purpose.

13:48:01

24 It -- it was used more in Australia and other
25 things, you know, to trim around the -- the grass field

1 and things like that, but it's not really a commercially
2 viable option.

3 Q. So you studied this issue?

4 A. Well, I -- this is what all my life, I --

13:48:13

5 Q. Right.

6 A. Before you born, I was working with weeds.

7 Q. That's what I'm thinking. I mean, you're the
8 guy who knows how to control weeds; right?

9 A. Yeah. Yeah.

13:48:24

10 Q. Okay. And it's your testimony to this jury that
11 they haven't effectively used steam to control weeds at
12 the school district of California?

13 A. They can use it. I'm not saying you don't use
14 it, but I'm talking about why it's not adopted as a
15 means. Because of all the things I've mentioned.

13:48:38

16 Q. You are familiar with other alternatives, like
17 acids and stuff; right? And those are not --

18 A. Yeah, I --

19 MS. EDWARDS: Your Honor, may I renew my
20 objection? This is going well beyond the scope of my
21 direct.

13:48:48

22 THE COURT: All right. Mr. Wisner, he may
23 answer this question.

24 THE WITNESS: Can I answer?

13:48:56

25 THE COURT: Yes, you may answer this question.

1 THE WITNESS: Yeah. There are other alternative
2 herbicide. Mostly acid, you know. For example, acidic
3 acid, vinegar, you want to use it in your kitchen. It's
4 5 percent acidic acid. You want to use it for herbicide,
13:49:15 5 it's a 20 percent acidic acid. It's -- it's -- it's not
6 very effective. Because, again, for the same reason.
7 It's a contact herbicide, kills the part which is in
8 contact with. If it doesn't contact it, it doesn't kill
9 it. If the weed has underground part, it would be safe,
13:49:34 10 and they will regrow out of it.

11 In addition to that, the acid is 20 percent
12 acid. It's not easy to use. I mean, it can burn the
13 skin. It can melt sometimes the hose. So, you know,
14 it's not -- it's used in organic setting on smaller
13:49:49 15 scale, but it's not widely adopted because of the reason
16 I mention here.

17 But you can use it, if you want to use it.

18 Q. BY MR. WISNER: Doctor, you testified on
19 direct --

13:49:59 20 A. I'm sorry, can you --

21 Q. Sorry. I don't want to shout at you, but I've
22 also got to get heard. So no problem.

23 You know, you testified on direct that you
24 supervise your students spraying glyphosate; right?

13:50:12 25 A. Yeah. I trained them.

1 Q. And you do that because you want to ensure their
2 safety; right?

3 A. They have to be safe for anything they do.

4 Q. Yeah. And you make sure to take extra care on
13:50:24 5 training your students how to safely apply these
6 chemicals in the real world; right?

7 A. Correct, sir.

8 Q. And since you are aware of IARC, I assume you
9 tell your students that glyphosate has been deemed a
13:50:36 10 probable carcinogen?

11 A. Well, when this story came, you know, the thing
12 I -- I relied on was the EPA. The EPA is the authority
13 when it comes to this. EPA review more data than anybody
14 in the world. They've been doing this for 50 years.

13:50:53 15 They're not just -- you know, they have a lot of
16 scientists with the EPA.

17 So I rely on them in making any decision. And
18 EPA is clear about that, that glyphosate product are not
19 carcinogenic. So that's what I relied on.

13:51:10 20 Q. Sir, you didn't answer my question, did you?

21 A. I'm sorry if I didn't answer your question.
22 What was the question?

23 Q. You just talked for a few minutes about the EPA.
24 I don't even think that word came out of my mouth. So
13:51:23 25 let me ask you the question again, and let's see if you

1 can answer that one. All right? I understand you want
2 to talk about the EPA.

3 A. Rephrase it, please, maybe.

4 Q. Sure. No problem. And maybe there's a
13:51:31 5 miscommunication here.

6 A. Yeah.

7 Q. But isn't it true, sir, that in light of the
8 IARC's determination that glyphosate and Roundup are
9 probable human carcinogens, you tell your students about
13:51:41 10 that; right?

11 A. I don't know what -- what -- exactly what the
12 question here. Except what I know is that this report
13 came from the International Research For Cancer. And the
14 report, students read it and I read it. But everybody
15 rely on EPA, what they gonna decide. It's not the
13:52:01 16 report -- every report comes that we follow the report.

17 You know, we rely on EPA. They are the world
18 authority when it comes to cancer. So that's my answer
19 to your question.

13:52:15 20 Q. I don't think you still answered my question.
21 So I'll try one more time. And see if you can give it a
22 shot. All right?

23 My question is: Do you tell your students about
24 IARC, "yes" or "no"?

13:52:26 25 A. No, I didn't tell them.

1 MR. WISNER: Thank you. No further questions.

2 THE COURT: Anything further?

3 MS. EDWARDS: Yes, your Honor. Thank you.

4

5 REDIRECT EXAMINATION

6 BY MS. EDWARDS:

7 Q. All right. Dr. Al-Khatib, just a few questions
8 for you, if you don't mind.

9 A. Sure.

13:52:50 10 Q. You were asked on cross-examination about the
11 expert report you wrote in this case; correct?

12 A. Correct.

13 Q. All right. And that is actually a 38 -- 38-page
14 report, single-spaced; right?

13:53:04 15 A. Correct.

16 Q. With a very lengthy list of references as well;
17 right?

18 A. Correct.

19 Q. And is it fair for me to say that on my direct
13:53:14 20 we were trying to be efficient and had you really narrow
21 the scope of your testimony; correct?

22 A. That's what I understand.

23 Q. All right. And, sir, I understand you might be
24 a little bit nervous sitting up there, but you did, in
13:53:26 25 fact, review Mr. Johnson's deposition testimony; right?

1 A. I did, yes.

2 Q. All right. And you did, in fact, review his
3 trial testimony as well; correct?

4 A. Yeah, I read that, I think. Yeah.

13:53:40

5 Q. And Mr. Wisner was asking you about -- I think
6 he said, "Spot spraying versus broadcast spraying." Spot
7 spraying is when you target a particular weed; right?

8 A. Yes, ma'am.

13:53:54

9 Q. And broadcast spraying is when you're spraying a
10 large area and with -- with -- describe broadcast
11 spraying.

12 A. Well, broadcast spraying is when you have a
13 sprayer that it doesn't shut off. It just continue to
14 spray. And that's when you have amount of weeds, you
15 know, continuous weeds.

13:54:08

16 In commercial agriculture, we spray acres. So
17 the sprayer come, and they turn on the sprayer, and it
18 continues to spray.

13:54:20

19 In homeowner and small area, we use a spot
20 treatment. We don't need to spray the entire ground,
21 because part of the ground doesn't have weeds. So in
22 situation like this, we use the sprayer that will shut
23 off and -- on and off. And when we see the weed, we
24 spray them. There is no weed in the ground, we don't

13:54:39

25 need to waste chemical, we don't need to put chemical,

1 because there is no reason for that. So that's why we
2 call it the spot treatment.

13:54:54 3 Q. All right. And if you were to do a high volume
4 broadcast spraying on a football field with Ranger Pro,
5 what would happen to the football field?

6 A. Well, you would kill all the grass.

7 Q. So broadcast spraying kills every plant on the
8 ground; correct?

9 A. Correct, ma'am.

13:55:05 10 Q. Whereas targeted spraying you're targeting a
11 particular plant?

12 A. Correct.

13 Q. And Mr. Wisner put in front of you a document --
14 I think you said you'd never seen it before -- about a
13:55:13 15 different type of sprayer with a different kind of motor;
16 correct?

17 A. Correct.

18 Q. And there are different types of sprayers for
19 use outside of herbicides; correct?

13:55:22 20 A. Correct.

21 Q. All right. And I think you said there are
22 sprayers for insecticides; is that right?

23 A. Correct. There are specialized sprayer for
24 insecticide. For example, we need more volume. So there
13:55:34 25 are different sprayer. There are sprayer for aquatic

1 weed. There are sprayer for herbicide, you know. So
2 there are -- there are sprayer in orchard. You see them.
3 They blow wind and -- so the herbicide can contact the
4 entire tree. So there are a lot of different sprayers.

13:55:49

5 Q. All right. For different purposes; correct?

6 A. For different purposes.

7 Q. All right. So something that was designed for a
8 tree sprayer would not necessarily be the same sprayer
9 for an herbicide targeting, for example, golf courses;

13:56:01

10 correct?

11 A. Correct, ma'am.

12 MS. EDWARDS: I have no further questions.

13 Thank you, your Honor.

14 THE COURT: All right. Anything further?

13:56:08

15 MR. WISNER: Yes, your Honor.

16

17 RECROSS-EXAMINATION

18 BY MR. WISNER:

19 Q. I just want to clear up -- I just want to make
20 sure I understood you right. It might just be that I
21 misheard you or something.

13:56:11

22 But during my cross-examination of you, I
23 thought you said you read one deposition.

24 A. Deposition. But this is a trial. That would be

13:56:23

25 two. You asked me about deposition. I read one

1 deposition.

2 Q. I thought I asked you about the trial testimony,
3 too, but I must have misheard you, sir. I'm sorry.

4 To be clear, you read one deposition and then
13:56:36 5 Mr. Johnson's trial testimony?

6 A. Correct, sir. Yeah.

7 Q. Okay. And you understand he's actually at three
8 depositions?

9 A. I don't know about those.

13:56:43 10 Q. All right. And then you said, you know, "We
11 spray it this way, and we spray it" -- who's "we"?

12 A. Well, weed scientists. I am one of them.

13 Q. Okay. So weed scientists do that?

14 A. Well, herbicide applicator. I'm a weed
13:56:58 15 scientist. But herbicide applicator, that's what they
16 do.

17 Q. I just want to be clear. Have you ever actually
18 worked for, like, a school district as an integrated pest
19 manager?

13:57:06 20 A. No. I was the statewide IPM manager.

21 Q. Okay. But your job at that level wasn't to go
22 and spray the herbicide at the school; right?

23 A. No, it was not. No. I hope not.

24 Q. All right. And then my last question was: You
13:57:19 25 distinguished the machine that I showed you on that

1 printout versus Mr. Johnson's machine. What type of
2 machine did Mr. Johnson have?

13:57:35 3 A. Well, it's a -- it's a sprayer. It's a sprayer
4 on the back of the truck. I haven't inspected the
5 sprayer to tell you what the power of the engine, what is
6 that, what is this. But, you know, it's -- it's -- it's
7 a sprayer, you know.

13:57:48 8 I've been around a lot of sprayer. It's one of
9 the sprayer. If it's designed for a herbicide, then it's
10 a herbicide sprayer.

11 Q. Okay. And if it was one of the ones that I
12 showed you that looked very similar to that, then it
13 actually could get out about 50 gallons in an hour?

13:58:03 14 A. Well, if it's designed for a tree, it got to
15 give 50 -- 50 gallons.

16 Q. Okay. Great.

17 MR. WISNER: No further questions, your Honor.

18 THE COURT: Thank you.

19 Anything further?

13:58:07 20 MS. EDWARDS: Nothing further, your Honor.

21 THE COURT: All right. Thank you. Doctor, you
22 may be excused. Thank you.

23 THE WITNESS: Thank you.

13:58:15 24 THE COURT: Ms. Edwards, you may call your next
25 witness.

1 MR. GRIFFIS: I will actually do that, with your
2 permission, your Honor.

3 THE COURT: Oh, very well, Mr. Griffis.

4 MR. GRIFFIS: Monsanto calls by video
13:58:22 5 Dr. Matthew Ross. He is a PhD in molecular toxicology at
6 Mississippi State University, and he was a member in
7 Subgroup 4, the mechanism subgroup of IARC Working Group
8 112.

9 This is a 20-minute deposition, and I will hand
13:58:39 10 out the binders, and then we'll start playing it, with
11 your permission.

12 THE COURT: Very well.

13 (Matthew Ross video played.)

14 MR. GRIFFIS: That completes the testimony of
14:19:16 15 Dr. Ross.

16 Monsanto now calls by video Dr. Aaron Blair. He
17 is an epidemiologist and was chairperson of IARC Working
18 Group 112.

19 We will hear plaintiff's counsel's questioning
14:19:32 20 first, and then Monsanto's. This is a 53-minute video
21 deposition.

22 Let me get the binders and hand this out, your
23 Honor.

24 THE COURT: Very well.

14:20:07 25 (Aaron Blair video played.)

1 THE COURT: Is this a good place to pause for
2 the afternoon?

3 MR. GRIFFIS: Yes, it is.

4 THE COURT: All right, Ladies and Gentlemen.
14:55:55 5 Let's take the afternoon recess, and we'll resume again
6 at 3:10. Thank you very much.

7 MR. GRIFFIS: May we speak to you for a moment?

8 MR. LOMBARDI: It can be off the record.

9 THE COURT: Very good.

14:56:09 10 (Jury leaves courtroom.)

11 (Recess.)

12 THE COURT: Welcome back, Ladies and Gentlemen.

13 And Mr. Griffis, you may resume.

14 MR. GRIFFIS: Thank you, your Honor.

15:17:11 15 (Aaron Blair video deposition continued.)

16 MR. GRIFFIS: That completes the deposition,
17 your Honor.

18 THE COURT: Thank you.

19 All right, Ladies and Gentlemen. We are now
15:36:21 20 going to adjourn for today a little bit early because
21 there are some matters I need to discuss with the
22 attorneys. So please remember, do not discuss the case,
23 do not do any research, and we'll resume again tomorrow
24 morning at 9:30, our regular time. Thank you.

15:36:38 25 (Jury leaves courtroom.)

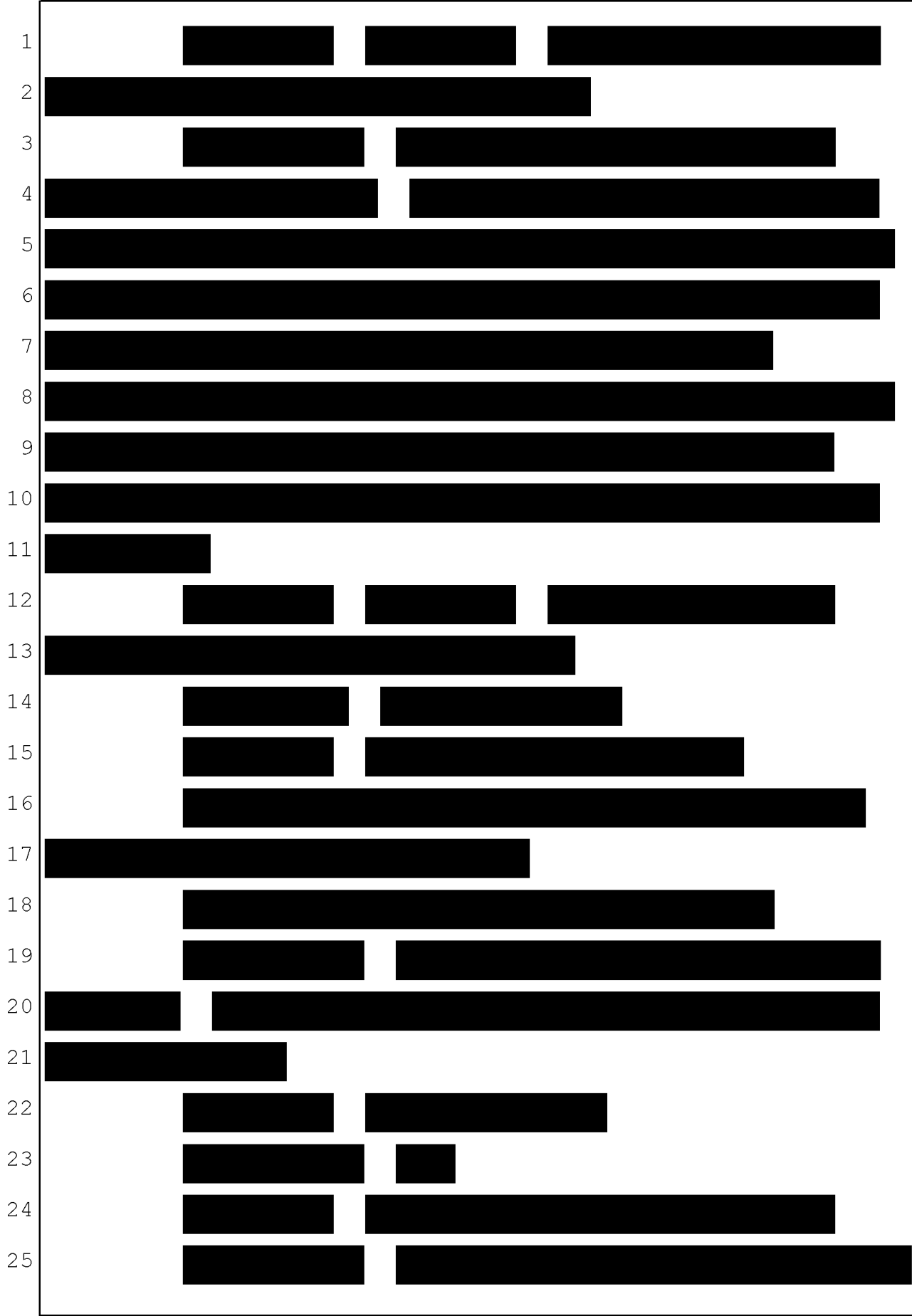
15:37:50

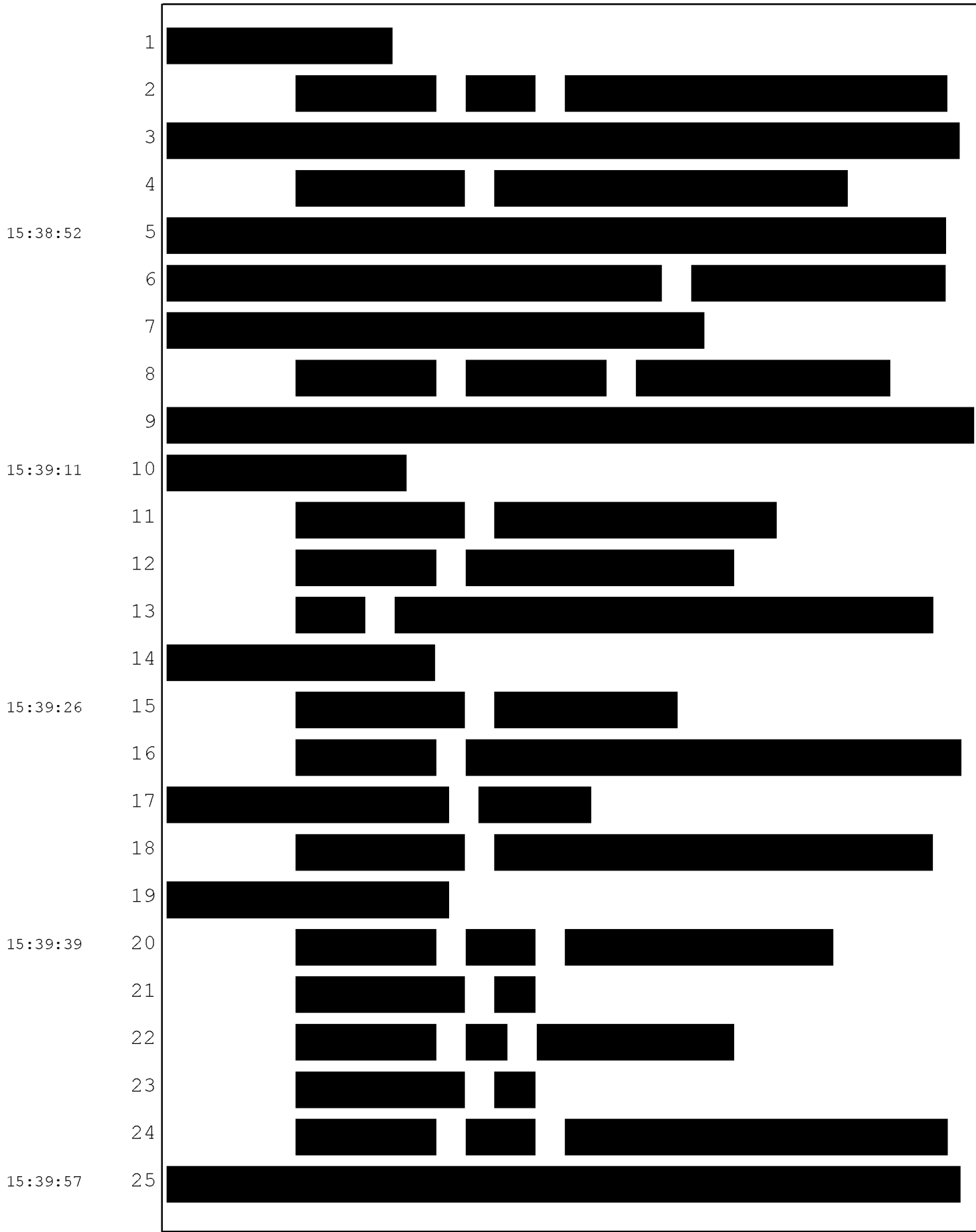
15:38:04

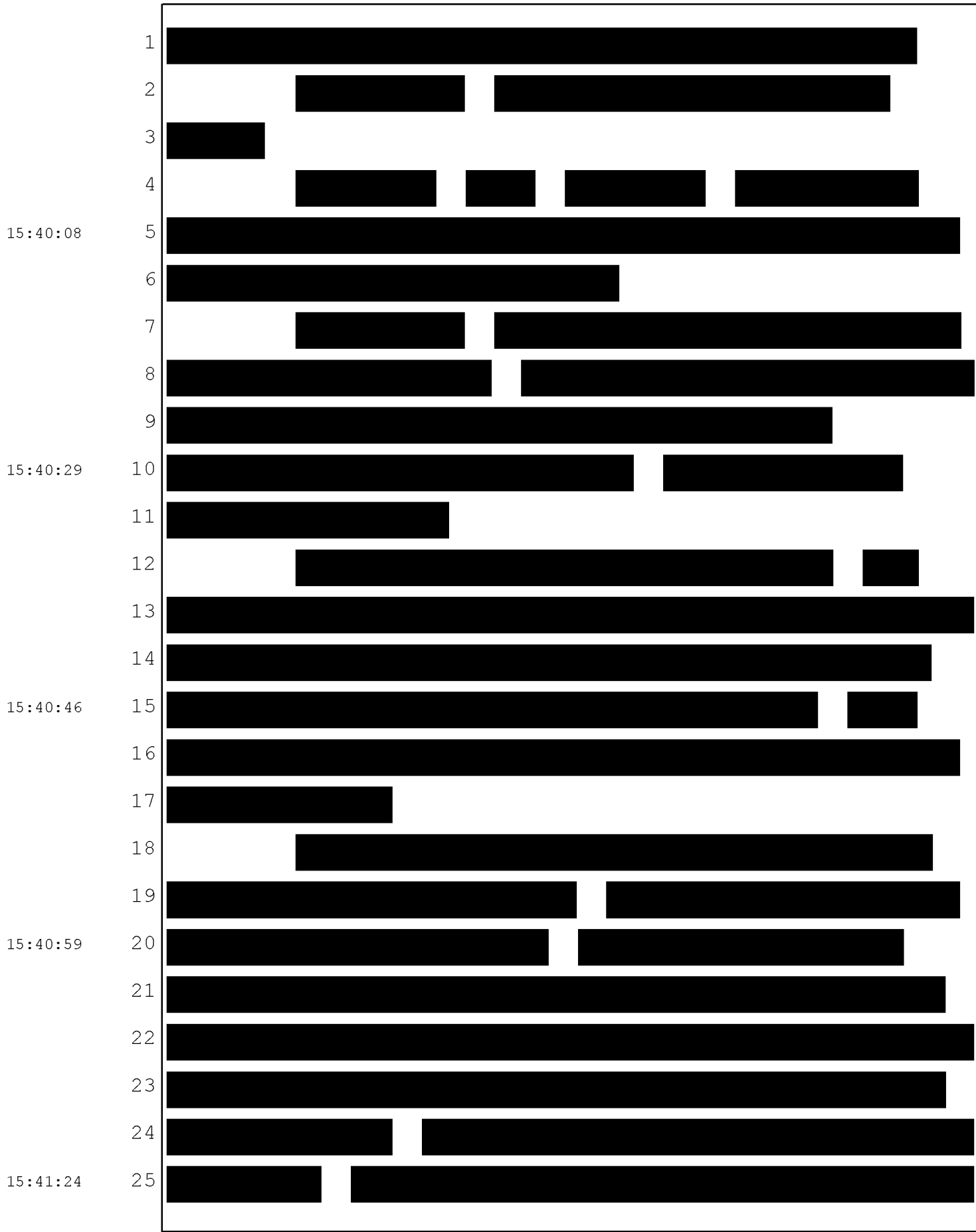
15:38:14

15:38:28

15:38:39







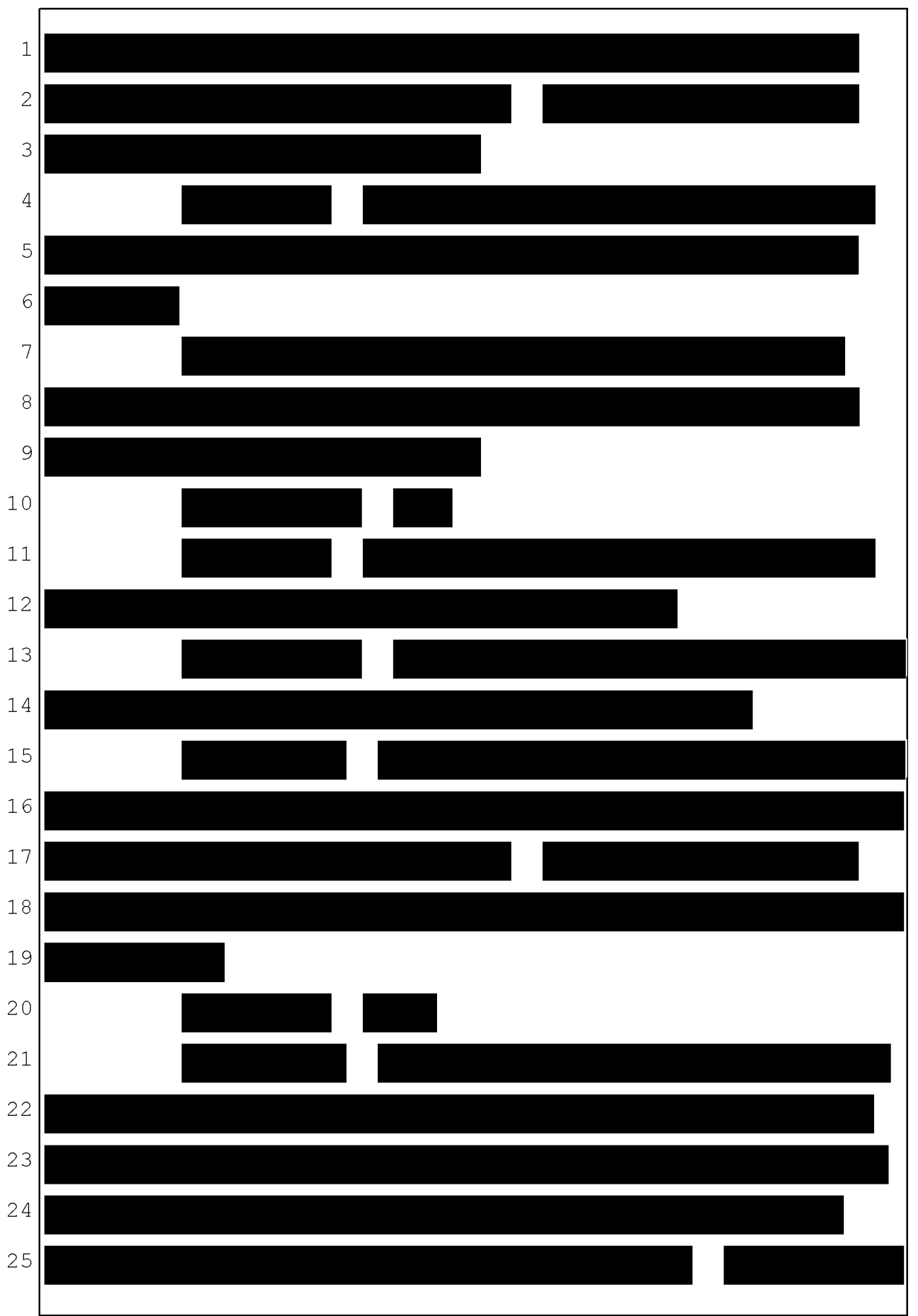
15:41:38

15:41:49

15:41:59

15:42:09

15:42:21



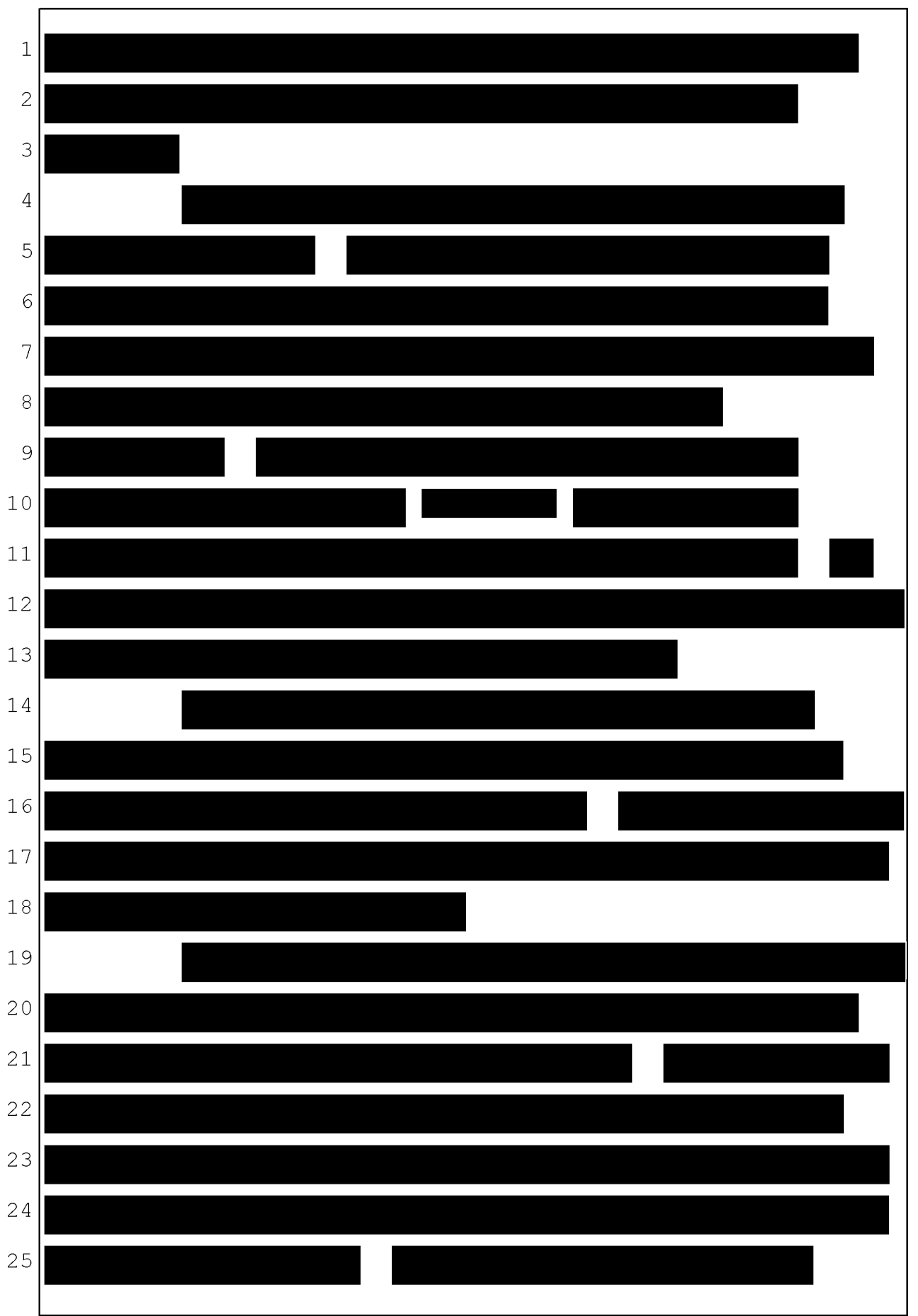
15:42:31

15:42:51

15:43:09

15:43:25

15:43:41



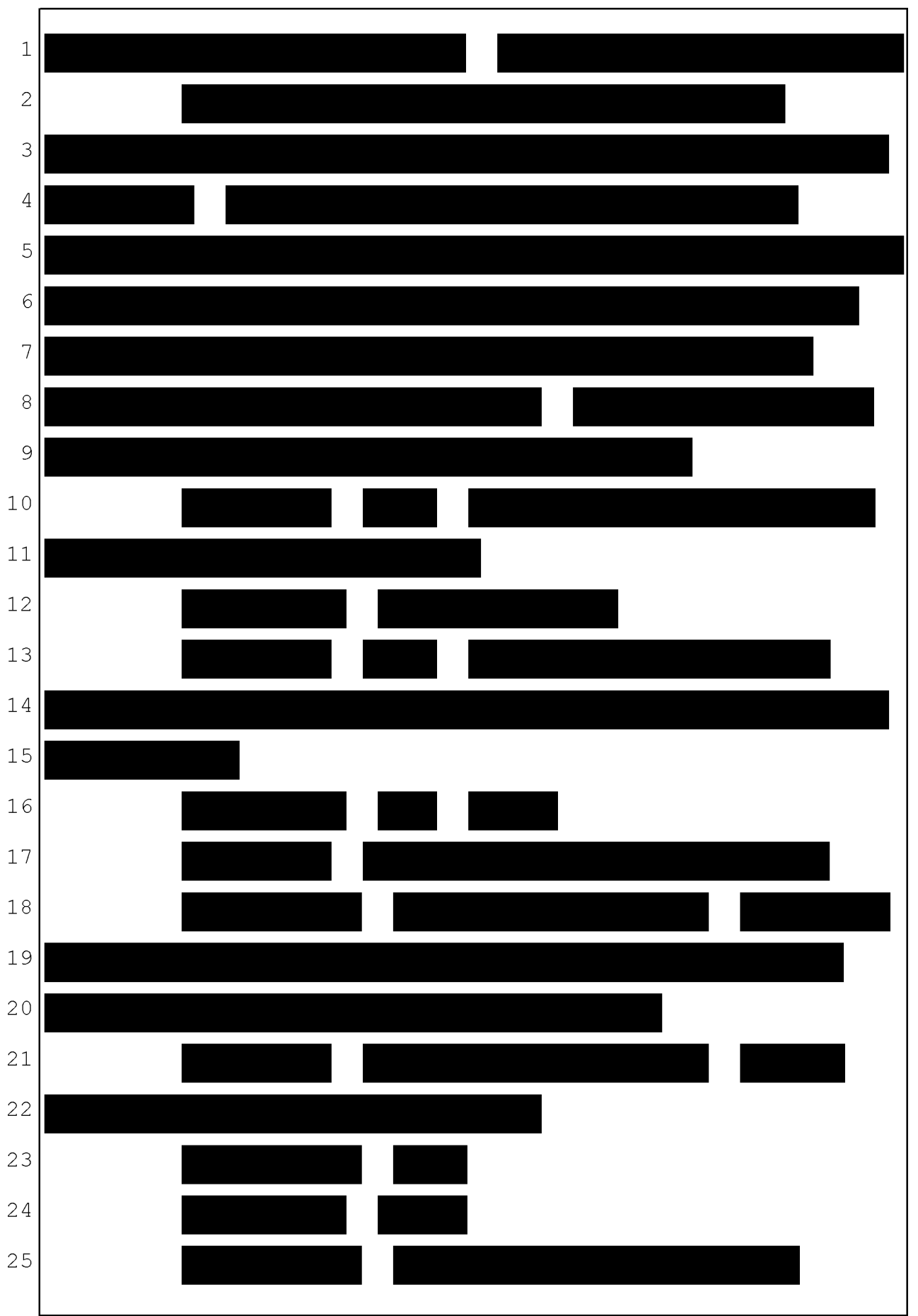
15:43:57

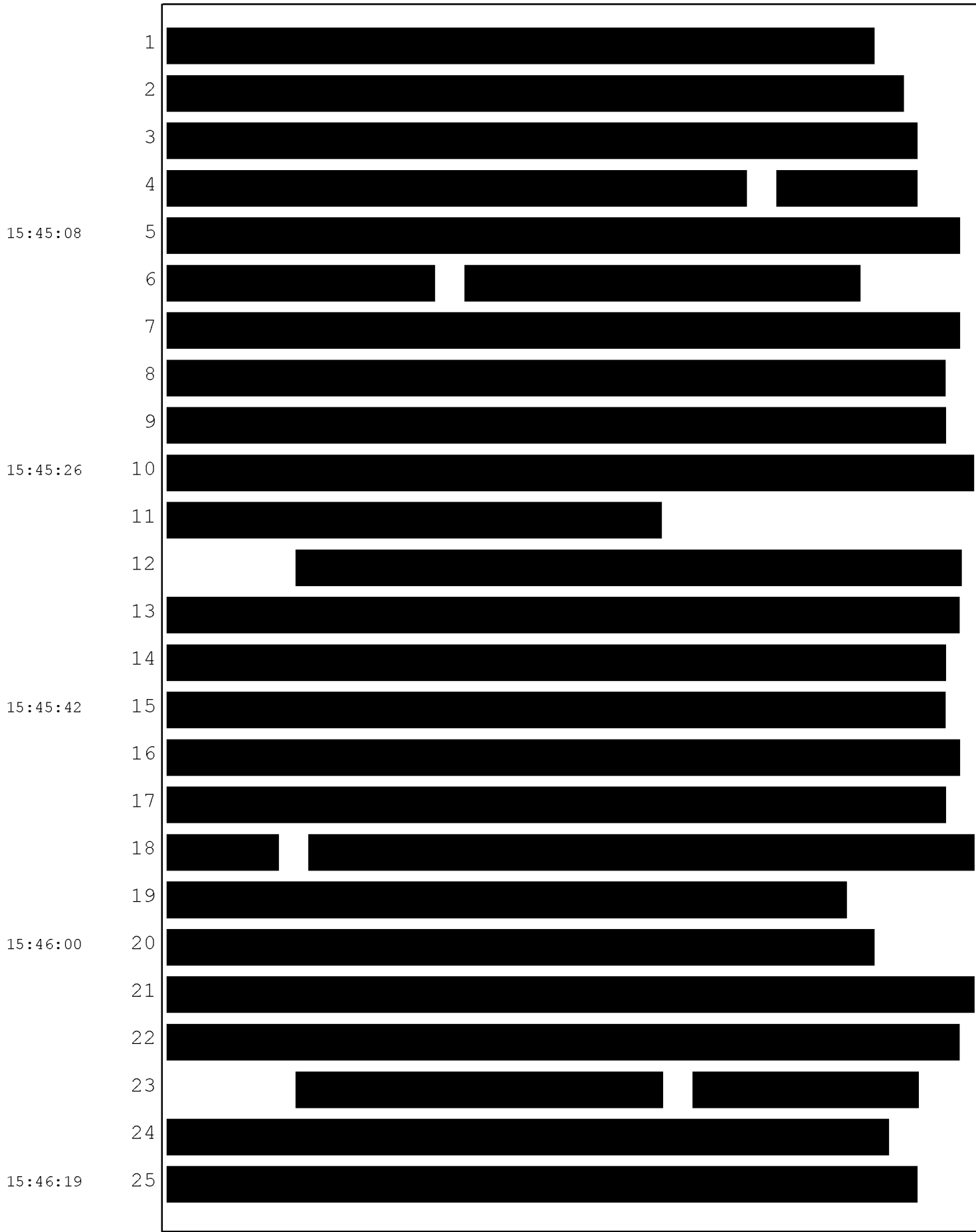
15:44:13

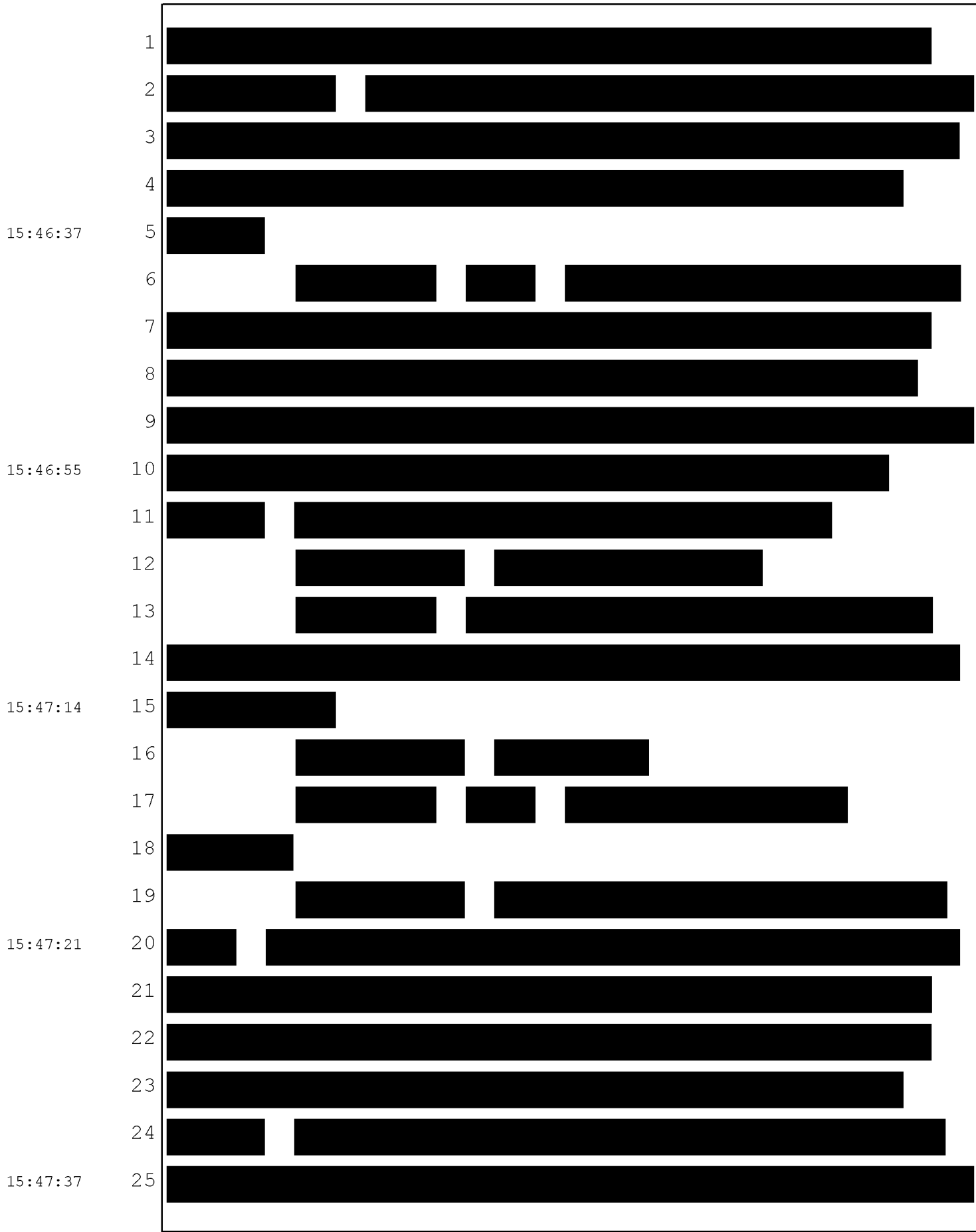
15:44:31

15:44:43

15:44:54







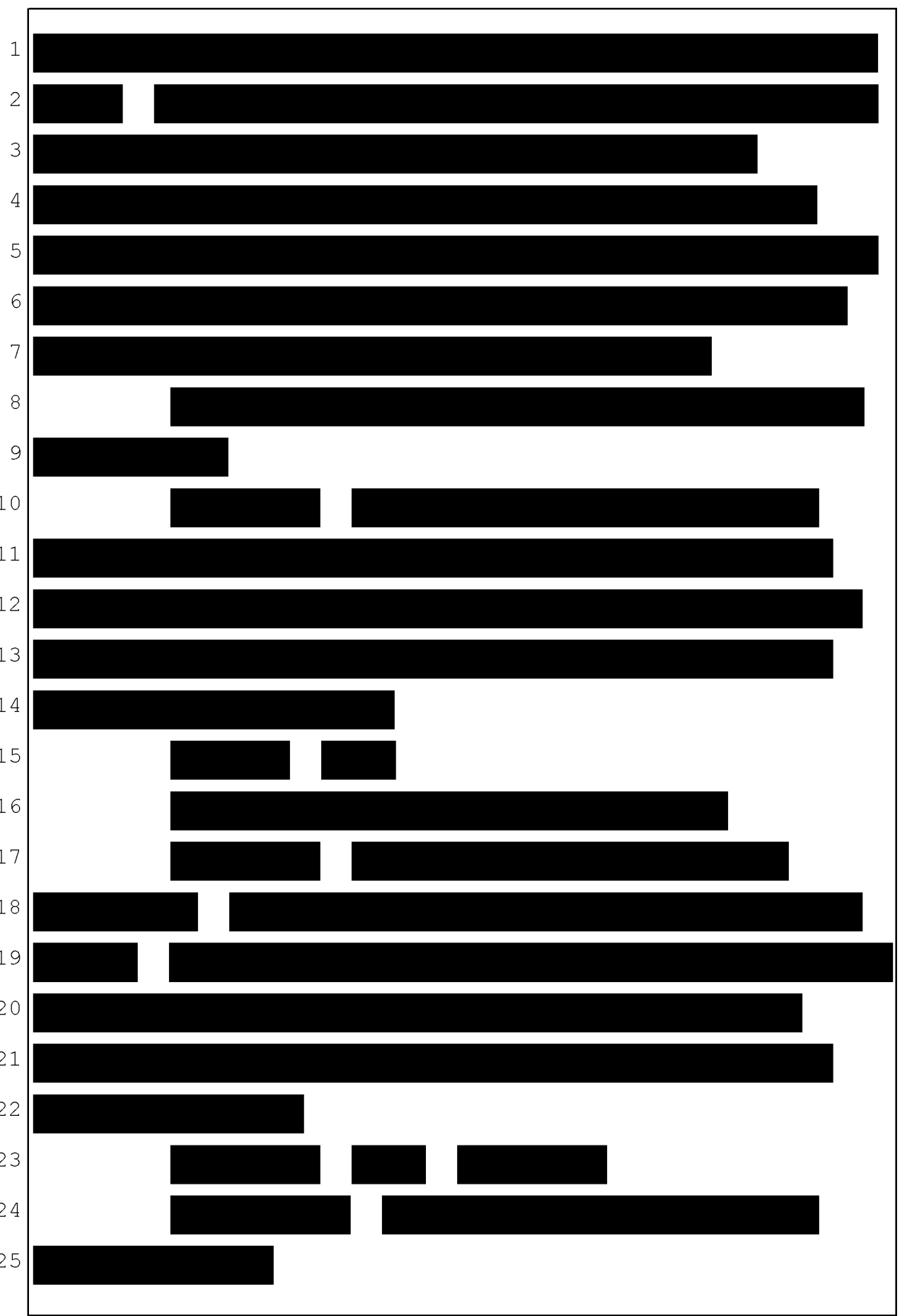
15:47:56

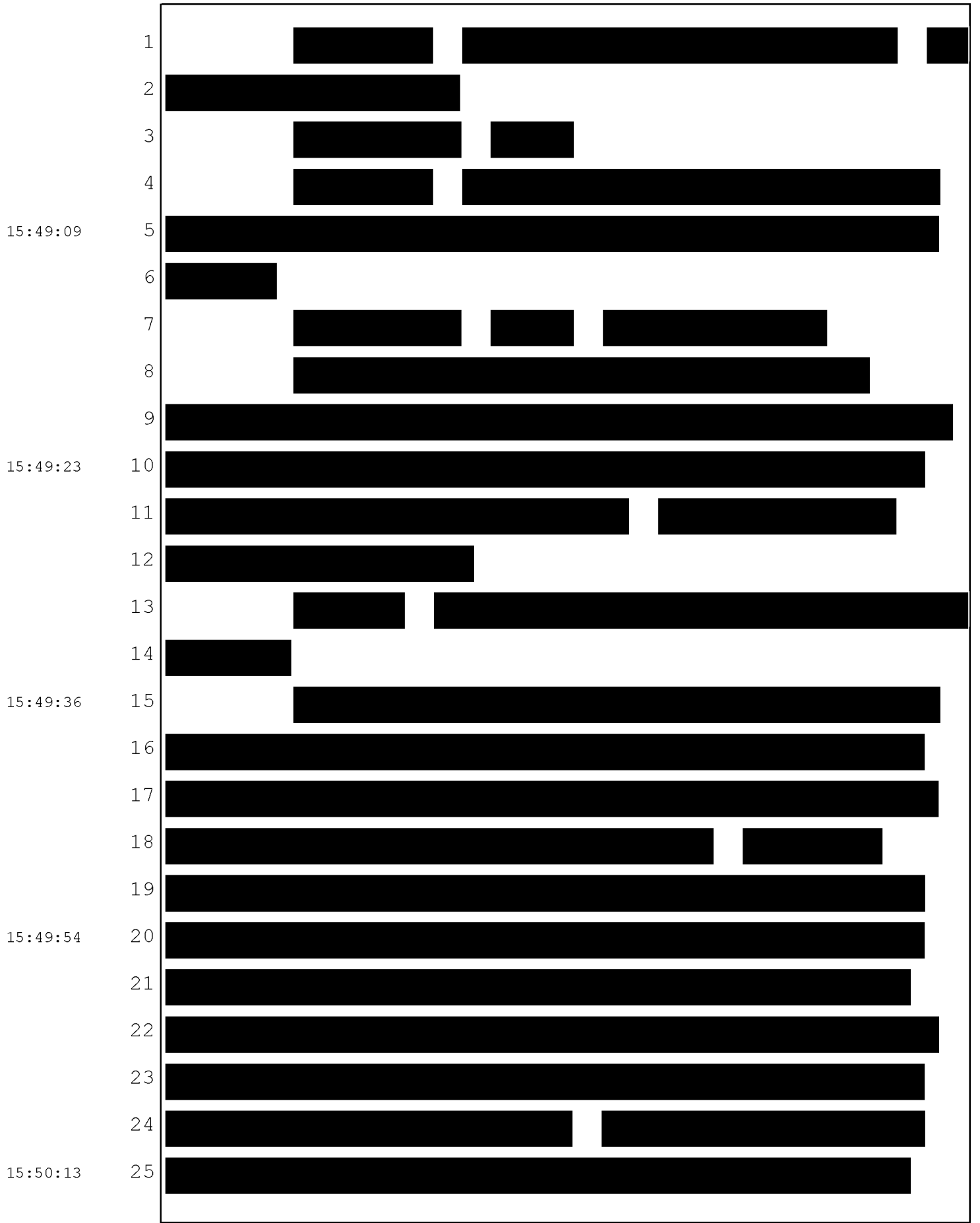
15:48:12

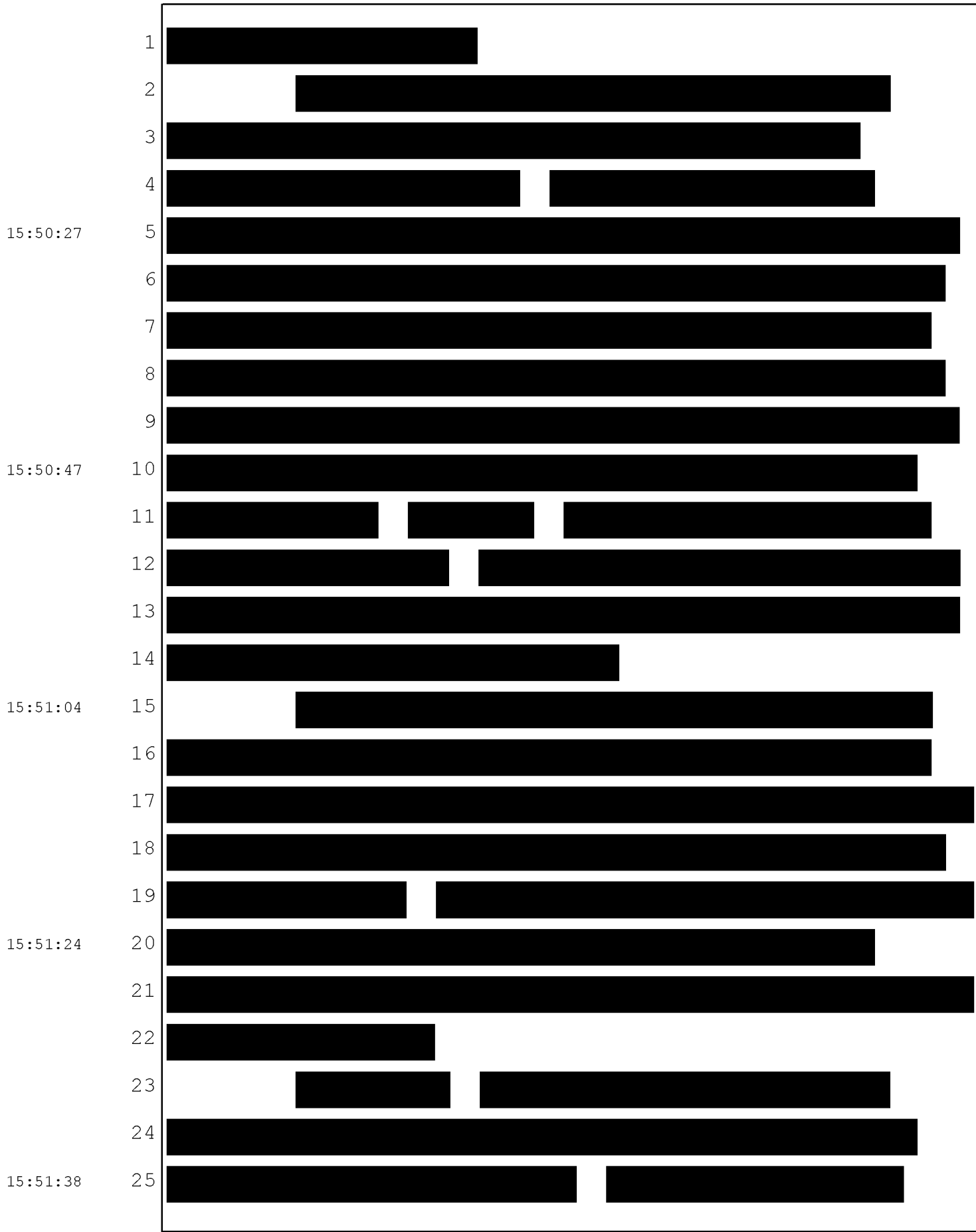
15:48:26

15:48:46

15:48:58







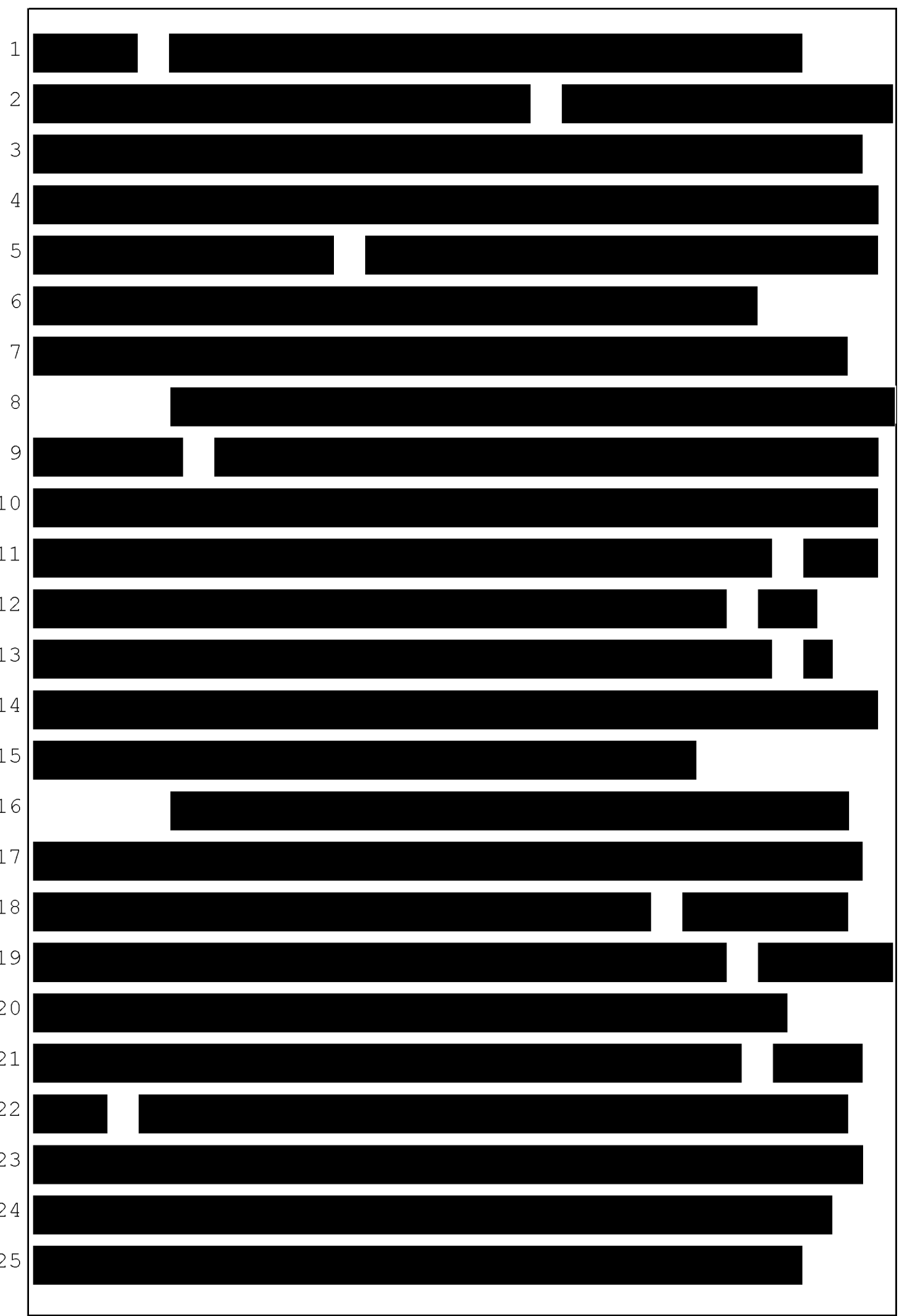
15:51:54

15:52:08

15:52:22

15:52:41

15:52:58



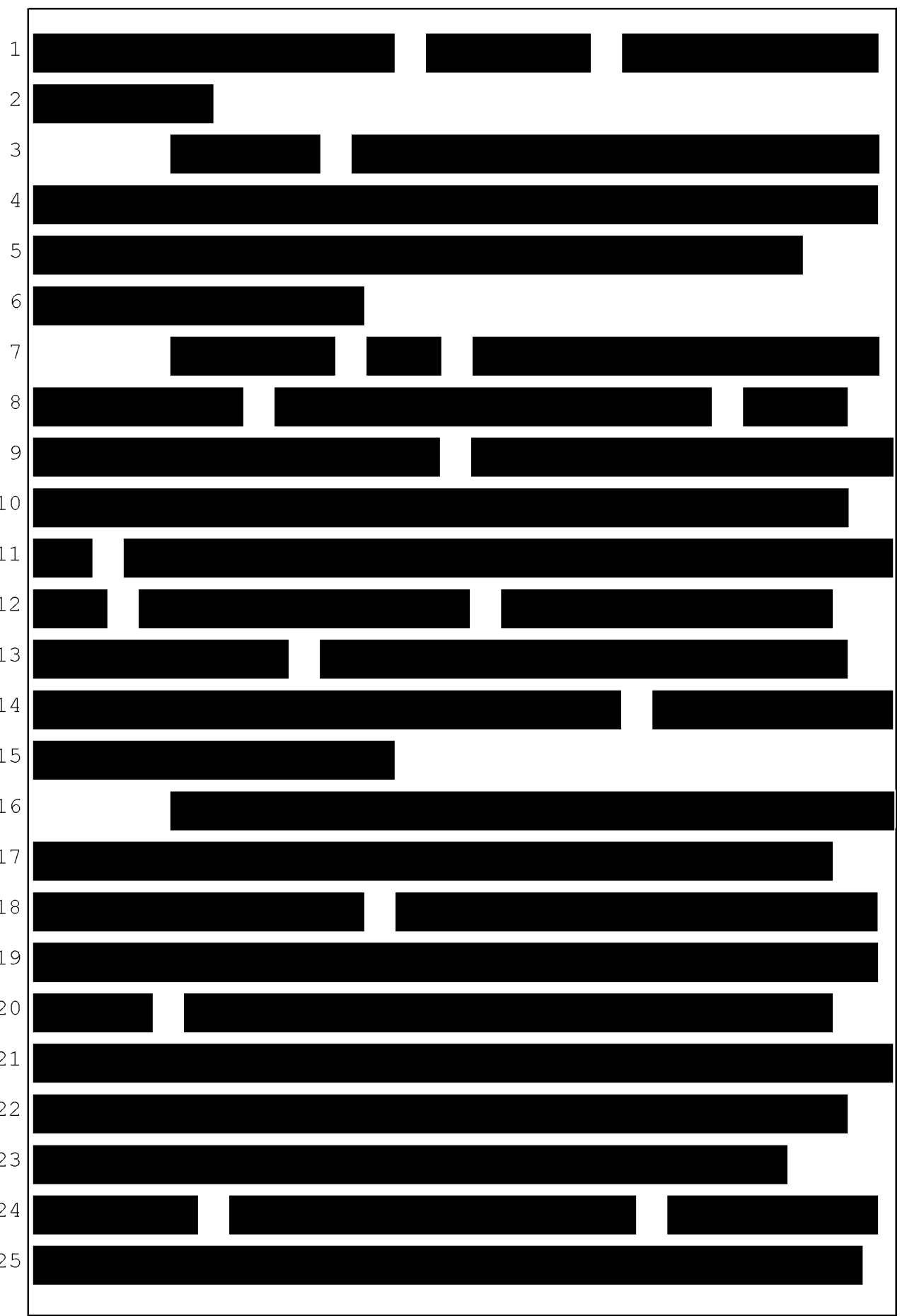
15:53:12

15:53:26

15:53:43

15:53:57

15:54:10



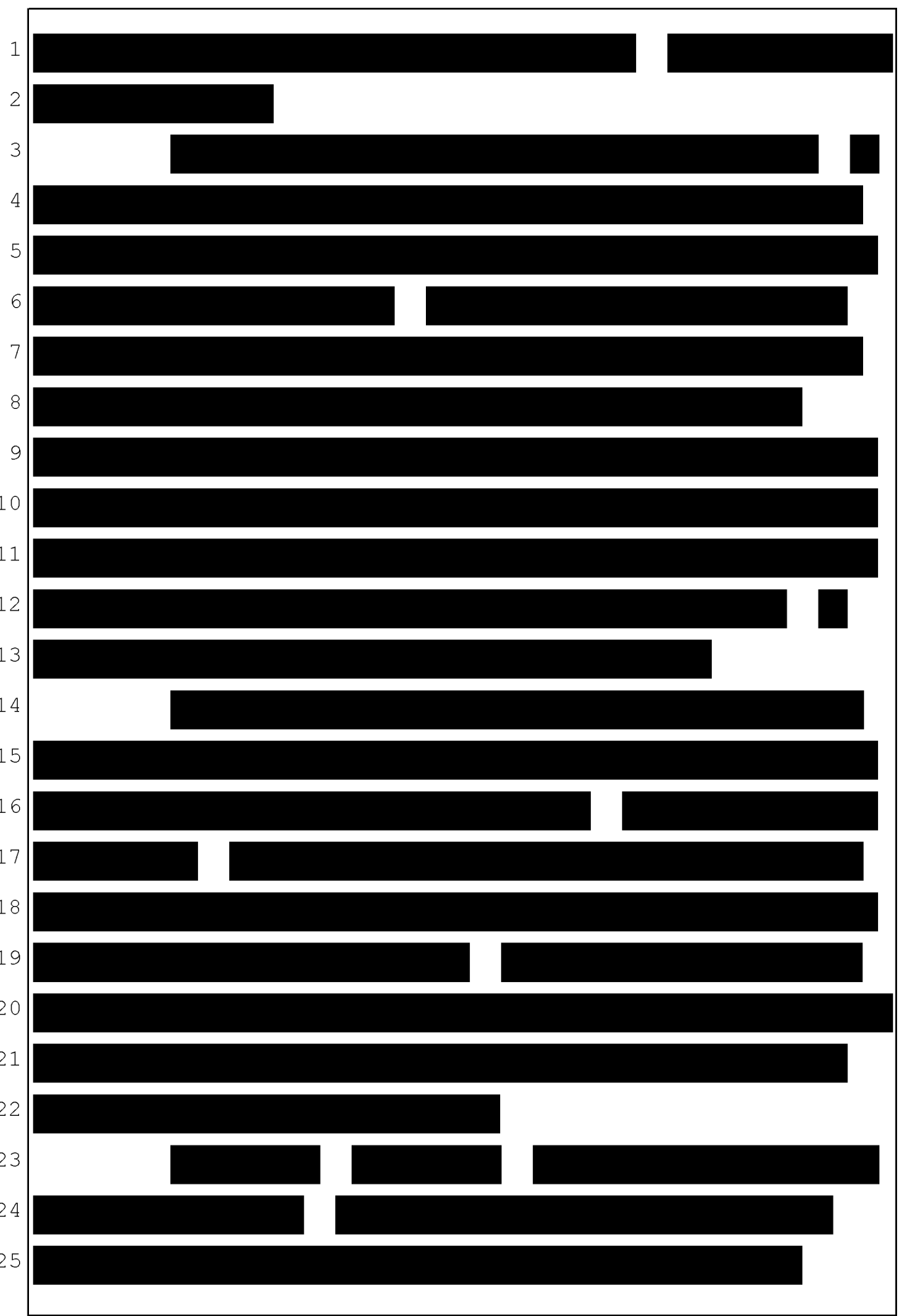
15:54:23

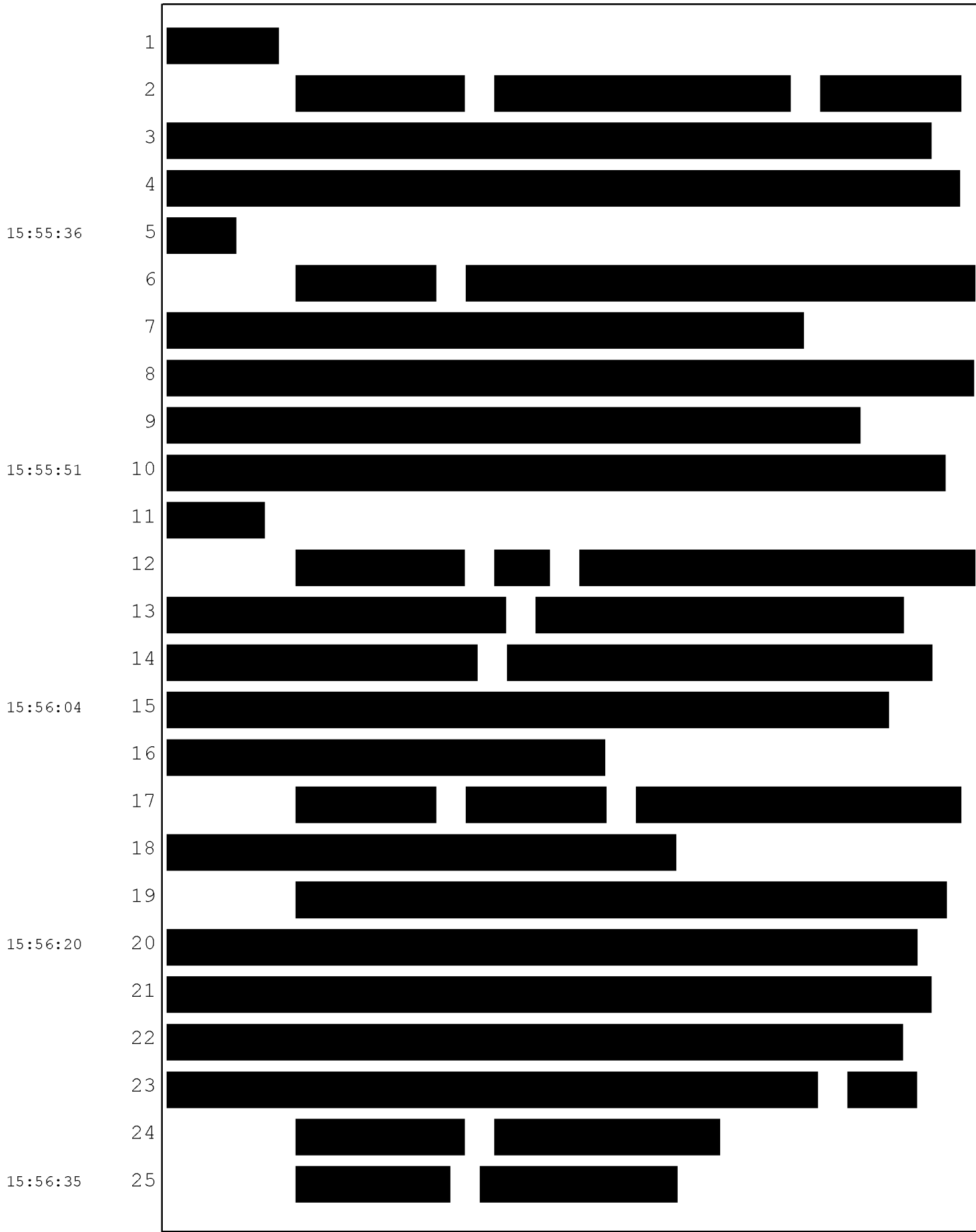
15:54:36

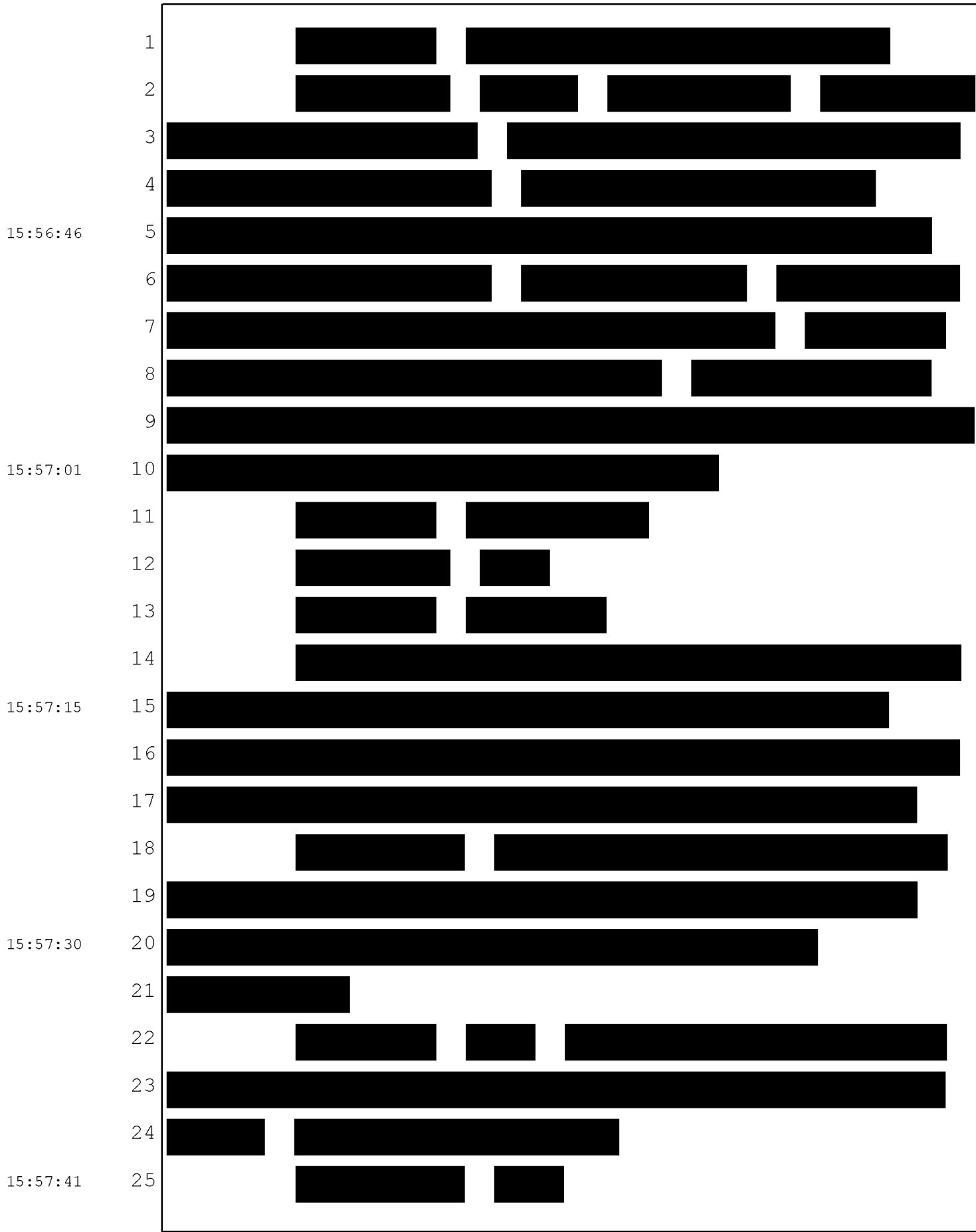
15:54:51

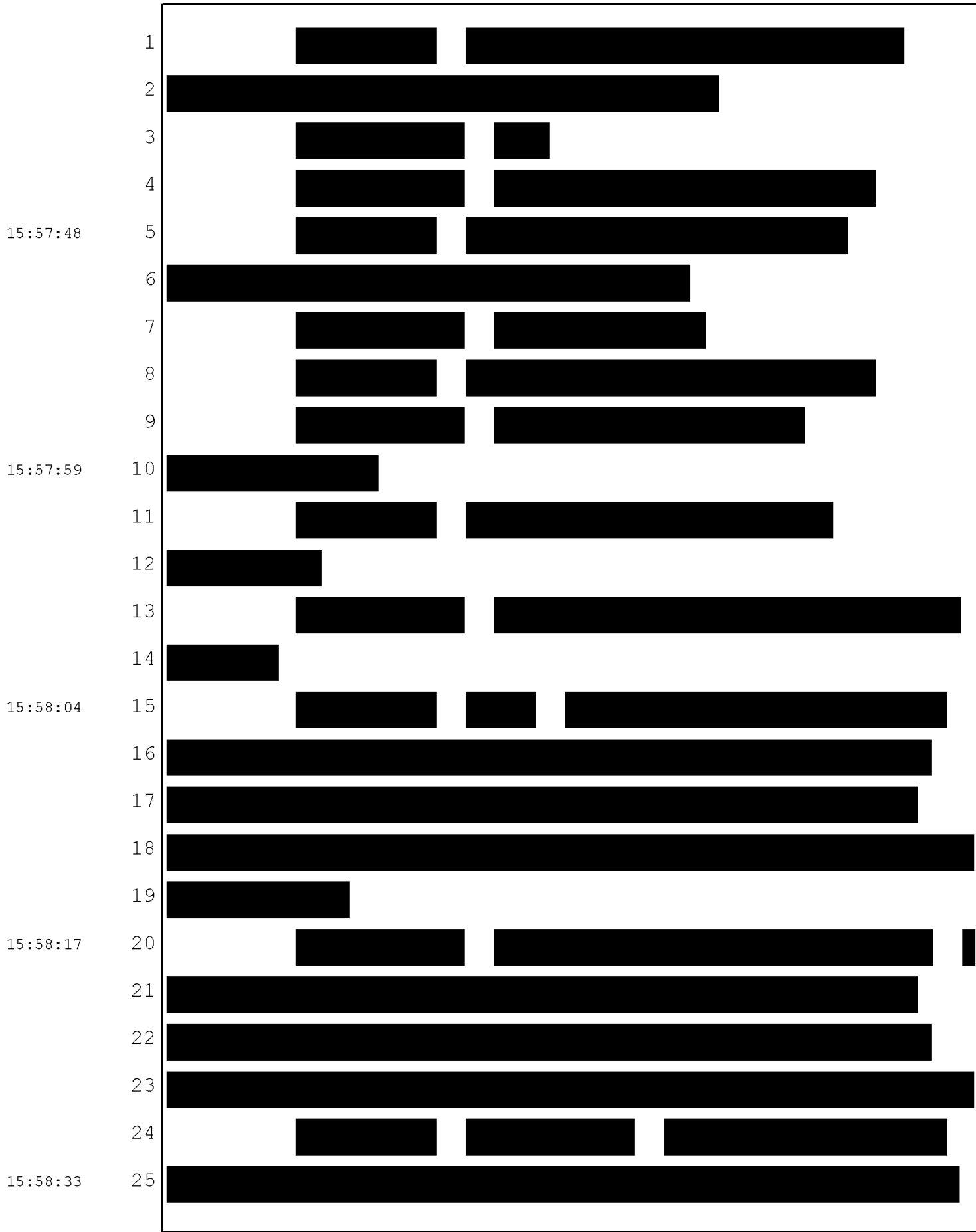
15:55:06

15:55:20







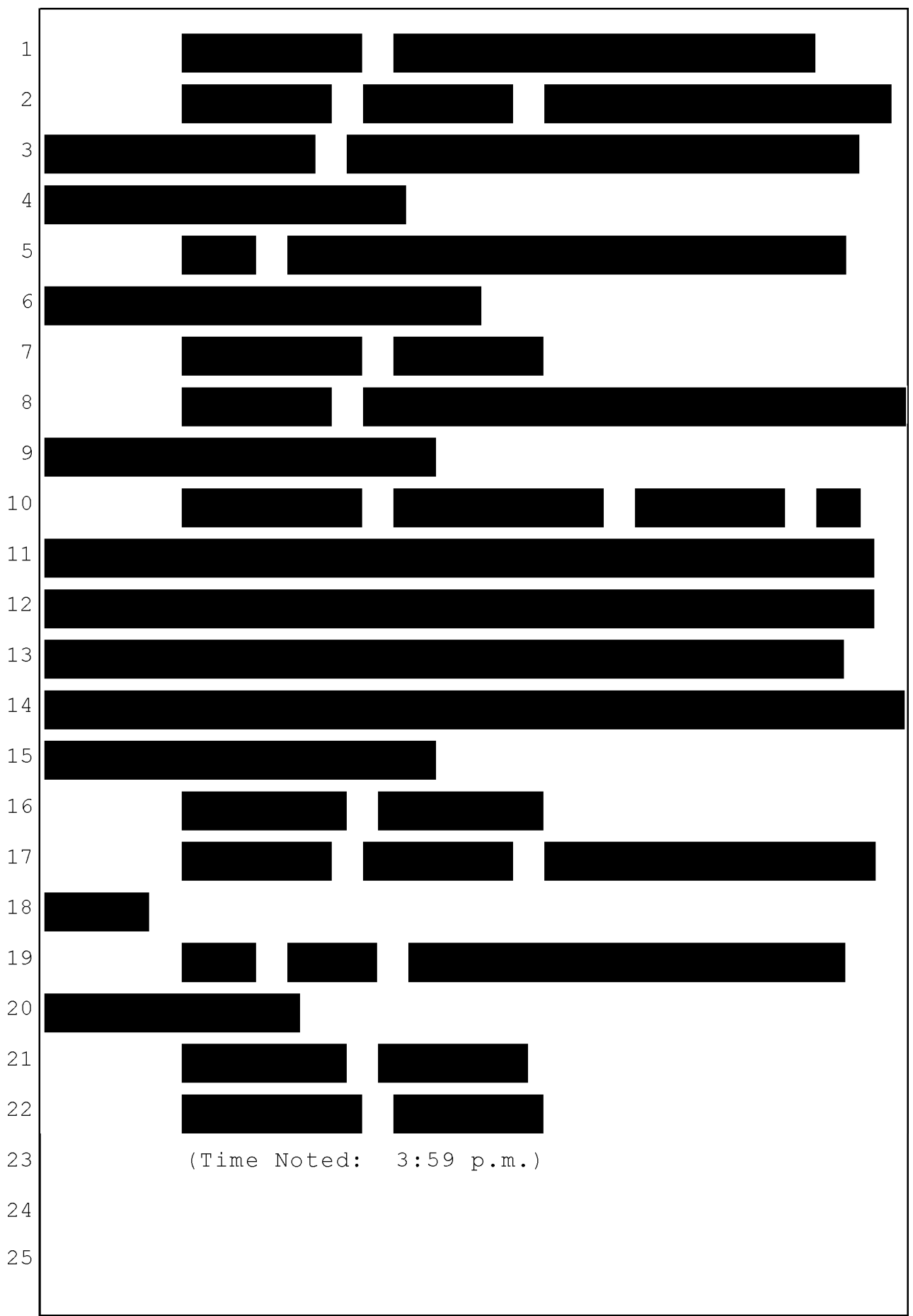


15:58:46

15:58:51

15:59:10

15:59:19



1 REPORTER'S CERTIFICATE

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I certify that the proceedings in the within-titled cause were taken at the time and place herein named; that the proceedings were reported by me, a duly Certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and said proceedings were thereafter transcribed into typewriting.

I further certify that I am not of counsel or Attorney for either or any of the parties to said Proceedings, not in any way interested in the outcome of the cause named in said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand:
July 30th, 2018.

<%signature%>
Leslie Rockwood Rosas
Certified Shorthand Reporter
State of California
Certificate No. 3462